Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the quarterly period ended June 30, 2011

OR

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the transition period from to

Commission file number 0-51813

LIQUIDITY SERVICES, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**52-2209244**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
1920 L Street, N.W., 6th Floor, Washington, D.C.	**20036**
(Address of Principal Executive Offices)	(Zip Code)

(202) 467-6868
(Registrant's Telephone Number, Including Area Code)

(Former Name, Former Address and Former Fiscal Year, If Changed Since Last Report)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer o	Accelerated filer x
Non-accelerated filer o	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

The number of shares outstanding of the issuer's common stock, par value $.001 per share, as of August 2, 2011 was 28,298,036.

Table of Contents

INDEX

Table of Contents

PART I—FINANCIAL INFORMATION

Item 1. Consolidated Financial Statements.

Liquidity Services, Inc. and Subsidiaries
Consolidated Balance Sheets
(Dollars in Thousands)

	June 30, 2011 (Unaudited)	September 30, 2010
Assets		
Current assets:		
Cash and cash equivalents	$ 93,512	$ 43,378
Short-term investments	10,910	33,405
Accounts receivable, net of allowance for doubtful accounts of $446 and $328 at June 30, 2011 and September 30, 2010, respectively	5,258	4,475
Inventory	14,714	17,321
Prepaid expenses, deferred taxes and other current assets	15,253	10,122
Total current assets	139,647	108,701
Property and equipment, net	7,984	6,781
Intangible assets, net	3,368	3,057
Goodwill	40,538	39,831
Other assets	6,361	6,534
Total assets	$ 197,898	$ 164,904
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 6,388	$ 8,605
Accrued expenses and other current liabilities	18,307	23,659
Profit-sharing distributions payable	5,358	5,596
Acquisition earn out payable	7,248	995
Customer payables	13,471	9,783
Total current liabilities	50,772	48,638
Acquisition earn out payable	4,741	1,810
Deferred taxes and other long-term liabilities	2,105	2,082
Total liabilities	57,618	52,530
Stockholders' equity:		
Common stock, $0.001 par value; 120,000,000 shares authorized; 30,259,365 shares issued and 28,097,309 shares outstanding at June 30, 2011; 28,827,072 shares issued and 26,894,591 shares outstanding at September 30, 2010	28	27
Additional paid-in capital	107,765	85,517
Treasury stock, at cost	(21,884)	(18,343)
Accumulated other comprehensive loss	(832)	(4,645)

Retained earnings	55,203	49,818
Total stockholders' equity	140,280	112,374
Total liabilities and stockholders' equity	$ 197,898	$ 164,904

See accompanying notes to the unaudited consolidated financial statements.

Table of Contents

Liquidity Services, Inc. and Subsidiaries
Unaudited Consolidated Statements of Operations
(Dollars in Thousands, Except Per Share Data)

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2011	2010	2011	2010
Revenue	$ 86,058	$ 72,751	$ 256,671	$ 213,846
Costs and expenses:				
Cost of goods sold (excluding amortization)	34,572	30,378	108,228	90,686
Profit-sharing distributions	12,340	10,256	34,949	30,315
Technology and operations	13,569	11,982	41,256	36,224
Sales and marketing	5,789	5,221	17,984	14,879
General and administrative	6,912	6,148	20,797	18,562
Amortization of contract intangibles	203	203	610	610
Depreciation and amortization	1,391	1,058	3,932	2,938
Acquisition costs and goodwill impairment	16,894	524	21,589	524
Total costs and expenses	91,670	65,770	249,345	194,738
(Loss) income from operations	(5,612)	6,981	7,326	19,108
Interest income and other (expense), net	5	50	(49)	91
(Loss) income before provision for income taxes	(5,607)	7,031	7,277	19,199
Benefit (provision) for income taxes	4,550	(4,041)	(1,892)	(9,692)
Net (loss) income	$ (1,057)	$ 2,990	$ 5,385	$ 9,507
Basic (loss) earnings per common share	$ (0.04)	$ 0.11	$ 0.20	$ 0.35
Diluted (loss) earnings per common share	$ (0.04)	$ 0.11	$ 0.19	$ 0.35
Basic weighted average shares outstanding	27,928,750	26,959,713	27,478,342	27,181,879
Diluted weighted average shares outstanding	27,928,750	27,371,132	28,096,078	27,424,427

See accompanying notes to the unaudited consolidated financial statements.

Table of Contents

Liquidity Services, Inc. and Subsidiaries
Unaudited Consolidated Statement of Changes in Stockholders' Equity
(In Thousands Except Share Data)

	Treasury Stock		Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Total
	Shares	Amount	Shares	Amount				
Balance at September 30, 2010	(1,932,481)	$ (18,343)	28,827,072	$ 27	$ 85,517	$ (4,645)	$ 49,818	$ 112,374
Common stock repurchased	(229,575)	(3,541)	—	—	—	—	—	(3,541)
Exercise of common stock options and restricted stock	—	—	1,432,293	1	13,050	—	—	13,051
Compensation expense from grants of common stock options and restricted stock	—	—	—	—	9,198	—	—	9,198
Comprehensive income:								
Net income	—	—	—	—	—	—	5,385	5,385
Foreign currency translation and other	—	—	—	—	—	3,813	—	3,813
Balance at June 30, 2011	(2,162,056)	$ (21,884)	30,259,365	$ 28	$ 107,765	$ (832)	$ 55,203	$ 140,280

See accompanying notes to the unaudited consolidated financial statements.

Liquidity Services, Inc. and Subsidiaries
Unaudited Consolidated Statements of Cash Flows
(In Thousands)

	Nine Months Ended June 30,	
	2011	2010
Operating activities		
Net income	$ 5,385	$ 9,507
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	4,542	3,548
Stock compensation expense	6,749	6,029
Provision for inventory allowance	51	440
Provision for doubtful accounts	118	(272)
Impairment of goodwill	16,648	—
Changes in operating assets and liabilities:		
Accounts receivable	(827)	172
Inventory	2,556	(771)
Prepaid expenses and other assets	(4,783)	(862)
Accounts payable	(2,226)	4,222
Accrued expenses and other	(5,381)	4,570
Profit-sharing distributions payable	(238)	(480)
Customer payables	3,689	(1,460)
Acquisition earn out payables	2,195	—
Other liabilities	22	(224)
Net cash provided by operating activities	28,500	24,419
Investing activities		
Purchases of short-term investments	(8,830)	(36,559)
Proceeds from the sale of short-term investments	31,420	49,360
Increase in goodwill and intangibles	(30)	(338)
Cash paid for acquisitions, net of cash acquired	(9,000)	(3,587)
Purchases of property and equipment	(4,399)	(3,136)
Net cash provided by investing activities	9,161	5,740
Financing activities		
Principal repayments of capital lease obligations and debt	—	(138)
Proceeds from exercise of common stock options (net of tax)	13,051	1,520
Incremental tax benefit from exercise of common stock options	2,449	230
Repurchases of common stock	(3,541)	(12,888)
Net cash provided by (used in) financing activities	11,959	(11,276)
Effect of exchange rate differences on cash and cash equivalents	514	(892)
Net increase in cash and cash equivalents	50,134	17,991
Cash and cash equivalents at beginning of period	43,378	33,538
Cash and cash equivalents at end of period	$ 93,512	$ 51,529
Supplemental disclosure of cash flow information		
Cash paid for income taxes	$ 6,232	$ 9,495
Cash paid for interest	47	16
Assets acquired under capital leases	—	—
Contingent purchase price accrued	11,684	2,805

See accompanying notes to the unaudited consolidated financial statements.

Liquidity Services, Inc. and Subsidiaries
Notes to the Unaudited Consolidated Financial Statements

1. Organization

Liquidity Services, Inc. and subsidiaries (LSI or the Company) is a leading online auction marketplace for surplus, salvage and scrap assets. LSI enables buyers and sellers to transact in an efficient, automated online auction environment offering over 500 product categories. The Company's marketplaces provide professional buyers access to a global, organized supply of surplus and salvage assets presented with digital images and other relevant product information. Additionally, LSI enables its corporate and government sellers to enhance their financial return on excess assets by providing a liquid marketplace and value-added services that integrate sales and marketing, logistics and transaction settlement into a single offering. LSI organizes its products into categories across major industry verticals such as consumer electronics, general merchandise, apparel, scientific equipment, aerospace parts and equipment, technology hardware, energy equipment, industrial capital assets, fleet and transportation equipment and specialty equipment. The Company's

online marketplaces are *www.liquidation.com*, *www.govliquidation.com*, *www.govdeals.com*, *www.networkintl.com*, *www.truckcenter.com*, *www.secondipity.com*, *www.uk-liquidation.co.uk* and *www.liquibiz.com*. LSI has one reportable segment consisting of operating online marketplaces for sellers and buyers of surplus, salvage and scrap assets.

2. Summary of Significant Accounting Policies

Unaudited Interim Financial Information

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information. Accordingly, they do not include all of the information and notes required by generally accepted accounting principles (GAAP) for complete financial statements. In the opinion of management, all adjustments, consisting of normal, recurring adjustments, considered necessary for a fair presentation have been included. The information disclosed in the notes to the consolidated financial statements for these periods is unaudited. Operating results for the three months ended June 30, 2011 are not necessarily indicative of the results that may be expected for the year ending September 30, 2011 or any future period.

Short-Term Investments

Available-for-sale securities, which approximate par value, are stated at fair value, with the unrealized gains and losses reported in accumulated other comprehensive income. For the three and nine months ended June 30, 2011 and 2010, the amount of unrealized gains (losses) reported in accumulated other comprehensive loss was approximately $51,000 and $96,000, and ($45,000) and ($133,000), respectively. Realized gains and losses and declines in fair value that are determined to be other-than-temporary on available-for-sale securities are included in interest income and other income, net. The cost of securities sold is based on the specific identification method and the securities have a duration of three to twelve months. Interest and dividends on securities classified as available-for-sale are included in interest income and other income, net. Realized losses for sales of investments for the three and nine months ended June 30, 2011 and 2010 were $77,000 and $1,000, and $11,000 and $40,000 respectively.

Stock-Based Compensation

The Company recognizes compensation cost for all share-based payments based on the grant-date fair value. As a result, the Company's income before provision for income taxes and net income for the three and nine months ended June 30, 2011 and 2010 was approximately $2,221,000 and $2,730,000, and $6,749,000 and $4,994,000; and $1,785,000 and $758,000, and $6,029,000 and $2,985,000 lower, respectively, than if it had continued to account for share-based compensation under the previous authoritative guidance. The total compensation cost related to nonvested awards not yet recognized at June 30, 2011 was approximately $20,707,000, which will be recognized over the weighted average vesting period of 25 months. The Company utilizes the Black-Scholes option pricing model to determine its shared-based compensation expense. Inputs into the Black-Scholes model include volatility rates that range from 40% to 72%, a dividend rate of 0%, and risk-free interest rates that range from 0.31% to 5.05% since October 1, 2005. The Company anticipates a forfeiture rate of 18.4% based on its historical forfeiture rate. As a result of adopting the new authoritative guidance on October 1, 2005, the Company's basic and diluted earnings per share for the three and nine months ended June 30, 2011 and 2010 were approximately $0.10 and $0.10, and $0.18 and $0.18; and $0.03 and $0.03, and $0.11 and $0.11, lower, respectively, than if it had continued to account for share-based compensation under the previous authoritative guidance.

Comprehensive Income

Comprehensive income includes net income adjusted for foreign currency translation and unrealized gains and losses on available-for-sale securities, and is reflected as a separate component of stockholders' equity. For the three and nine months ended June 30, 2011 and 2010 comprehensive income was approximately $2,016,000 and $9,198,000; and $2,537,000 and $7,490,000, respectively.

(Loss) Earnings per Share

Basic net income attributable to common stockholders per share is computed by dividing net income attributable to common stockholders by the weighted average number of common shares outstanding for the period. Diluted net income attributable to common stockholders per share includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock. The Company had 1,360,979 unvested restricted shares outstanding at June 30, 2011, which were issued at prices ranging from $7.48 to $18.72 during the years ended September 30, 2010 and 2009 and the nine months ended June 30, 2011, of which only 0 and 617,736, and 395,288 and 242,548 shares have been included in the calculation of diluted income per share for the three and nine months ended June 30, 2011 and 2010, respectively, due to the difference between the issuance price and the average market price for the period in which they have been outstanding or because there was a net loss for the quarter. The Company has also excluded the following stock options in its calculation of diluted income per share because the option exercise prices were greater than the average market prices for the applicable period or because there was a net loss for the quarter:

(a) for the three months ended June 30, 2011, 3,847,651 options;

(b) for the nine months ended June 30, 2011, 264,552 options;

(c) for the three months ended June 30, 2010, 2,029,955 options; and

(d) for the nine months ended June 30, 2010, 2,029,955 options.

The following summarizes the potential outstanding common stock of the Company as of the dates set forth below:

	Three Months Ended June 30,	Nine Months Ended June 30,

	2011	2010	2011	2010
	(unaudited) (dollars in thousands, except per share amounts)			
Weighted average shares calculation:				
Basic weighted average shares outstanding	27,928,750	26,959,713	27,478,342	27,181,879
Treasury stock effect of options and restricted stock	—	411,419	617,736	242,548
Diluted weighted average common shares outstanding	27,928,750	27,371,132	28,096,078	27,424,427
Net (loss) income	$ (1,057)	$ 2,990	$ 5,385	$ 9,507
Net (loss) income per common share:				
Basic (loss) earnings per common share	$ (0.04)	$ 0.11	$ 0.20	$ 0.35
Diluted (loss) earnings per common share	$ (0.04)	$ 0.11	$ 0.19	$ 0.35

3. Defense Logistics Agency (DLA) Disposition Services Contracts

The Company's original Surplus Contract with the DLA Disposition Services expired on December 17, 2008. Under the terms of the original Surplus Contract, the Company distributed to the DLA Disposition Services a fixed percentage of the profits realized from the ultimate sale of the inventory, after deduction for allowable expenses, as provided for under the terms of the original Surplus Contract. Profit-sharing distributions to the DLA Disposition Services for the three and nine months ended June 30, 2011 and 2010 were $0 and $0; and $0 and $445,000, respectively, including accrued amounts, as of June 30, 2011 and 2010, of $169,000 and $413,000, respectively.

The Company responded to a RFP and was awarded the new Surplus Contract. Significant operations began under the new Surplus Contract during February 2009. The new Surplus Contract has a base term expiring in February 2012 with two one year renewal options, exercisable by the DLA Disposition Services. Under the new Surplus Contract, the Company is required to purchase all usable surplus property offered to the Company by the Department of Defense (DOD) at a fixed percentage equal to 1.8% of the DoD's original acquisition value. The Company retains 100% of the profits from the resale of the property and bears all of the costs for the merchandising and sale of the property. The new Surplus Contract contains a provision providing for a mutual termination of the contract for convenience.

As a result of the Surplus Contract, the Company is the sole remarketer of all DoD surplus turned into DLA Disposition Services available for sale within the United States, Puerto Rico, and Guam.

The Company has a Scrap Contract with the DLA Disposition Services, in which the base term expires in June 2012 with three one year renewal options, exercisable by the DLA Disposition Services. Under the terms of the Scrap Contract, the Company is required to purchase all scrap government property referred to it by DLA Disposition Services. The Company distributes to the DLA Disposition Services a fixed percentage of the profits realized from the ultimate sale of the inventory, after deduction for allowable expenses, as provided for under the terms of the Contract. Effective June 1, 2007, the profit-sharing distribution for the Scrap Contract was decreased from 80% to 77% in exchange for the Company's agreement to implement additional inventory assurance processes and procedures with respect to the mutilation of demilitarized scrap property sold by the Company. The Scrap Contract also has a performance incentive that allows the Company to receive up to an additional 2% of the profit sharing distribution if sales are made to certain target levels of small-business buyers. This incentive is measured annually on June 30th, and is applied to the prior 12 months. The Company earned a performance incentive for the 12 months ended June 30, 2011, of approximately $1,601,000, in the quarter ended June 30, 2011. The performance incentive is recorded in Profit-sharing distributions in the Consolidated Statements of Operations. For the three and nine months ended June 30, 2011 and 2010, profit-sharing distributions to the DLA Disposition Services under the Scrap Contract were $12,324,000 and $34,529,000; and $9,927,000 and $28,701,000, respectively, including accrued amounts, as of June 30, 2011 and 2010, of $5,126,000 and $3,719,000, respectively. The Scrap Contract may be terminated by either the Company or DLA Disposition Services if the rate of return performance ratio does not exceed specified benchmark ratios for two consecutive quarterly periods and the preceding twelve months. The Company has performed in excess of the benchmark ratios throughout the contract period through June 30, 2011.

As a result of the Scrap Contract, the Company is the sole remarketer of all U.S. Department of Defense scrap turned into the DLA Disposition Services available for sale within the United States, Puerto Rico, and Guam.

4. Acquisition Costs and Goodwill Impairment

Network International Acquisition

On June 15, 2010, the Company acquired the stock of Network International, Inc. for approximately $10,305,000. The acquisition price included an upfront cash payment of $7,500,000 and an earn-out payment. Under the terms of the agreement, the earn-out is based on the earnings before interest, taxes, depreciation and amortization (EBITDA) earned by Network International, Inc. during each of the three six month periods after the closing date of the acquisition through December 31, 2011. The Company estimated the fair value of the earn-out at the time of the acquisition to be $2,805,000 out of a possible total earn-out payment of $7,500,000. Upon review of the estimate as of December 31, 2010, the Company determined that the operating results of Network International exceed original estimates significantly, and estimated that the full $7,500,000 earn-out payment is likely based on the operating history, since the acquisition date, and estimates for the remainder of the earn-out period. Therefore, the Company recorded an additional liability of $4,695,000 as of December 31, 2010 and reflected this increase in its statement of operations for the three months ended December 31, 2010 in accordance with new authoritative guidance related to business combinations issued by the FASB in December 2007, which the Company adopted for fiscal year 2010. During the three months ended March 31, 2011, the Company paid $2,500,000 of the earn-out. As of June 30, 2011, $5,000,000 remained as the earn-out liability, which is the Company's estimate of the fair value of the earn-out liability as of that date.

Table of Contents

Liquidity Services, Inc. and Subsidiaries
Notes to the Unaudited Consolidated Financial Statements — (Continued)

Truck Center Acquisition

On June 1, 2011, the Company acquired the assets of Truckcenter.com, LLC. (TC) for approximately $15,989,000. The acquisition price includes an upfront cash payment of $9,000,000 and an earn-out payment. Under the terms of the agreement, the earn-out is based on EBITDA earned by TC during the trailing 12 months ending August 31, 2012, and the revenue earned by TC during each of the two 12 month periods after the closing date of the acquisition through May 31, 2013. The Company's estimate of the fair value of the earn-out as of June 30, 2011 is $6,989,000 out of a possible total earn out payment of $9,000,000. TC is a leading marketplace for the sale of idle, surplus and used fleet and transportation equipment. TC conducts sales of client assets on a consignment basis using its marketplace, an extensive global buyer base and product domain expertise. The Company incurred $246,000 of acquisition costs which were expensed as incurred. The operating results of TC have been included in the consolidated financial statements from the date of acquisition, which were not material for the period ended June 30, 2011.

Goodwill was created as part of the acquisition as the Company acquired an experienced and knowledgeable workforce. The purchase consideration was preliminarily allocated, as the Company is evaluating certain liabilities and assets assumed, to acquired tangible assets, identifiable intangible assets ,and liabilities assumed at fair value and goodwill as follows:

	Consideration Amount (in thousands)
Current assets	$ 250
Goodwill	14,156
Brand assets	623
Intangible technology assets	250
Covenants not to compete	700
Property and equipment	48
Current liabilities	(38)
Total consideration	$ 15,989

Goodwill Impairment — Geneva Acquisition

On May 1, 2008, the Company acquired the stock of the United Kingdom (UK) based companies in the Geneva Group (Geneva), including Geneva Industries Ltd., Willen Trading Ltd., and Geneva Auctions Ltd., for approximately $16,238,000 million in cash net of acquired cash, of $925,000. Goodwill of $16,648,000 was created as part of the acquisition as the Company acquired an experienced and knowledgeable workforce, along with customer lists and non-contractual customer relationships. Following the acquisition of Geneva, the economic downturn and a low buyer adoption rate in Europe of online inventory sourcing have created ongoing losses that are not sustainable by the Company. The Company expects to have its UK operations substantially closed down by September 30, 2011, resulting in the impairment of the goodwill, as of June 30, 2011, including the reversal of currency translation adjustments of $3.1 million previously recorded in Other Comprehensive Income since the time of acquisition. The impairment charge of $16.6 million is recorded in Acquisition costs and goodwill impairment in the Consolidated Statements of Operations.

5. Intangible Assets

Intangible assets at June 30, 2011 consisted of the following:

	Useful Life (in years)	Gross Carrying Amount	Accumulated Amortization & Foreign Currency Translation Adjustment	Net Carrying Amount
		(dollars in thousands)		
Contract intangible	7	$ 5,694	$ (4,813)	$ 881
Brand and technology	5	1,448	(417)	1,031
Covenants not to compete	5 - 7	2,500	(1,194)	1,306
Patent and trademarks	3 - 10	237	(87)	150
Total intangible assets, net				$ 3,368

Table of Contents

Liquidity Services, Inc. and Subsidiaries
Notes to the Unaudited Consolidated Financial Statements — (Continued)

Future expected amortization of intangible assets at June 30, 2011 was as follows:

Years ending September 30,	(in thousands)
2011 (remaining three months)	$ 424
2012	1,449
2013	465
2014	293

2015 and after	737
Total	$ 3,368

6. Debt

Senior Credit Facility

In December 2002, and as subsequently amended, the Company entered into a senior credit facility with a bank, which provided for borrowings up to $30.0 million. This senior credit facility expired on April 30, 2010. The Company had no outstanding borrowings under this facility as of April 30, 2010.

On April 30, 2010, the Company entered into a new senior credit facility (the Agreement) with a bank, which provides for borrowings up to $30.0 million with a maturity date of April 30, 2013. Borrowings under the Agreement bear interest at an annual rate equal to the 30 day LIBOR rate plus 1.25% (1.437% at June 30, 2011) due monthly. As of September 30, 2010 and June 30, 2011, the Company had no outstanding borrowings under the Agreement.

Borrowings under the Agreement are secured by substantially all of the assets of the Company. The Agreement contains certain financial and non-financial restrictive covenants including, among others, the requirements to maintain a minimum level of EBITDA and a minimum debt coverage ratio. As of June 30, 2011, the Company was in compliance with these covenants.

7. Income Taxes

The Company's interim effective income tax rate is based on management's best current estimate of the expected annual effective income tax rate. The Company estimates that its fiscal year 2011 tax rate will be approximately 26%, which is a decrease from the 50% effective tax rate estimated in the prior two quarters. The decrease in the estimate is a result of the estimated tax benefit from the closing of the Company's UK operations. The Company estimates that its effective income tax rate beyond fiscal year 2011 will be approximately 44%, which is comprised of (1) approximately 35% for federal taxes, (2) approximately 6% for state taxes, and (3) approximately 3% for book and tax differences including stock based compensation expenses, primarily related to employee stock options, which are currently expensed in the financial statements but are not deductable for tax purposes until they are exercised.

The Company applies the guidance related to uncertainty in income taxes. The Company has concluded that there were no uncertain tax positions identified during its analysis. The Company's policy is to recognize interest and penalties in the period in which they occur in the income tax provision. The Company and its subsidiaries file income tax returns in the U.S. federal jurisdiction, various state and local jurisdictions and in foreign jurisdictions, primarily the U.K. Currently, the Company is not subject to any income tax examinations. The statute of limitations for years prior to fiscal 2007 is now closed. However, certain tax attribute carryforwards that were generated prior to fiscal 2007 may be adjusted upon examination by tax authorities if they are utilized.

8. Stockholders' Equity

Common Stock

On February 23, 2006, the Company issued 5,000,000 shares of common stock for net proceeds of $43,977,000 in conjunction with its initial public offering. On March 13, 2007, the Company issued 100,000 shares of common stock for net proceeds of $1,070,000 in conjunction with its follow-on offering.

Table of Contents

Share Repurchase Program

On December 2, 2008, the Company's Board of Directors approved a $10.0 million share repurchase program. Under the program, the Company is authorized to repurchase the issued and outstanding shares of common stock. Share repurchases may be made through open market purchases, privately negotiated transactions or otherwise, at times and in such amounts as management deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements and other market conditions. The repurchase program may be discontinued or suspended at any time, and will be funded using available cash. On February 2, 2010, the Company's Board of Directors approved an additional $10.0 million for the share repurchase program. On November 30, 2010, the Company's Board of Directors approved an additional $10.0 million for the share repurchase program. During the year ended September 30, 2009, 707,462 shares were purchased under the program for approximately $3,874,000. During the year ended September 30, 2010, 1,225,019 shares were purchased under the program for approximately $14,471,000. During the three months ended December 31, 2010, 229,575 shares were purchased under the program for approximately $3,541,000. During the three months ended March 31 and June 30, 2011, no shares were purchased under the program. On May 3, 2011, the Company's Board of Directors approved an additional $10.0 million for the share repurchase program. The Company's Board of Directors reviews the share repurchase program periodically, the last such review having occurred in May 2011. As of June 30, 2011, approximately $18,114,000 may yet be expended under the program.

2006 Omnibus Long-Term Incentive Plan (the 2006 Plan)

Under the 2006 Plan, 5,000,000 shares of common stock were initially reserved for issuance. In February 2009, at the Company's annual meeting of stockholders, the stockholders approved an increase of 5,000,000 shares of the Company's common stock to the shares available for issuance under the 2006 Plan. At September 30, 2009, there were 5,189,996 shares remaining reserved for issuance in connection with awards under the 2006 Plan. During fiscal year 2010, the Company granted options to purchase 624,566 shares to employees and directors with exercise prices between $9.05 and $13.96, and options to purchase 75,467 shares were forfeited. During fiscal year 2010, the Company granted 699,410 restricted shares to employees and directors at prices ranging from $9.05 to $13.96, and 45,026 restricted shares were forfeited. At September 30, 2010, there were 3,986,513 shares remaining reserved for issuance in connection with awards under the 2006 Plan. During the nine months ended June 30, 2011, the Company issued options to purchase 321,072 shares to employees and directors with exercise prices between $13.48 and $17.02, and options to purchase 22,780 shares were forfeited. During the nine months ended June 30, 2011, the Company issued 676,890 restricted shares to employees and directors at prices ranging from $12.88 to $18.72, and 54,715 restricted shares were forfeited. At June 30, 2011, there were 3,066,046 shares remaining reserved for issuance in connection with awards under the 2006 Plan. The maximum

number of shares subject to options or stock appreciation rights that can be awarded under the 2006 Plan to any person is 1,000,000 per year. The maximum number of shares that can be awarded under the 2006 Plan to any person, other than pursuant to an option or stock appreciation right, is 700,000 per year.

Table of Contents

Stock Option Activity

A summary of the Company's stock option activity for the year ended September 30, 2010 and the three months ended December 31, 2010, March 31, 2011and June 30, 2011 is as follows:

	Options	Weighted-Average Exercise Price
Options outstanding at September 30, 2009	4,609,226	$ 10.95
Options granted	624,566	10.92
Options exercised	(411,036)	7.88
Options canceled	(75,467)	12.24
Options outstanding at September 30, 2010	4,747,289	11.20
Options granted	231,000	15.56
Options exercised	(261,442)	9.17
Options canceled	(9,345)	11.80
Options outstanding at December 31, 2010	4,707,502	11.52
Options granted	90,072	14.30
Options exercised	(399,668)	11.85
Options canceled	(12,538)	14.70
Options outstanding at March 31, 2011	4,385,368	11.54
Options granted	—	—
Options exercised	(536,820)	11.03
Options canceled	(897)	13.48
Options outstanding at June 30, 2011	3,847,651	11.61
Options exercisable at June 30, 2011	2,190,090	11.99

The intrinsic value of outstanding and exercisable options at June 30, 2011 is approximately $46,164,000 and $25,438,000, respectively, based on a stock price of $23.61 on June 30, 2011.

Restricted Share Activity

A summary of the Company's restricted share activity for the year ended September 30, 2010 and the three months ended December 31, 2010, March 31, 2011 and June 30, 2011 is as follows:

	Restricted Shares	Weighted-Average Fair Value
Unvested restricted shares at September 30, 2009	462,836	$ 8.88
Restricted shares granted	699,410	10.00
Restricted shares vested	(144,053)	8.47
Restricted shares canceled	(45,026)	9.30
Unvested restricted shares at September 30, 2010	973,167	9.73
Restricted shares granted	635,092	15.44
Restricted shares vested	(176,060)	8.79
Restricted shares canceled	(15,313)	10.17
Unvested restricted shares at December 31, 2010	1,416,886	12.40
Restricted shares granted	31,798	13.74
Restricted shares vested	(33,803)	10.71
Restricted shares canceled	(9,292)	13.94
Unvested restricted shares at March 31, 2011	1,405,589	12.46
Restricted shares granted	10,000	18.72
Restricted shares vested	(24,500)	11.86
Restricted shares canceled	(30,110)	11.86
Unvested restricted shares at June 30, 2011	1,360,979	12.53

Table of Contents

9. Fair Value Measurement

The Company measures and records in the accompanying consolidated financial statements certain assets and liabilities at fair value on a recurring basis. Authoritative guidance issued by the FASB establishes a fair value hierarchy for those instruments measured at fair value that distinguishes between assumptions based on market data (observable inputs) and the Company's assumptions (unobservable inputs). The hierarchy consists of three levels:

Level 1	Quoted market prices in active markets for identical assets or liabilities;
Level 2	Inputs other than Level 1 inputs that are either directly or indirectly observable; and
Level 3	Unobservable inputs developed using estimates and assumptions developed by the Company, which reflect those that a market participant would use.

As of June 30, 2011 and September 30, 2010, the Company's Level 1 short-term investments of $10,910,000 and $33,405,000, respectively, were the only financial assets measured at fair value. As of June 30, 2011 and September 30, 2010, the Company's $11,989,000 and $2,805,000 liability for the earn-out related to the Network International and Truckcenter.com acquisitions is the only liability measured at fair value on a recurring basis and is classified as Level 3 within the fair value hierarchy. The changes in liabilities measured at fair value for which the Company has used Level 3 inputs to determine fair value for the year ended September 30, 2010 and the nine months ended June 30, 2011 are as follows ($ in thousands):

	Level 3 Liabilities
Balance at September 30, 2009	—
Acquisition contingent consideration	$ 2,805
Purchases and issuances	—
Settlements	—
Unrealized gains (losses), net	—
Balance at September 30, 2010	2,805
Acquisition contingent consideration	11,684
Purchases and issuances	—
Settlements	(2,500)
Unrealized gains (losses), net	—
Balance at June 30, 2011	$ 11,989

The Company did not have any Level 3 assets or liabilities prior to fiscal year 2010.

When valuing its Level 3 liability, the Company gives consideration to operating results, financial condition, economic and/or market events, and other pertinent information that would impact its estimate of the expected earn-out payment. The valuation procedures are primarily based on management's projection of EBITDA for Network International, and EBITDA and Revenue for Truckcenter.com and applying a discount to the expected proceeds to estimate fair value. Because of the inherent uncertainty, this estimated value may differ significantly from the value that would have been used had a ready market for the liability existed, and it is reasonably possible that the difference could be material.

10. Contingencies

In January 2008, Kormendi/Gardener Partners (KGP) commenced litigation against Government Liquidation.com (GL) and Surplus Acquisition Venture, LLC (SAV), two of the Company's subsidiaries, seeking $2.8 million in damages. KGP claims it is entitled to these damages because of actions GL and SAV took at the direction of DLA Disposition Services pursuant to an amendment to the original Surplus Contract entered into in August 2006. GL and SAV believe they have meritorious defenses in this litigation. In addition, SAV and GL believe they likely would be able to recover their costs and damages arising out of this litigation from DLA Disposition Services under the terms of the original Surplus Contract.

Table of Contents

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

FORWARD-LOOKING STATEMENTS

This document contains forward-looking statements. These statements are only predictions. The outcome of the events described in these forward-looking statements is subject to known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to differ materially from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. These risks and other factors include but are not limited to the factors set forth in our Annual Report on Form 10-K for the year ended September 30, 2010 and subsequent filings with the Securities and Exchange Commission. You can identify forward-looking statements by terminology such as "may," "will," "should," "could," "would," "expects," "intends," "plans," "anticipates," "believes," "estimates," "predicts," "potential," "continues" or the negative of these terms or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. There may be other factors of which we are currently unaware or deem immaterial that may cause our actual results to differ materially from the forward-looking statements.

All forward-looking statements attributable to us or persons acting on our behalf apply only as of the date of this document and are expressly qualified in their entirety by the cautionary statements included in this document. Except as may be required by law, we undertake no obligation to publicly update or revise any forward-looking statement to reflect events or circumstances occurring after the date of this document or to reflect the occurrence of unanticipated events.

The following discussion should be read in conjunction with our consolidated financial statements and related notes and the information contained elsewhere in this document.

Overview

About us. We are a leading online auction marketplace for surplus and salvage assets. We enable buyers and sellers to transact in an efficient, online auction environment offering over 500 product categories. Our marketplaces provide professional buyers access to a global, organized supply of surplus and salvage assets presented with customer focused information including digital images and other relevant product information along with services to efficiently complete the transaction. Additionally, we enable our corporate and government sellers to enhance their financial return on excess assets by providing liquid marketplaces and value-added services that integrate sales and marketing, logistics and transaction settlement into a single offering. We organize our products into categories across major industry verticals such as consumer electronics, general merchandise, apparel, scientific equipment, aerospace parts and equipment, technology hardware, energy equipment, industrial capital assets, fleet and transportation equipment and specialty equipment. Our online marketplaces are *www.liquidation.com*, *www.govliquidation.com*, *www.govdeals.com*, *www.networkintl.com*, *www.truckcenter.com*, *www.secondipity.com*, *www.uk-liquidation.co.uk* and *www.liquibiz.com*.

We believe our ability to create liquid marketplaces for surplus and salvage assets generates a continuous flow of goods from our corporate and government sellers. This flow of goods in turn attracts an increasing number of professional buyers to our marketplaces. During the last 12 months, the number of registered buyers grew from approximately 1,315,000 to approximately 1,567,000, or 19.2%.

Recent initiatives. On June 1, 2011, we acquired the assets of Truckcenter.com, LLC. (TC) for approximately $15,989,000. The acquisition price includes an upfront cash payment of $9,000,000 and an earn-out payment. Under the terms of the agreement, the earn-out is based on EBITDA earned by TC during the trailing 12 months ending August 31, 2012, and the revenue earned by TC during each of the two 12 month periods after the closing date of the acquisition through May 31, 2013. Our estimate of the fair value of the earn-out as of June 30, 2011 is $6,989,000 out of a possible total earn out payment of $9,000,000. TC is a leading marketplace for the sale of idle, surplus and used fleet and transportation equipment. TC conducts sales of client assets on a consignment basis using its marketplace, an extensive global buyer base and product domain expertise. The acquisition strengthens our overall business in the growing transportation industry vertical. We will add over 200 new commercial sellers of transportation assets, a critical mass of registered buyers of fleet, rolling stock and other transportation equipment, and five permanent facilities to support the national service required within this industry vertical. The storage facilities are located in the areas of Los Angeles, CA; Dallas/Fort Worth, TX; Atlanta, GA; Indianapolis, IN; and New Castle, DE.

Table of Contents

Our United Kingdom (UK) subsidiary, Liquidity Services Limited, LLC, (LSL) has initiated the closing of operations. Through the acquisition of Geneva Industries (Geneva) in 2008, Liquidity Services Limited conducts sales of surplus assets and retail merchandise through its online marketplaces, *www.UK-Liquidation.co.uk* and *www.WillenTrading.co.uk*. Following the acquisition of Geneva, the economic downturn and a low buyer adoption rate of online inventory sourcing have created ongoing losses that are not sustainable. For the fiscal years ended September 30, 2009 and 2010, and the nine months ended June 30, 2011, LSL had Adjusted EBITDA losses of approximately $2.1 million, $3.0 million and $3.3 million, respectively. We estimate that LSL will incur a loss of approximately $2.0 to $3.0 million for the remaining three months of fiscal year 2011. The impact of closing down operations in the UK would be to present this business as discontinued operations in the 2011 Form 10K. We do expect to have the process substantially completed by fiscal year end 2011.

Our revenue. We generate substantially all of our revenue by retaining a percentage of the proceeds from the sales we manage for our sellers. We offer our sellers three primary transaction models: a profit-sharing model, a consignment model and a purchase model.

- *Profit-sharing model.* Under our profit-sharing model, we purchase inventory from our suppliers and share with them a portion of the profits received from a completed sale in the form of a distribution. Distributions are calculated based on the value received from the sale after deducting direct costs, such as sales and marketing, technology and operations and other general and administrative costs. Because we are the primary obligor, and take general and physical inventory risks and credit risk under this transaction model, we recognize as revenue the sale price paid by the buyer upon completion of a transaction. Revenue from our profit-sharing model accounted for approximately 27.0% and 24.0% of our total revenue for the three and nine months ended June 30, 2011, respectively. The merchandise sold under our profit-sharing model accounted for approximately 15.7% and 14.9% of our gross merchandise volume, or GMV, for the three and nine months ended June 30, 2011, respectively.

- *Consignment model.* Under our consignment model, we recognize commission revenue from sales of merchandise in our marketplaces that is owned by others. These commissions, which we refer to as seller commissions, represent a percentage of the sale price the buyer pays upon completion of a transaction. We vary the percentage amount of the seller commission depending on the various value-added services we provide to the seller to facilitate the transaction. For example, we generally increase the percentage amount of the commission if we take possession, handle, ship or provide enhanced product information for the merchandise. We collect the seller commission by deducting the appropriate amount from the sales proceeds prior to their distribution to the seller after completion of the transaction. Revenue from our consignment model accounted for approximately 9.2% and 8.3% of our total revenue for the three and nine months ended June 30, 2011, respectively. The merchandise sold under our consignment model accounted for approximately 46.6% and 42.7% of our GMV for the three and nine months ended June 30, 2011, respectively.

- *Purchase model.* Under our purchase model, we offer our sellers a fixed amount or the option to share a portion of the proceeds received from our completed sales in the form of a distribution. Distributions are calculated based on the value we receive from the sale after deducting a required return to us that we have negotiated with the seller. Because we are the primary obligor, and take general and physical inventory risks and credit risk under this transaction model, we recognize as revenue the sale price paid by the buyer upon completion of a transaction. Revenue from our purchase model accounted for approximately 63.7% and 67.0% of our total revenue for the three and nine months ended June 30, 2011, respectively. The merchandise sold under our purchase model accounted for approximately 37.6% and 41.9% of our GMV for the three and nine months ended June 30, 2011, respectively.

We collect a buyer premium on substantially all of our transactions under all of our transaction models. Buyer premiums are calculated as a percentage of the sale price of the merchandise sold and are paid to us by the buyer. Buyer premiums are in addition to the price of the merchandise. Under our profit-sharing model, we typically share the proceeds of any buyer premiums with our sellers.

Industry trends. We believe there are several industry trends impacting the growth of our business including: (1) the increase in the adoption of the Internet by businesses to conduct e-commerce; (2) product innovation in the retail supply chain that has increased the pace of product obsolescence and, therefore, the supply of surplus assets; (3) the increase in the volume of returned merchandise handled by both online and offline retailers; (4) the increase in government regulations necessitating verifiable recycling and remarketing of surplus assets; (5) the increase in outsourcing by corporate and government

organizations of disposition activities for surplus and end-of-life assets; and (6) as a result of the economic downturn, an increase in buyer demand for surplus merchandise as consumers trade down by purchasing less expensive goods and seek greater value from their purchases, which results in lower per unit prices and margins in our retail goods business.

Table of Contents

Our Seller Agreements

Our DoD agreements. We have two contracts with the DoD pursuant to which we acquire, manage and sell excess property:

- *Surplus Contract.* In June 2001, we were awarded the original Surplus Contract, a competitive-bid exclusive contract under which we acquire, manage and sell all usable DoD surplus personal property turned into the DLA Disposition Services. Surplus property generally consists of items determined by the DoD to be no longer needed, and not claimed for reuse by, any federal agency, such as computers, electronics, office supplies, scientific and medical equipment, aircraft parts, clothing and textiles. On November 6, 2008, the DoD extended the original Surplus Contract through December 17, 2008, thus we received 39.5% of the net proceeds on property received up until December 17, 2008 through the Contract wind down period, which was completed during fiscal year 2010. We responded to a RFP from the DLA Disposition Services regarding a renewal of the Surplus Contract, and we were awarded the contract. We began operations under the new Surplus Contract on December 18, 2008. The new Surplus Contract expires in February 2012, subject to the DoD's right to extend it for two additional one-year terms. Revenue from our Surplus Contract (including buyer premiums) accounted for approximately 27.7% and 29.5% of our total revenue for the three and nine months ended June 30, 2011, respectively. The property sold under our Surplus Contract accounted for approximately 16.7% and 18.6% of our GMV for the three and nine months ended June 30, 2011, respectively.

- *Scrap Contract.* In June 2005, we were awarded a competitive-bid exclusive contract under which we acquire, manage and sell substantially all scrap property of the DoD turned into the DLA Disposition Services. Scrap property generally consists of items determined by the DoD to have no use beyond their base material content, such as metals, alloys, and building materials. We were required to pay $5.7 million to the DoD in fiscal 2005 for the right to manage the operations and remarket scrap material in connection with the Scrap Contract. The Scrap Contract expires in June 2012, subject to the DoD's right to extend it for three additional one-year terms. Revenue from our Scrap Contract (including buyer premiums) accounted for approximately 27.0% and 24.0% of our total revenue for the three and nine months ended June 30, 2011, respectively. The property sold under our Scrap Contract accounted for approximately 15.7% and 14.9% of our GMV for the three and nine months ended June 30, 2011, respectively.

Under the original Surplus Contract, we were obligated to purchase all DoD surplus property at set prices representing a percentage of the original acquisition cost, which varied depending on the type of surplus property being purchased. Under the Scrap Contract, we acquire scrap property at a per pound price. We were initially entitled to approximately 20% of the profits of sale (defined as gross proceeds of sale less allowable operating expenses) under the Scrap Contract and the original Surplus Contract, and the DoD was entitled to approximately 80% of the profits. We refer to these disbursement payments to the DoD as profit-sharing distributions. As a result of these arrangements, we recognize as revenue the gross proceeds from these sales. The DoD also reimburses us for actual costs incurred for packing, loading and shipping property under the Scrap and original Surplus Contracts that we are obligated to pick up from non-DoD locations. On May 13, 2008, the DoD agreed to extend the original Surplus Contract through November 1, 2008, as well as increase our share of net proceeds under the original Surplus Contract to 39.5% on property received after June 18, 2008. On November 6, 2008, the DoD extended the original Surplus Contract through December 17, 2008. Under the new Surplus Contract, which began on December 18, 2008, we are not required to distribute any portion of the profits realized under the Contract, as the new Contract contains a higher fixed percentage price of 1.8%, of the DLA Disposition Services' acquisition value, to be paid for the property.

Under the Scrap Contract, we also have a small business performance incentive based on the number of scrap buyers that are small businesses that allows us to receive up to an additional 2% of the profit sharing distribution. On May 21, 2007, we entered into a bilateral contract modification under which the DoD agreed to increase our profit-sharing distribution for the Scrap Contract from 20% to 23% effective June 1, 2007, in exchange for our agreement to implement additional inventory assurance processes and procedures with respect to the mutilation of demilitarized scrap property sold.

Our commercial agreements. We have over 500 corporate clients each of which has sold in excess of $10,000 of surplus and salvage assets in our marketplaces during the last twelve months. Our agreements with these clients are generally terminable at will by either party.

Key Business Metrics

Our management periodically reviews certain key business metrics for operational planning purposes and to evaluate the effectiveness of our operational strategies, allocation of resources and our capacity to fund capital expenditures and expand our business. These key business metrics include:

Table of Contents

Gross merchandise volume. Gross merchandise volume, or GMV, is the total sales value of all merchandise sold through our marketplaces during a given period. We review GMV because it provides a measure of the volume of goods being sold in our marketplaces and thus the activity of those marketplaces. GMV also provides a means to evaluate the effectiveness of investments that we have made and continue to make, including in the areas of customer support, value-added services, product development, sales and marketing, and operations. The GMV of goods sold in our marketplaces during the three and nine months ended June 30, 2011 totaled $148.1 million and $412.6 million, respectively.

Completed transactions. Completed transactions represents the number of auctions in a given period from which we have recorded revenue. Similar to GMV, we believe that completed transactions is a key business metric because it provides an additional measurement of the volume of activity flowing through our marketplaces. During the three and nine months ended June 30, 2011, we completed approximately 115,000 and 371,000 transactions, respectively.

Total registered buyers. We grow our buyer base through a combination of marketing and promotional efforts. A person becomes a registered buyer by completing an online registration process on one of our marketplaces. As part of this process, we collect business and personal information, including name, title, company name, business address and contact information, and information on how the person intends to use our marketplaces. Each prospective buyer must also accept our terms and conditions of use. Following the completion of the online registration process, we verify each prospective buyer's e-mail address and confirm that the person is not listed on any banned persons list maintained internally or by the U.S. federal government. After the verification process, which is completed generally within 24 hours, the registration is approved and activated and the prospective buyer is added to our registered buyer list.

Total registered buyers as of a given date represents the aggregate number of persons or entities who have registered on one of our marketplaces. We use this metric to evaluate how well our marketing and promotional efforts are performing. Total registered buyers excludes duplicate registrations, buyers who are suspended from utilizing our marketplaces and those buyers who have voluntarily removed themselves from our registration database. In addition, if we become aware of registered buyers that are no longer in business, we remove them from our database. As of June 30, 2011, we had approximately 1,567,000 registered buyers.

Total auction participants. For each auction we manage, the number of auction participants represents the total number of registered buyers who have bid one or more times in that auction. As a result, a registered buyer who bids, or participates, in more than one auction is counted as an auction participant in each auction in which he or she participates. Thus, total auction participants for a given period is the sum of the auction participants in each auction conducted during that period. We use this metric to allow us to compare our online auction marketplaces to our competitors, including other online auction sites and traditional on-site auctioneers. In addition, we measure total auction participants on a periodic basis to evaluate the activity level of our base of registered buyers and to measure the performance of our marketing and promotional efforts. For the three and nine months ended June 30, 2011, approximately 448,000 and 1,494,000 total auction participants participated in auctions on our marketplaces, respectively.

Non-GAAP Financial Measures

EBITDA and adjusted EBITDA. EBITDA is a supplemental non-GAAP financial measure and is equal to net (loss) income plus interest (income) and other expense, net; provision for income taxes; amortization of contract intangibles; and depreciation and amortization. Our definition of adjusted EBITDA differs from EBITDA because we further adjust EBITDA for stock-based compensation expense and acquisition costs and goodwill impairment.

We believe EBITDA and adjusted EBITDA are useful to an investor in evaluating our performance for the following reasons:

- The amortization of contract intangibles relates to amortization of the Scrap Contract beginning in June 2005. Depreciation and amortization expense primarily relates to property and equipment. Both of these expenses are non-cash charges that have fluctuated significantly over the past five years. As a result, we believe that adding back these non-cash charges to net income is useful in evaluating the operating performance of our business on a consistent basis from year-to-year.

- As a result of varying federal and state income tax rates, we believe that presenting a financial measure that adjusts net income for provision for income taxes is useful to investors when evaluating the operating performance of our business.

Table of Contents

- In December 2004, the Financial Accounting Standards Board (FASB) issued new authoritative guidance that requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their estimated fair values. Pro forma disclosure is no longer an alternative. We adopted the provisions of this new guidance on October 1, 2005, using the prospective method. Unvested stock based awards issued prior to October 1, 2005 were accounted for at the date of adoption using the intrinsic value method originally applied to those awards. Accordingly, we believe adjusting net income for this non-cash stock based compensation expense is useful to investors when evaluating the operating performance of our business.

- In December 2007, the FASB issued new authoritative guidance related to business combinations. This guidance changes the accounting for acquisitions by eliminating the step acquisition model, changing the recognition of contingent consideration so that it is recognized at the time of acquisition rather than when it is probable, disallowing the capitalization of transaction costs and delaying when restructurings related to acquisitions can be recognized. We adopted this guidance for the fiscal year beginning October 1, 2009. Accordingly, we believe adjusting net income for these acquisition related expenses and the impairment of goodwill associated with any acquisitions is useful to investors when evaluating the operating performance of our business on a consistent basis from year-to-year.

- We believe these measures are important indicators of our operational strength and the performance of our business because they provide a link between profitability and operating cash flow.

- We believe isolating non-cash charges, such as amortization and depreciation, and other items, such as impairment costs incurred outside our ordinary course of business, provides additional information about our cost structure, and, over time, helps track our performance.

- We also believe that analysts and investors use EBITDA and adjusted EBITDA as supplemental measures to evaluate the overall operating performance of companies in our industry.

Our management uses EBITDA and adjusted EBITDA:

- as measurements of operating performance because they assist us in comparing our operating performance on a consistent basis as they remove the impact of items not directly resulting from our core operations;

- for planning purposes, including the preparation of our internal annual operating budget;

- to allocate resources to enhance the financial performance of our business;

- to evaluate the effectiveness of our operational strategies; and

- to evaluate our capacity to fund capital expenditures and expand our business.

EBITDA and adjusted EBITDA as calculated by us are not necessarily comparable to similarly titled measures used by other companies. In addition, EBITDA and adjusted EBITDA: (a) do not represent net income or cash flows from operating activities as defined by GAAP; (b) are not necessarily indicative of cash available to fund our cash flow needs; and (c) should not be considered as alternatives to net income, income from operations, cash provided by operating activities or our other financial information as determined under GAAP.

We prepare adjusted EBITDA by adjusting EBITDA to eliminate the impact of items that we do not consider indicative of our core operating performance. You are encouraged to evaluate these adjustments and the reasons we consider them appropriate for supplemental analysis. As an analytical tool, adjusted EBITDA is subject to all of the limitations applicable to EBITDA. Our presentation of adjusted EBITDA should not be construed as an implication that our future results will be unaffected by unusual or non-recurring items.

Table of Contents

The table below reconciles net income to EBITDA and adjusted EBITDA for the periods presented.

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2011	2010	2011	2010
	(in thousands) (unaudited)			
Net (loss) income	$ (1,057)	$ 2,990	$ 5,385	$ 9,507
Interest (income) and other expense, net	(5)	(50)	49	(91)
(Benefit) provision for income taxes	(4,550)	4,041	1,892	9,692
Amortization of contract intangibles	203	203	610	610
Depreciation and amortization	1,391	1,058	3,932	2,938
EBITDA	(4,018)	8,242	11,868	22,656
Stock compensation expense	2,221	1,785	6,749	6,029
Acquisition costs and goodwill impairment	16,894	524	21,589	524
Adjusted EBITDA	$ 15,097	$ 10,551	$ 40,206	$ 29,209

Critical Accounting Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities. A “critical accounting estimate” is one which is both important to the portrayal of our financial condition and results and requires management’s most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. We continuously evaluate our critical accounting estimates. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Revenue recognition. For transactions in our online marketplaces, which generate substantially all of our revenue, we recognize revenue when all of the following criteria are met:

- a buyer submits the winning bid in an auction and, as a result, evidence of an arrangement exists and the sale price has been determined;
- title has passed to a buyer and the buyer has assumed risks and rewards of ownership; and
- collection is reasonably assured.

Substantially all of our sales are recorded subsequent to payment authorization being received, utilizing credit cards, wire transfers and PayPal, an Internet based payment system, as methods of payments. As a result, we are not subject to significant collection risk, as goods are generally not shipped before payment is received.

Revenue is also evaluated for reporting revenue of gross proceeds as the principal in the arrangement or net of commissions as an agent. In arrangements in which we are deemed to be the primary obligor, bear physical and general inventory risk, and credit risk, we recognize as revenue the gross proceeds from the sale, including buyer’s premiums. Arrangements in which we act as an agent or broker on a consignment basis, without taking general or physical inventory risk, revenue is recognized based on the sales commissions that are paid to us by the sellers for utilizing our services; in this situation, sales commissions represent a percentage of the gross proceeds from the sale that the seller pays to us upon completion of the transaction.

Table of Contents

We have evaluated our revenue recognition policy related to sales under our profit-sharing model and determined it is appropriate to account for these sales on a gross basis. The following factors were most heavily relied upon in our determination:

- We are the primary obligor in the arrangement.

- We are the seller in substance and in appearance to the buyer; the buyer contacts us if there is a problem with the purchase. Only we and the buyer are parties to the sales contract and the buyer has no recourse to the supplier. If the buyer has a problem, he or she looks to us, not the supplier.

- The buyer does not and cannot look to the supplier for fulfillment or for product acceptability concerns.

- We have general inventory risk.

- We take title to the inventory upon paying the amount set forth in the contract with the supplier. Such amount is generally a percentage of the supplier's original acquisition cost and varies depending on the type of the inventory purchased or a fixed price per pound under our Scrap Contract.

- We are at risk of loss for all amounts paid to the supplier in the event the property is damaged or otherwise becomes unsaleable. In addition, as payments made for inventory are excluded from the calculation for the profit-sharing distribution under our DoD contracts, we effectively bear inventory risk for the full amount paid to acquire the property (*i.e.*, there is no sharing of inventory risk).

Valuation of goodwill and other intangible assets. We identify and value intangible assets that we acquire in business combinations, such as customer arrangements, customer relationships and non-compete agreements, that arise from contractual or other legal rights or that are capable of being separated or divided from the acquired entity and sold, transferred, licensed, rented or exchanged. The fair value of identified intangible assets is based upon an estimate of the future economic benefits expected to result from ownership, which represents the amount at which the assets could be bought or sold in a current transaction between willing parties, that is, other than in a forced or liquidation sale.

We test our goodwill and other intangible assets for impairment annually or more frequently if events or circumstances indicate impairment may exist. Examples of such events or circumstances could include a significant change in business climate or a loss of significant customers. We apply a two-step fair value-based test to assess goodwill for impairment. The first step compares the fair value of a reporting unit to its carrying amount, including goodwill. If the carrying amount of the reporting unit exceeds its fair value, the second step is then performed. The second step compares the carrying amount of the reporting unit's goodwill to the fair value of the goodwill. If the fair value of the goodwill is less than the carrying amount, an impairment loss would be recorded in our statements of operations. Intangible assets with definite lives are amortized over their estimated useful lives and are also reviewed for impairment if events or changes in circumstances indicate that their carrying amount may not be realizable.

Our management makes certain estimates and assumptions in order to determine the fair value of net assets and liabilities, including, among other things, an assessment of market conditions, projected cash flows, cost of capital and growth rates, which could significantly impact the reported value of goodwill and other intangible assets. Estimating future cash flows requires significant judgment, and our projections may vary from cash flows eventually realized. The valuations employ a combination of present value techniques to measure fair value, corroborated by comparisons to estimated market multiples. These valuations are based on a discount rate determined by our management to be consistent with industry discount rates and the risks inherent in our current business model.

We cannot predict the occurrence of certain future events that might adversely affect the reported value of goodwill and other intangible assets, which totaled $43.9 million at June 30, 2011. Such events may include strategic decisions made in response to economic and competitive conditions, the impact of the economic environment on our base of buyers and sellers or material negative changes in our relationships with material customers.

Income taxes. We account for income taxes using the asset and liability approach for measuring deferred taxes based on temporary differences between the financial statement and income tax bases of assets and liabilities existing at each balance sheet date using enacted tax rates for the years in which the taxes are expected to be paid or recovered. A valuation allowance is provided to reduce the deferred tax assets to a level that we believe will more likely than not be realized. The resulting net deferred tax asset reflects management's estimate of the amount that will be realized.

We apply the guidance related to accounting for uncertainty in income taxes. We concluded that there were no uncertain tax positions identified during our analysis.

Table of Contents

We provide for income taxes based on our estimate of federal and state tax liabilities. These estimates include, among other items, effective rates for state and local income taxes, estimates related to depreciation and amortization expense allowable for tax purposes, and the tax deductibility of certain other items. Our estimates are based on the information available to us at the time we prepare the income tax provision. We generally file our annual income tax returns several months after our fiscal year-end. Income tax returns are subject to audit by federal, state and local governments, generally years after the returns are filed. These returns could be subject to material adjustments or differing interpretations of the tax laws.

Stock-based compensation. We recognize in the statements of operations all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their estimated fair values. We use the Black-Scholes option pricing model to estimate the fair values of share-based payments.

The above list is not intended to be a comprehensive list of all of our accounting estimates. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP, with little need for management's judgment in their application. There are also areas in which management's judgment in selecting any available alternative would not produce a materially different result. See our audited financial statements and related notes, which contain accounting policies and other disclosures required by GAAP.

Components of Revenue and Expenses

Revenue. We generate substantially all of our revenue from sales of merchandise held in inventory and by retaining a percentage of the proceeds from the sales. Our revenue recognition practices are discussed in more detail in the section above entitled "*Critical Accounting Estimates*."

Cost of goods sold (excluding amortization). Cost of goods sold includes the costs of purchasing and transporting property for auction, as well as credit card transaction fees.

Profit-sharing distributions. Our Scrap and original Surplus Contracts with the DoD have been structured as profit-sharing arrangements in which we purchase and take possession of all goods we receive from the DoD at a contractual percentage of the original acquisition cost of those goods or at a per pound price for scrap. After deducting allowable operating expenses, we disburse to the DoD on a monthly basis a percentage of the profits of the aggregate monthly sales. We retain the remaining percentage of these profits after the DoD's disbursement. We refer to these disbursement payments to the DoD as profit-sharing distributions.

Technology and operations. Technology expenses consist primarily of personnel costs related to our programming staff who develop and deploy new marketplaces and continuously enhance existing marketplaces. These personnel also develop and upgrade the software systems that support our operations, such as sales processing. Because our marketplaces and support systems require frequent upgrades and enhancements to maintain viability, we have determined that the useful life for substantially all of our internally developed software is less than one year. As a result, we expense these costs as incurred.

Operations expenses consist primarily of operating costs, including buyer relations, shipping logistics and distribution center operating costs.

Sales and marketing. Sales and marketing expenses include the cost of our sales and marketing personnel as well as the cost of marketing and promotional activities. These activities include online marketing campaigns such as paid search advertising.

General and administrative. General and administrative expenses include all corporate and administrative functions that support our operations and provide an infrastructure to facilitate our future growth. Components of these expenses include executive management and staff salaries, bonuses and related taxes and employee benefits; travel; headquarters rent and related occupancy costs; and legal and accounting fees. The salaries, bonus and employee benefits costs included as general and administrative expenses are generally more fixed in nature than our operating expenses and do not vary directly with the volume of merchandise sold through our marketplaces.

Amortization of contract intangibles. Amortization of contract intangibles expense consists of the amortization of our Scrap Contract award during June 2005. This contract required us to purchase the rights to operate the scrap operations of the DoD during the seven year base term of the contract. The intangible asset created from the $5.7 million purchase is being amortized over 84 months on a straight-line basis. The amortization period is correlated to the base term of the contract, exclusive of renewal periods.

Depreciation and amortization. Depreciation and amortization expenses consist primarily of the depreciation and amortization of amounts recorded in connection with the purchase of furniture, fixtures and equipment.

Table of Contents

Interest income and other (expense), net. Interest income and other (expense), net consists primarily of interest income on cash and short-term investments and interest expense on borrowings under our notes payable and realized gains or losses on short-term investments.

Income taxes. During fiscal years 2008, 2009 and 2010, we had an effective income tax rate of approximately 43%, 58% and 50%, respectively, which included federal, state and foreign income taxes. Our 2009 effective income tax rate increased principally because we recorded a $1,287,000 valuation allowance against the deferred tax assets of our foreign subsidiaries, consisting principally of net operating loss carryforwards. $960,000 of the valuation allowance was necessitated by losses in recent years at our UK subsidiary, especially in 2009, primarily as a result of the loss of the UK subsidiary's largest client. Our 2010 effective income tax rate continued to be higher than expected as a result of continued losses in our UK subsidiary, which are not deductible against our US income. We estimate that our fiscal year 2011 tax rate will be approximately 26%, which is a decrease from the estimated 50% utilized in our last two quarters. The estimated 24% decrease is a result of the estimated tax benefit associated with the closing of our UK operations. We estimate that our future effective income tax rate will be approximately 44%, which is comprised of (1) approximately 35% for federal taxes, (2) approximately 6% for state taxes, and (3) approximately 3% for book and tax differences including stock based compensation expenses, primarily related to employee stock options, which are currently expensed in our financial statements but are not deductable for tax purposes until they are exercised.

Results of Operations

The following table sets forth, for the periods indicated, selected statement of operations data expressed as a percentage of revenue.

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2011	2010	2011	2010
Revenue	100.0%	100.0%	100.0%	100.0%
Costs and expenses:				
Cost of goods sold (excluding amortization)	40.2	41.8	42.2	42.4
Profit-sharing distributions	14.3	14.1	13.6	14.2
Technology and operations	15.8	16.5	16.1	16.9
Sales and marketing	6.7	7.2	7.0	7.0
General and administrative	8.0	8.4	8.1	8.7
Amortization of contract intangibles	0.3	0.3	0.3	0.4
Depreciation and amortization	1.6	1.4	1.5	1.3
Acquisition costs and goodwill impairment	19.6	0.7	8.4	0.2
Total costs and expenses	106.5	90.4	97.2	91.1
(Loss) income from operations	(6.5)	9.6	2.8	8.9
Interest income and other (expense), net	0.0	0.1	(0.0)	0.0
(Loss) income before provision for income taxes	(6.5)	9.7	2.8	8.9
Benefit (provision) for income taxes	5.3	(5.6)	(0.7)	(4.5)

Net (loss) income	(1.2)%	4.1%	2.1%	4.4%

Three Months Ended June 30, 2011 Compared to Three Months Ended June 30, 2010

Revenue. Revenue increased $13.4 million, or 18.3%, to $86.1 million for the three months ended June 30, 2011 from $72.7 million for the three months ended June 30, 2010, primarily due to (1) a 27.4% increase, or $7.2 million, in our U.S. commercial marketplaces primarily as a result of several new purchase model programs for large retailers; and (2) a 23.2% increase, or $4.4 million, in our DoD scrap marketplace, which utilizes the profit sharing model, as a result of increasing commodity prices and a higher mix of high value metals. The amount of gross merchandise volume increased $39.1 million, or 35.9%, to $148.1 million for the three months ended June 30, 2011 from $109.0 million for the three months ended June 30, 2010, primarily due to (1) the growth in our commercial and DoD scrap marketplaces discussed above; (2) a 41.8% increase, or $10.2 million, in our state and local government (GovDeals) marketplace; and (3) the acquisitions of Network International on June 15, 2010, and TruckCenter.com on June 1, 2011, which utilize the consignment model.

Table of Contents

Cost of goods sold (excluding amortization). Cost of goods sold (excluding amortization) increased $4.2 million, or 13.8%, to $34.6 million for the three months ended June 30, 2011 from $30.4 million for the three months ended June 30, 2010, primarily due to expenses associated with our U.S. commercial marketplaces as a result of the growth discussed above, which was primarily under the purchase model. As a percentage of revenue, cost of goods sold (excluding amortization) decreased to 40.2% from 41.8%, primarily due to the acquisitions of Network International and TruckCenter.com which utilize the consignment model.

Profit-sharing distributions. Profit-sharing distributions increased $2.0 million, or 20.3%, to $12.3 million for the three months ended June 30, 2011 from $10.3 million for the three months ended June 30, 2010. As a percentage of revenue, profit-sharing distributions increased to 14.3% from 14.1%. These increases were primarily due to the growth in our DoD scrap marketplace discussed above.

Technology and operations expenses. Technology and operations expenses increased $1.6 million, or 13.2%, to $13.6 million for the three months ended June 30, 2011 from $12.0 million for the three months ended June 30, 2010, primarily due to increases in staff, outsourced processing labor and temporary wages, including stock based compensation, and consultant fees associated with technology infrastructure projects. As a percentage of revenue, technology and operations expenses decreased to 15.8% from 16.5%, primarily due to the increase in revenue, while leveraging our fixed costs, such as our distribution center network.

Sales and marketing expenses. Sales and marketing expenses increased $0.6 million, or 10.9%, to $5.8 million for the three months ended June 30, 2011 from $5.2 million for the three months ended June 30, 2010, primarily due to the acquisitions of Network International, and TruckCenter.com. As a percentage of revenue, these expenses decreased to 6.7% from 7.2%, primarily due to the increase in revenue while leveraging our fixed costs, such as marketing staff.

General and administrative expenses. General and administrative expenses increased $0.7 million, or 12.4%, to $6.9 million for the three months ended June 30, 2011 from $6.2 million for the three months ended June 30, 2010, primarily due to (1) $0.4 million in general corporate expenses and business development costs to support the growth discussed above; and (2) expenses of $0.3 million associated with Network International and TruckCenter.com. As a percentage of revenue, general and administrative expenses decreased to 8.0% from 8.4%, primarily due to the increase in revenue while leveraging our fixed costs, such as corporate staff.

Amortization of contract intangibles. Amortization of contract intangibles was $0.2 million for the three months ended June 30, 2011 and 2010, as a result of our DoD Scrap Contract award during June 2005. This contract required us to purchase the rights to operate the scrap operations of the DoD during the seven-year base term of the contract. The intangible asset created from the $5.7 million purchase is being amortized on a straight-line basis over 84 months, which began in August 2005.

Depreciation and amortization expenses. Depreciation and amortization expenses increased $0.3 million, or 31.5%, to $1.4 million for the three months ended June 30, 2011 from $1.1 million for the three months ended June 30, 2010, primarily due to additional depreciation expense resulting from the purchase of $4.4 million and $3.7 million of property and equipment for the nine months ended June 30, 2011 and during the fiscal year ended September 30, 2010.

Acquisition costs and goodwill impairment. Acquisition costs and goodwill impairment expenses increased $16.4 million, or 3,125.9%, to $16.9 million for the three months ended June 30, 2011 from $0.5 million for the three months ended June 30, 2010, primarily due to (1) expenses of $16.6 million associated with the goodwill impairment charge from the Geneva acquisition on May 1, 2008, and (2) acquisition costs of $0.2 million as a result of our acquisition of Truckcenter.com on June 1, 2011, compared to acquisition costs of $0.5 million for the three months ended June 30, 2010 as a result of our acquisition of Network International, Inc. on June 15, 2010.

Interest income and other (expense), net. Interest income and other (expense), net decreased $45 thousand, or 89.1%, to $5 thousand of income for the three months ended June 30, 2011 from $50 thousand of income for the three months ended June 30, 2010, primarily due to a decrease in short term interest rates.

Benefit (provision) for income tax expense. Income tax expense decreased $8.6 million, or 212.6%, primarily due to a $4.6 million income tax benefit for the three months ended June 30, 2011 from $4.0 million income tax expense for the three months ended June 30, 2010, primarily due to the tax benefit associated with closing our UK operations.

Net (loss) income. Net (loss) income decreased $4.0 million, or 135.3%, to $1.1 million of loss for the three months ended June 30, 2011 from $3.0 million of income for the three months ended June 30, 2010, primarily due to the goodwill impairment charge.

Nine Months Ended June 30, 2011 Compared to Nine Months Ended June 30, 2010

Revenue. Revenue increased $42.9 million, or 20.0%, to $256.7 million for the nine months ended June 30, 2011 from $213.8 million for the nine months ended June 30, 2010, primarily due to (1) a 20.5% increase, or $10.5 million, in our DoD scrap marketplace, which utilizes the profit sharing model, as a result of increasing commodity prices and a higher mix of high value metals; (2) a 24.3% increase, or $14.8 million, in our DoD surplus marketplace, as a result of increasing property flow from the DoD and a higher mix of high value capital assets such as rolling stock; and (3) a 26.6% increase, or $21.7 million, in our U.S. commercial marketplaces as a result of several new purchase model programs for large retailers and the acquisitions of Network International and TruckCenter.com. The amount of gross merchandise volume increased $104.6 million, or 33.9%, to $412.6 million for the nine months ended June 30, 2011 from $308.0 million for the nine months ended June 30, 2010, primarily due to (1) the growth in our DoD and U.S. commercial marketplaces discussed above; (2) a 30.4% increase, or $19.1 million, in our state and local government (GovDeals) marketplace; and (3) the acquisitions of Network International on June 15, 2010, and TruckCenter.com on June 1, 2011, which utilize the consignment model.

Cost of goods sold (excluding amortization). Cost of goods sold (excluding amortization) increased $17.5 million, or 19.3%, to $108.2 million for the nine months ended June 30, 2011 from $90.7 million for the nine months ended June 30, 2010, primarily due to expenses associated with our U.S. commercial marketplaces as a result of the growth discussed above, which was primarily under the purchase model. As a percentage of revenue, cost of goods sold (excluding amortization) decreased to 42.2% from 42.4%.

Profit-sharing distributions. Profit-sharing distributions increased $4.6 million, or 15.3%, to $34.9 million for the nine months ended June 30, 2011 from $30.3 million for the nine months ended June 30, 2010, primarily due to the growth in our DoD scrap marketplace discussed above. As a percentage of revenue, profit-sharing distributions decreased to 13.6% from 14.2%.

Technology and operations expenses. Technology and operations expenses increased $5.0 million, or 13.9%, to $41.2 million for the nine months ended June 30, 2011 from $36.2 million for the nine months ended June 30, 2010, primarily due to increases in staff, outsourced processing labor and temporary wages, including stock based compensation, and consultant fees associated with technology infrastructure projects. As a percentage of revenue, these expenses decreased to 16.1% from 16.9%, primarily due to the increase in revenue, while leveraging our fixed costs, such as our distribution center network.

Sales and marketing expenses. Sales and marketing expenses increased $3.1 million, or 20.9%, to $18.0 million for the nine months ended June 30, 2011 from $14.9 million for the nine months ended June 30, 2010, primarily due to (1) expenses of $1.2 million in staff wages, including stock based compensation; and (2) expenses of $1.8 million associated with Network International and TruckCenter.com. As a percentage of revenue, sales and marketing expenses remained consistent at 7.0%.

General and administrative expenses. General and administrative expenses increased $2.2 million, or 12.0%, to $20.8 million for the nine months ended June 30, 2011 from $18.6 million for the nine months ended June 30, 2010, primarily due to (1) $1.1 million in staff wages, including stock based compensation; (2) $0.6 million in business development costs; and (3) expenses of $0.5 million associated with general corporate overhead. As a percentage of revenue, these expenses decreased to 8.1% from 8.7%, primarily due to the increase in revenue while leveraging our fixed costs, such as corporate staff.

Amortization of contract intangibles. Amortization of contract intangibles was $0.6 million for the nine months ended June 30, 2011 and 2010, as a result of our DoD Scrap Contract award during June 2005. This contract required us to purchase the rights to operate the scrap operations of the DoD during the seven-year base term of the contract. The intangible asset created from the $5.7 million purchase is being amortized on a straight-line basis over 84 months, which began in August 2005.

Depreciation and amortization expenses. Depreciation and amortization expenses increased $1.0 million, or 33.7%, to $3.9 million for the nine months ended June 30, 2011 from $2.9 million for the nine months ended June 30, 2010, primarily due to additional depreciation expense resulting from the purchase of $4.4 million and $3.7 million of property and equipment for the nine months ended June 30, 2011 and during the fiscal year ended September 30, 2010.

Acquisition costs and goodwill impairment. Acquisition costs and goodwill impairment expenses increased $21.1 million, or 4,022.5%, to $21.6 million for the nine months ended June 30, 2011 from $0.5 million for the nine months ended June 30, 2010, primarily due to (1) expenses of $16.6 million associated with the goodwill impairment charge from the Geneva acquisition on May 1, 2008; (2) expenses of $4.7 million to record an additional liability for the expected Network International acquisition earn out as a result of operations (EBITDA) exceeding original estimates significantly; and (3) acquisition costs $0.2 million as a result of our acquisition of Truckcenter.com on June 1, 2011, compared to acquisition costs of $0.5 million for the nine months ended June 30, 2010 as a result of our acquisition of Network International, Inc. on June 15, 2010.

Interest income and other (expense), net. Interest income and other (expense), net decreased $140 thousand, or 153.8%, to $49 thousand of expense for the nine months ended June 30, 2011 from $91 thousand of income for the nine months ended June 30, 2010, primarily due to an increase in other expenses.

Provision for income tax expense. Income tax expense decreased $7.8 million, or 80.5%, to $1.9 million for the nine months ended June 30, 2011 from $9.7 million for the nine months ended June 30, 2010, primarily due to the tax benefit associated with closing our UK operations.

Net income. Net income decreased $4.1 million, or 43.4%, to $5.4 million of loss for the nine months ended June 30, 2011 from $9.5 million of income for the nine months ended June 30, 2010, primarily due to the goodwill impairment charge.

Liquidity and Capital Resources

Historically, our primary cash needs have been working capital (including capital used for inventory purchases), which we have funded primarily through cash generated from operations. As of June 30, 2011, we had approximately $93.5 million in cash and cash equivalents, $10.9 million in short-term

investments and $25.5 million available under our $30.0 million senior credit facility, due to issued letters of credit for $4.5 million; $1.0 million of our availability under this facility is set aside as a contractual obligation under our DoD Scrap Contract.

On December 2, 2008, our Board of Directors approved a $10.0 million share repurchase program. Under the program, we are authorized to repurchase the issued and outstanding shares of common stock. Share repurchases may be made through open market purchases, privately negotiated transactions or otherwise, at times and in such amounts as management deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements and other market conditions. The repurchase program may be discontinued or suspended at any time, and will be funded using our available cash. On February 2, 2010, our Board of Directors approved an additional $10.0 million for the share repurchase program. On November 30, 2010, our Board of Directors approved an additional $10.0 million for the share repurchase program. During the year ended September 30, 2009, 707,462 shares were purchased under the program for approximately $3,874,000. During the year ended September 30, 2010, 1,225,019 shares were purchased under the program for approximately $14,471,000. During the three months ended December 31, 2010, 229,575 shares were purchased under the program for approximately $3,541,000. During the three months ended March 31, 2011 and June 30, 2011, no shares were purchased under the program. On May 3, 2011, our Board of Directors approved an additional $10.0 million for the share repurchase program. As of June 30, 2011, approximately $18,114,000 may yet be expended under the program. Our Board of Directors reviews the share repurchase program periodically, the last such review having occurred in May 2011.

Substantially all of our sales are recorded subsequent to receipt of payment authorization, utilizing credit cards, wire transfers and PayPal, an Internet based payment system, as methods of payments. As a result, we are not subject to significant collection risk, as goods are generally not shipped before payment is received.

Table of Contents

Changes in Cash Flows: Nine Months Ended June 30, 2011 Compared to Nine Months Ended June 30, 2010

Net cash provided by operating activities was $28.5 million for the nine months ended June 30, 2011 and $24.4 million for the nine months ended June 30, 2010. For the nine months ended June 30, 2011, net cash provided by operating activities primarily consisted of net income of $5.4 million, depreciation and amortization expense of $4.5 million, stock compensation expense of $6.7 million, provision for inventory allowance and doubtful accounts of $0.2 million and impairment of goodwill of $16.6 million, offset in part by a net increase in accounts receivable, inventory and prepaid assets of $3.0 million and a net decrease in accounts payable, accrued expenses and other liabilities of $1.9 million. For the nine months ended June 30, 2010, net cash provided by operating activities primarily consisted of net income of $9.5 million, depreciation and amortization expense of $3.6 million, stock compensation expense of $6.0 million, provision for inventory allowance and doubtful accounts of $0.2 million, net and a net increase in accounts payable, accrued expenses and other liabilities of $6.6 million, offset in part by a net increase in accounts receivable, inventory and prepaid assets of $1.5 million.

Net cash provided by investing activities was $9.2 million for the nine months ended June 30, 2011 and $5.7 million for the nine months ended June 30, 2010. Net cash provided by investing activities for the nine months ended June 30, 2011 consisted primarily of net sales of short-term investments of $22.6 million, offset in part by cash paid for acquisitions net of cash acquired of $9.0 million and capital expenditures of $4.4 million for purchases of equipment and leasehold improvements. Net cash provided by investing activities for the nine months ended June 30, 2010 consisted primarily of net sales of short-term investments of $12.8 million, offset in part by capital expenditures of $3.1 million for purchases of equipment and leasehold improvements, cash paid for acquisitions net of cash acquired of $3.6 million and an increase of goodwill and intangibles of $0.4 million.

Net cash provided by financing activities was $12.0 million for the nine months ended June 30, 2011 and net cash used in financing activities was $11.3 million for the nine months ended June 30, 2010. Net cash provided by financing activities for the nine months ended June 30, 2011 consisted primarily of proceeds from the exercise of common stock options including the tax benefit of $15.5 million, offset in part by $3.5 million for stock repurchases. Net cash used in financing activities for the nine months ended June 30, 2010 consisted primarily of $12.9 million for stock repurchases and $0.1 million for principal repayments of capital lease obligations, offset in part by proceeds from the exercise of common stock options including the tax benefit of $1.7 million.

Capital Expenditures. Our capital expenditures consist primarily of computers and purchased software, office equipment, furniture and fixtures, and leasehold improvements. The timing and volume of such capital expenditures in the future will be affected by the addition of new customers or expansion of existing customer relationships. We expect capital expenditures to range from $4.5 million to $5.0 million in the fiscal year ending September 30, 2011. We intend to fund those expenditures primarily from operating cash flows. Our capital expenditures for the nine months ended June 30, 2011 were $4.4 million. As of June 30, 2011, we had no outstanding commitments for capital expenditures.

Senior credit facility. We maintain a $30.0 million senior credit facility due April 30, 2013. The senior credit facility bears an annual interest rate of 30 day LIBOR plus 1.25%. As of June 30, 2011, we had no outstanding indebtedness under our senior credit facility and our borrowing availability was $25.5 million due to issued letters of credit for $4.5 million; $1.0 million of our availability under this facility is set aside as a contractual obligation under our DoD Scrap Contract. The obligations under our senior credit facility are unconditionally guaranteed by us and each of our existing and subsequently acquired or organized subsidiaries (other than our subsidiary organized to service our DoD Scrap Contract) and secured on a first priority basis by security interests (subject to permitted liens) in substantially all assets owned by us, and each of our other domestic subsidiaries, subject to limited exceptions. The Agreement contains certain financial and non-financial restrictive covenants including, among others, the requirements to maintain a minimum level of EBITDA and a minimum debt coverage ratio. Our credit agreement contains a number of affirmative and restrictive covenants including limitations on mergers, consolidations and dissolutions, sales of assets, investments and acquisitions, indebtedness and liens, and dividends and other restricted payments. As of June 30, 2011, we were in full compliance with the terms and conditions of our credit agreement.

We believe that our existing cash and cash equivalents and short term investments, will be sufficient to meet our anticipated cash needs for at least the next 12 months. Our future capital requirements will depend on many factors including our rate of revenue growth, the timing and extent of spending to support development efforts, the expansion of sales and marketing activities, the development and deployment of new marketplaces, the introduction of new value added services and the costs to establish additional distribution centers. Although we are currently not a party to any definitive agreement with respect to potential investments in, or acquisitions of, complementary businesses, products or technologies, we may enter into these types of arrangements in the future, which could also require us to seek additional equity or debt financing. The sale of additional equity securities or convertible debt securities would result in additional dilution to our stockholders. Additional debt would result in increased interest expense and could result in covenants that would restrict our operations. There is no assurance that such financing, if required, will be available in amounts or on terms acceptable to us, if at all.

Table of Contents

Off-Balance Sheet Arrangements

We do not have any transactions, obligations or relationships that could be considered material off-balance sheet arrangements.

New Accounting Pronouncements

In December 2010, the FASB issued new authoritative guidance related to goodwill impairment. This guidance changes the accounting for goodwill impairment by requiring the step 2 test on goodwill impairment of entities that have a zero or negative carrying amount, whereas previously if an entity had a zero or negative carrying amount and it was determined that the entity had a value greater than zero; step 1 was sufficient, resulting in no requirement to perform step 2 testing and no impairment was recorded. The new guidance is effective for fiscal years (and interim periods within those fiscal years) beginning after December 15, 2010. Early adoption is not permitted so this will not be applicable for us until the first quarter of fiscal 2012. Any impairment charges upon adoption would be recognized as a cumulative-effect adjustment to retained earnings and any impairment charges thereafter would run through current earnings. The Company is currently evaluating the impact of this guidance.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Interest rate sensitivity. We did not have any debt as of June 30, 2011 and September 30, 2010 and thus do not have any related interest rate exposure. Our investment policy requires us to invest funds in excess of current operating requirements. The principal objectives of our investment activities are to preserve principal, provide liquidity and maximize income consistent with minimizing risk of material loss.

As of June 30, 2011, our cash and cash equivalents consisted primarily of money market funds and our short term investments consisted primarily of highly rated short term bonds. The recorded carrying amounts of cash and cash equivalents approximate fair value due to their short maturities. Our interest income is sensitive to changes in the general level of interest rates in the United States, particularly since the majority of our investments are short-term in nature. Due to the nature of our short-term investments, which have a duration of three to twelve months, we have concluded that we do not have material market risk exposure.

Exchange rate sensitivity. We consider our exposure to foreign currency exchange rate fluctuations to be minimal, as less than three percent of our GMV is denominated in foreign currencies. We have not engaged in any hedging or other derivative transactions to date.

Item 4. Controls and Procedures.

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

During the most recent fiscal quarter, there has not occurred any change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

As of June 30, 2011, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective and were operating at the reasonable assurance level.

Table of Contents

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

From time to time, we may become involved in litigation relating to claims arising in the ordinary course of our business. There are no claims or actions pending or threatened against us that, if adversely determined, would in our judgment have a material adverse effect on us.

Item 1A. Risk Factors.

In addition to the other information set forth in this report, you should carefully consider the factors set forth in Part I, "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the year ended September 30, 2010, which could materially affect our business, financial condition or future results. The risks described in our Form 10-K are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.

Item 6. Exhibits.

Exhibit No.	Description
2.1	Asset Purchase Agreement by and among Youk Acquisition Partners, LLC, TruckCenter.com, LLC, Corey P. Schlossmann, Samantha Schlossmann, Jessica Schlossmann and Katie Schlossmann, dated May 24, 2011.

3.1	Fourth Amended and Restated Certificate of Incorporation, incorporated herein by reference to Exhibit 3.1 to Amendment No. 2 to the Company's Registration Statement on Form S-1 (Registration No. 333-129656), filed with the SEC on January 17, 2006.
3.2	Amended and Restated Bylaws, incorporated herein by reference to Exhibit 3.2 to Amendment No. 2 to the Company's Registration Statement on Form S-1 (Registration No. 333-129656), filed with the SEC on January 17, 2006.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934.
32.1	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following materials from the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011, formatted in Extensible Business Reporting Language (XBRL), include: (i) the Condensed Consolidated Statements of Income, (ii) the Condensed Consolidated Balance Sheets, (iii) the Condensed Consolidated Statements of Cash Flows, and (iv) related notes (furnished herewith).

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on August 9, 2011.

LIQUIDITY SERVICES, INC.
(Registrant)

By: /s/ William P. Angrick, III
William P. Angrick, III
Chairman of the Board of Directors and Chief Executive Officer

By: /s/ James M. Rallo
James M. Rallo
Chief Financial Officer and Treasurer

Exhibit 2.1

EXECUTION VERSION

ASSET PURCHASE AGREEMENT

among

YOUK ACQUISITION PARTNERS, LLC,
TRUCKCENTER.COM, LLC

and

COREY P. SCHLOSSMANN, SAMANTHA SCHLOSSMANN,
JESSICA SCHLOSSMANN and KATIE SCHLOSSMANN

MAY 24, 2011

TABLE OF CONTENTS

LIST OF EXHIBITS

LIST OF SCHEDULES

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement"), dated as of May 24, 2011 (the "Effective Date"), is entered into by and among **YOUK ACQUISITION PARTNERS, LLC**, a Delaware limited liability company (the "Purchaser"), **TRUCKCENTER.COM, LLC**, a Delaware limited liability company (the "Company"), **COREY P. SCHLOSSMANN, SAMANTHA SCHLOSSMANN, JESSICA SCHLOSSMANN**, and **KATIE SCHLOSSMANN**, each of whom is a member of the Company (collectively referred to herein as the "Members" and each is referred to as a "Member.").

RECITALS

WHEREAS, the Members collectively own all the issued and outstanding equity securities of the Company;

WHEREAS, the Company is engaged in the business of conducting private sales and auctions, including, but not limited to, land-based and Internet public auctions of certain assets, including, but not limited to, transportation and construction assets and any other assets sold by the Company in the Ordinary Course of Business prior to the Closing (the "Business"); and

WHEREAS, the Company desires to sell, the Members desire to cause the Company to sell and the Purchaser desires to purchase, substantially all of the assets, properties and rights relating to or otherwise used or held for use by the Company in the Business, and in connection therewith, the Purchaser is willing to assume specified liabilities of the Company relating thereto, all on the terms and subject to the conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the respective covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

1.1. Defined Terms. As used herein, the terms below shall have the following meanings:

"Accounts Receivable" means all accounts receivable, notes and notes receivable, other receivables, book debts and other forms of obligations to the Company, together with any unpaid interest or fees accrued thereon and other amounts due with respect thereto, and all related claims, rights, causes of action and suits related to such receivables.

"Acquired Assets" means all of the Company's right, title and interest in, to and under the assets, properties and rights of any nature, kind or description, whether tangible or

---

intangible, real, personal or mixed, wherever located, related to, used or held for use in connection with, the Business, including, but not limited to:

(i) all Business Intellectual Property;

(ii) all Equipment;

(iii) all Permits to the extent transferable to the Purchaser;

(iv) all Accounts Receivable arising from the operation of the Business other than the Retained Receivables;

(v) all Business Records;

(vi) all Inventory;

(vii) all Assumed Contracts;

(viii) all Leased Property and all leasehold improvements situated at or in the Leased Property;

(ix) the benefit of any arrangement of any Person not to compete with the Business or to solicit or take customers or Employees of the Business;

(x) all Prepaid Items;

(xi) deposits received from customers of the Business;

(xii) all Rights;

(xiii) all goodwill and going concern value and other intangible assets, if any, related to, or arising from, the Business and the Acquired Assets, including, but not limited to, all goodwill associated with Business Intellectual Property;

(xiv) all marketing materials, sales literature and promotional literature; and

(xv) all other assets, properties and rights that are disclosed on **Schedule 1.1(a)**.

"Affiliate" means, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person.

"Agreement" shall have the meaning specified in the Preamble.

"Ancillary Agreements" means the Offer Letters, the Escrow Agreement, the Assignment and Assumption Agreement, the Bill of Sale, the Lease Documents, the Software License Agreement, the Consulting Agreement and all other agreements, documents and instruments required to be delivered by any party pursuant to this Agreement or entered into in connection with this Agreement or the transactions contemplated hereby.

"Applicable Law" means any domestic or foreign, federal, state or local statute, law, ordinance, policy, guidance, rule, administrative interpretation, regulation, rule, order, writ, injunction, directive, judgment, decree or other similar or dissimilar requirement (including, but not limited to, common law), of any Governmental Authority (including, but not limited to, any Environmental Law).

"Arbitrator" shall have the meaning set forth in **Section 10.12(b)**.

"Assignment and Assumption Agreement" means the assignment and assumption agreement by and between the Purchaser and the Company in the form attached hereto as **Exhibit A**.

"Assumed Contracts" means all contracts and agreements set forth on **Schedule 1.1(b)**.

"Assumed Liabilities" means, subject to the limitations and the conditions as provided herein:

(i) all liabilities arising out of ownership or use of the Acquired Assets after the Closing Date;

(ii) all liabilities of the Company under the (A) Assumed Contracts and (B) transferrable Permits included in Acquired Assets, in each case relating to obligations to be performed after the Closing Date; and

(iii) the liabilities of the Company for accrued vacation and sick time for the Transferred Employees; and

(iv) all liabilities disclosed on **Schedule 1.1(c).**

Assumed Liabilities shall not include any Excluded Liabilities.

"Base Consideration" shall mean Nine Million Dollars ($9,000,000).

"Benefit Plan" shall have the meaning specified in **Section 3.13(a)**.

"Bill of Sale" means the bill of sale in the form attached hereto as **Exhibit B**.

"Business" shall have the meaning specified in the Recitals.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

"Business Intellectual Property" means all Intellectual Property owned (in whole or in part) by, or licensed to, the Company (including, but not limited to, the domain names "truckcenter.com" and "constructioncenter.com") and in any common law trademarks and other rights to the trade name "Truckcenter" and derivations thereof and the rights, if any, held by the Company in the common law trademark "Truckcenter", and in any way related to, used or held

for use in connection with the Business, including, but not limited to, all related claims, rights, causes of action and suits related to such Intellectual Property.

"Business Records" means all books, records, original documents, accounts, files, papers, correspondence and other information of the Company in any way related to the Business, the Acquired Assets or the Assumed Liabilities, which have been reduced to writing or other tangible or fixed form, whether in hard copy or computer or other electronic format, including, but not limited to, legal records, warranty records, equipment logs, lists of present and former customers, distributors and suppliers, customer service and collection records, billing tapes, month-end tapes, documentation developed or used for accounting, marketing, services or any other purpose related to the conduct of the Business, other than (i) those relating solely to the Excluded Assets or Excluded Liabilities and (ii) Tax Returns and Tax records.

"Cap" shall have the meaning specified in **Section 9.2(d)**.

"CERCLA" shall have the meaning specified in **Section 3.12**.

"Certificate of Formation" shall have the meaning specified in **Section 3.1**.

"Closing" shall have the meaning specified in **Section 2.9**.

"Closing Date" shall have the meaning specified in **Section 2.9**.

"Closing Date Statement" shall have the meaning specified in **Section 2.4(e)**.

"Closing Date Working Capital Amount" shall have the meaning specified in **Section 2.4(e)**.

"Closing Payment" shall have the meaning specified in **Section 2.4(a)**.

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Company" shall have the meaning specified in the Preamble.

"Company Disclosure Letter" shall have the meaning specified in **Article III**.

"Company Intellectual Property" shall have the meaning specified in **Section 3.19(a)**.

"Company Membership Interests" shall have the meaning specified in **Section 3.1(b).**

"Confidentiality Agreement" means the Confidentiality Agreement, dated December 7, 2010, between the Company and the Purchaser.

"Consulting Agreement" shall mean the consulting agreement between the Purchaser and Corey P. Schlossmann in the form attached hereto as **Exhibit I**.

"Contaminant" shall have the meaning specified in **Section 3.19(f)**.

"Contract" shall have the meaning specified in **Section 3.9(a)**.

"Default" means (i) any actual breach or default, (ii) the occurrence of an event that with the passage of time or the giving of notice or both would constitute a breach or default or (iii) the occurrence of an event that, with or without the passage of time or the giving of notice or both, would give rise to a right of termination, renegotiation or acceleration.

"Defense" shall have the meaning specified in **Section 10.16(b)**.

"Disabling Code" shall have the meaning specified in **Section 3.19(f)**.

"Disputes" shall have the meaning specified in **Section 10.12(a)**.

"Dispute Notice" shall have the meaning specified in **Section 10.12(b)**.

"Earn-Out Payments" shall have the meaning specified in **Section 2.4(d)**.

"EBITDA" shall have the meaning specified in **Section 2.4(d)(i)(A)**.

"EBITDA Target" shall have the meaning specified in **Section 2.4(d)(i)(A)**.

"EBITDA Measurement Period" shall have the meaning specified in **Section 2.4(d)(i)(A)**.

"EBITDA Earn-Out Payment" shall have the meaning specified in **Section 2.4(d)(i)(A)**.

"Effective Date" shall have the meaning specified in the Preamble.

"Employee" means any full-time or part-time employee, manager, officer or director of the Company.

"Encumbrance" means any claim, lien, pledge, option, charge, easement, security interest, deed of trust, mortgage, conditional sales agreement, encumbrance or other right of third parties of any kind, whether voluntarily incurred or arising by operation of law, and includes, without limitation, any agreement to give any of the foregoing in the future, and any contingent sale or other title retention agreement or lease in the nature thereof.

"Environmental Claim" means any claim, violation or liability, by or of any Person relating to liability or potential liability (including, but not limited to, liability or potential liability for enforcement, investigatory costs, cleanup costs, governmental response costs, natural resource damages, property damage, personal injury, fines or penalties) arising out of, based on or resulting from (i) the presence, discharge, emission, release or threatened release of any Hazardous Material at any location and any exposure of Persons to such Hazardous Material at any location, (ii) the use, handling, treatment, storage or disposal of any Hazardous Material, (iii) circumstances forming the basis of any violation or alleged violation of any Environmental

Laws or Permits, or (iv) otherwise relating to obligations or liabilities under any Environmental Law.

"Environmental Laws" shall have the meaning specified in **Section 3.12**.

"Equipment" means all of the tangible personal property, including, without limitation, the furnishings, furniture, machinery, office supplies, computer equipment, servers, printers, software and hardware products, trade fixtures, tools, vehicles and other equipment of every kind and nature owned or leased by the Company and related to, used or held for use in connection with the Business.

"ERISA" shall have the meaning specified in **Section 3.13(a).**

"ERISA Affiliate" shall have the meaning specified in **Section 3.13(a)**.

"Escrow Agent" shall have the meaning specified in **Section 2.4(b)**.

"Escrow Agreement" shall have the meaning specified in **Section 2.4(b)**.

"Escrow Amount" shall have the meaning specified in **Section 2.4(b).**

"Escrow Fund" shall have the meaning specified in **Section 2.4(b).**

"Escrow Termination Date" means the first annual anniversary of the Closing Date.

"Excluded Assets" means the Company's right, title and interest in, to and under the following, which are not acquired by the Purchaser hereunder:

(i) the minute books, membership records, membership certificates, organizational documents and seals of the Company;

(ii) all contracts and agreements that are not Assumed Contracts;

(iii) any cash and cash equivalents of the Company on the Closing Date other than cash and cash equivalents included in the Closing Date Working Capital Amount;

(iv) the Retained Receivables;

(v) the rights in connection with, and assets of, any Benefit Plan on the Closing Date;

(vi) all claims for Tax refunds (or credits) or Tax loss carryforwards relating to the operation of the Business for any period or portion thereof ending on or before the Closing Date;

(vii) all claims (including, but not limited to, pending claims), rights (including, but not limited to, rights under insurance policies), causes of action, suits, judgments and demands of any nature in favor of the Company to the extent relating to, or otherwise arising

out of, the Excluded Assets or Excluded Liabilities, whether choate or inchoate, known or unknown, contingent or noncontingent;

(viii) all Permits to the extent not transferable to the Purchaser;

(ix) all rights of the Company under this Agreement and the Ancillary Agreements; and

(x) all other assets, properties and rights related to the Business that are disclosed on **Schedule 1.1(e)**.

"Excluded Liabilities" means, except for Assumed Liabilities, all liabilities of the Company, whether arising before, on or after the Closing Date. Without limiting the generality of the preceding sentence, the Excluded Liabilities include the following liabilities of the Company (for purposes of clarification, no portion of the following items described in the remainder of this definition shall constitute an Assumed Liability):

(i) any liability that relates to, or otherwise arises out of, the conduct or operation of the Business on or before the Closing Date, including, but not limited to, any warranty or guarantee obligations, any obligations and liabilities for refunds, adjustments or allowances of any kind;

(ii) any liability (a) under any Assumed Contract that is to be, or was to have been, performed on or before the Closing Date or that relates to any action or inaction of the Company or any of its Affiliates occurring on or before the Closing Date, and (b) under any Contract other than the Assumed Contracts;

(iii) any liability for Taxes, including, but not limited to, (a) any Taxes that relate to, or otherwise arise out of, the Business or the Acquired Assets, with respect to all periods or portions thereof ending on or prior to the Closing Date, and (b) any Taxes that will arise as a result of the transactions contemplated by this Agreement (including, but not limited to, any transfer, documentary, sales, use and other Taxes assessed upon or with respect to the transfer of the Acquired Assets to the Purchaser, and any recording or filing fees with respect thereto), but subject to **Section 2.8**, below.

(iv) any liability arising in respect of or relating to any Benefit Plan;

(v) any liability relating to Employees attributable to periods on or prior to the Closing Date, including, without limitation, liabilities for severance or other payments arising out of the transactions contemplated by this Agreement or otherwise to Employees;

(vi) any liability from or relating to any indebtedness of the Company or arising out of or relating to any credit facilities, capital leases or guarantees of the Company or any Encumbrances related thereto;

(vii) any liability relating to any Proceeding to which the Company is or becomes a party that relates to or arises out of facts or circumstances existing before the Closing Date;

(viii) any liability relating to the Company failing to observe or comply with any Applicable Law, including, but not limited to, any Applicable Law which relates to the sale of property in bulk in connection with the transfer of the Acquired Assets to the Purchaser and any Environmental Laws;

(ix) any liability in connection with any obligations owing to any Affiliate of the Company;

(x) any liability under this Agreement or any Ancillary Agreement;

(xi) any liability relating to an Excluded Asset or not associated with the Acquired Assets;

(xii) any liability imposed upon the Purchaser as a successor to or acquirer of the Business where such liability has not been expressly assumed by the Purchaser as an Assumed Liability;

(xiii) any liability based on any action, event, facts or circumstances relating to the Company, the Acquired Assets or the Business arising or existing prior to the Closing Date;

(xiv) any liability arising from, or relating to, the formation, organization or capitalization of the Company or the equity of the Company, including, but not limited to, any membership interests of the Company, or any options, warrants or other rights to acquire any membership interests of the Company, and including, but not limited to, any liability relating to the manner in which any membership interests, or any options, warrants or other rights to acquire any membership interests of the Company, were issued or granted, or relating to the distribution of proceeds from the transactions contemplated hereby to holders of membership interests of the Company or any option, warrant or other right to acquire any membership interests of the Company (including, but not limited to, any liability that arises because such distribution or transaction may have constituted a fraudulent conveyance under applicable federal or state law, or may have violated state corporate or limited liability company law governing dividends, redemptions or other similar laws);

(xv) any liability based on misappropriation, unauthorized use or infringement of any Intellectual Property of any Person by the Company or with respect to Business Intellectual Property;

(xvi) any liability based upon acts or omissions of the Company or its Representatives, members or Affiliates;

(xvii) any liability arising from a Permitted Encumbrance; and

(xviii) any liability for payment to Company's broker listed on **Schedule 3.28**.

"Fee Revenue" shall have the meaning specified in **Section 2.4(d)(ii)(A)**.

"Final Company Balance Sheet" shall have the meaning specified in **Section 3.6(a)**.

"Financial Statements" means the (i) Year End 2010 Financial Statements; (ii) the Preliminary Company Balance Sheet; and (iii) the Final Company Balance Sheet.

"First Fee Measurement Period" shall have the meaning specified in **Section 2.4(d)(ii)(A)**.

"First Fee Earn-Out Payment" shall have the meaning specified in **Section 2.4(d)(ii)(A)**.

"First Year Base Fee Revenue" shall have the meaning specified in **Section 2.4(d)(ii)(A)**.

"Fundamental Representation(s)" means the representations and warranties of Company and Member Corey P. Schlossmann set forth in **Sections 3.1** (Organization), **3.3** (Authority), **3.4** (Title), **3.11** (Taxes), **3.12** (Environmental Matters), **3.15** (Permits) and **3.27** (Solvency) and the representations and warranties of the Purchaser set forth in **Section 4.8** (Solvency).

"GAAP" means accounting principles generally accepted in the United States consistently applied over all relevant periods.

"Governmental Authority" means any court, administrative agency, regulatory body, commission or other governmental authority or instrumentality of the United States or any other country or any state, county, municipality or other governmental division of any country.

"Guarantor" shall have the meaning specified in **Section 10.16**.

"Hazardous Materials" shall have the meaning specified in **Section 3.12**.

"Hired Employees" shall have the meaning specified in **Section 6.4(a)**.

"Immediate Family", with respect to any specified Person who is a natural person, means such Person's spouse, parents, children and siblings, including, but not limited to, adoptive relationships and relationships through marriage, or any other relative of such Person that shares such Person's home.

"Indemnification Claim" shall have the meaning specified in **Section 9.2(b)**.

"Indemnifying Party" shall have the meaning specified in **Section 9.3(a)**.

"Independent Accountants" shall have the meaning specified in **Section 2.7(d)**.

"Intellectual Property" means:

(A) (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereon, and all patents, patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, divisions, revisions, extensions and re-examinations thereof, (ii) all trademarks, service marks, trade dress, logos, trade names, domain names, URLs, websites and corporate names, together with all translations, adaptations, derivations and combinations thereof and including, but not limited to, all goodwill, rights, and interests (whether statutory or common law) associated therewith, and all applications, registrations and renewals in connection therewith, (iii) all copyrightable works, all copyrights

(whether statutory or common law) and all applications, registrations and renewals in connection therewith, (iv) all trade secrets and confidential business information (including, but not limited to, ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, methods, schematics, technology, technical data, designs, drawings, flowcharts, block diagrams, specifications, customer and supplier lists, customer data, pricing and cost information and business and marketing plans and proposals), and (v) all software (in both source and object code form) and firmware (including, but not limited to, data, databases and related documentation);

(B) all documents, records, instructions and files relating to design, end user documentation, manufacturing, quality control, sales, marketing or customer support for, and tangible embodiments of, all intellectual property described herein; and

(C) all licenses, agreements and other rights in any third party product or any third party intellectual property described in (A) and (B) above other than any commercially available "off-the-shelf" third party software, so-called "shrink-wrap" or "click wrap" or related intellectual property .

"Inventory" means all inventory, including, but not limited to, raw and packing materials, work-in-progress, finished goods, supplies, parts and similar items owned by the Company or held on consignment by the Company, but excludes vehicles generally used for noncommercial purposes which are to be transferred and assigned to Member, Corey P. Schlossmann prior to the Closing.

"Inventory Damage Amount" shall have the meaning specified in **Section 7.2(h)**.

"IRS" shall have the meaning specified in **Section 3.13(d)**.

"JAMS" shall have the meaning specified in **Section 10.12(c)**.

"Knowledge" of the Company means the knowledge of the Persons identified on **Schedule 1.1(f)**, which will be deemed to include (i) the actual knowledge of such individuals; and (ii) the knowledge that a prudent individual could be expected to discover or otherwise become aware of in the course of conducting a reasonable investigation of the surrounding facts, circumstances, events or other matters at issue, whether or not in fact he or she made such reasonable investigation.

"Lease Documents" shall have the meaning specified in **Section 2.10(k)**.

"Leased Property" shall have the meaning specified in **Section 3.5**.

"Licensed Company Intellectual Property" shall have the meaning specified in **Section 3.19(a)**.

"Liquidator" shall have the meaning specified in **Section 2.5(c)**.

"Losses" shall have the meaning specified in **Section 9.2(a)**.

"Material Adverse Effect" means any event, change, circumstance, effect or state of facts that is or could reasonably be expected to be materially adverse to (i) the business, operations, assets, condition (financial or otherwise), results of operations, liabilities or prospects of the Company or the Business, as applicable, or (ii) the ability of the Company to perform its obligations under this Agreement or the Ancillary Agreements; provided, however, that no event, change, circumstance, effect or state of facts shall be deemed to constitute a Material Adverse Effect to the extent such event, change, circumstance, effect or state of facts results from (x) changes in general economic, financial or market conditions, (y) any change generally affecting the industry in which the Company operates, or (z) the outbreak or escalation of hostilities involving the United States, the declaration by the United States of a national emergency or war or the occurrence of any other calamity or crisis, including acts of terrorism.

"Material Consents" means the consents, approvals, authorizations, notifications or filings identified on **Schedule 1.1(g)**.

"Material Contracts" shall have the meaning specified in **Section 3.9(a)**.

"Member" shall have the meaning specified in the Preamble.

"Members' Representative" shall have the meaning specified in **Section 9.7**.

"Notice of Disagreement" shall have the meaning specified in **Section 2.4(d)**.

"Offer Letters" means the offer letters (together with the accompanying agreement setting forth noncompetition, nonsolicitation and confidentiality covenants and assignment of inventions) in the forms attached hereto as **Exhibit C** submitted by the Purchaser to each of the Persons listed in **Schedule 1.1(d)**.

"Ordinary Course of Business" or "Ordinary Course" or any similar phrase shall describe any action taken by a Person if:

(i) such action is consistent in manner and amount with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person; and

(ii) such action is not required to be authorized by the board of directors of such Person (or by any Person or group of Persons exercising similar authority) and is not required to be authorized by the parent company or equity holders (if any) of such Person.

"Owned Company Intellectual Property" shall have the meaning specified in **Section 3.19(a)**.

"Permits" means all licenses, permits, franchises, approvals, authorizations, consents or orders of, or filings with, any Governmental Authority or with any other Person, relating to the Acquired Assets, the Assumed Liabilities or the past or present conduct or operation of the Business.

"Permitted Encumbrances" means (i) Encumbrances consisting of zoning or planning restrictions, easements, permits and other restrictions or limitations on the use of real property or irregularities in title thereto which do not materially detract from the value of, or materially impair the use of, such property as it is presently used in connection with the Business, (ii) Encumbrances for current Taxes, assessments or governmental charges or levies on property not yet due, (iii) mechanic's, materialmen's and similar liens arising in the Ordinary Course of Business or by operation of law.

"Person" means any person or entity, whether an individual, trustee, corporation, partnership, limited partnership, limited liability company, trust, unincorporated organization, business association, firm, joint venture or Governmental Authority.

"Preliminary Company Balance Sheet" shall have the meaning specified in **Section 3.6**.

"Prepaid Items" means all credits, prepaid expenses, advance payments, security deposits, escrows and other prepaid items of the Company arising from or related to the Business or the Acquired Assets.

"Price Allocation" shall have the meaning specified in **Section 2.6(a)**.

"Proceeding" shall have the meaning specified in **Section 3.17**.

"Property Taxes" shall have the meaning specified in **Section 2.8**.

"Purchase Price" shall have the meaning specified in **Section 2.3**.

"Purchased Business" means the Purchaser's post-Closing Date ownership and operation of the Acquired Assets to conduct the acquired Business; provided, however, that (i) sales of any assets of any kind or nature through the Purchaser's (or any of its Affiliates') existing Internet marketplaces shall not constitute a part of the "Purchased Business" unless such sales are directly and solely attributable to the efforts of the Hired Employees in which case the specific sales that are directly and solely attributable to the efforts of the Hired Employees shall be considered to be a part of the "Purchased Business," and (ii) sales of any assets of any kind or nature through the Company's Internet marketplaces constituting a part of the Acquired Assets shall not constitute a part of the "Purchased Business" if such sales result from the listing of

items generated by other Purchaser (or any of its Affiliates') divisions or marketplaces. Notwithstanding the foregoing, for purposes of **Section 2.4(d)(ii)** only, sales of capital assets from General Electric Co. or any of its subsidiaries through any of the Purchaser's or its Affiliates' marketplaces shall be included within the definition of "Purchased Business" regardless of whether such sales are attributable to the efforts of the Hired Employees.

"Purchaser" shall have the meaning specified in the Preamble.

"Purchaser Indemnitee" shall have the meaning specified in **Section 9.2(a)**.

"Related Party", with respect to any specified Person, means: (i) any Affiliate of such specified Person, or any director, executive officer, general partner or managing member of such Affiliate; (ii) any Person who serves as a director, executive officer, partner, member or in a similar capacity of such specified Person; (iii) any Immediate Family member of an individual described in clause (ii); or (iv) any other Person who holds, individually or together with any Affiliate of such other Person and any member(s) of such other Person's Immediate Family, more than 10% of the outstanding equity or ownership interests of such specified Person.

"Representative" means, with respect to any Person, any manager, officer, director, principal, employee, advisor, consultant, auditor, agent, banker or other representative of such Person.

"Representative Agreements" shall have the meaning specified in **Section 9.6(a)**.

"Restricted Services" means engaging in any business that competes with the business currently conducted by the Purchaser as of the Closing Date, including, but not limited to, the Business (which shall include, but not be limited to, the business of truckcenter.com and constructioncenter.com as currently conducted by the Company). Without limiting the generality of the foregoing, the operation of consignment fee auction services of passenger vehicles for government clients shall be considered "Restricted Services" hereunder.

"Retained Receivables" means the Accounts Receivable listed on **Schedule 1.1(h)**.

"Rights" means all claims, causes of action, rights of recovery and rights of set-off against any Person arising from or related to the Business, the Acquired Assets or the Assumed Liabilities, including, but not limited to: (i) all rights under any Assumed Contract, including, but not limited to, all rights to receive payment for products sold and services rendered thereunder, to receive goods and services thereunder, to assert claims and to take other rightful actions in respect of breaches, Defaults and other violations thereof; (ii) all rights under or in respect of any Business Intellectual Property, including, but not limited to, all rights to sue and recover damages for past, present and future infringement, dilution, misappropriation, violation, unlawful imitation or breach thereof, and all rights of priority and protection of interests therein under the laws of any jurisdiction; (iii) all rights under all guarantees, express or implied warranties, indemnities and similar rights arising from or related to the Business, the Acquired Assets or the Assumed Liabilities; (iv) all proceeds from existing insurance policies of the Company relating to pre-Closing claims or occurrences, any benefits under such policies and any claims of the Company with respect thereto, to the extent arising out of an insured loss of the

Company covered by any such policy whether occurring before or after the Closing Date; and (v) all claims (including, but not limited to, pending claims and counterclaims), rights, causes of action, suits, judgments and demands of any nature in favor of the Company that relate to, or otherwise arise out of, the Acquired Assets or Assumed Liabilities, whether choate or inchoate, known or unknown, contingent or noncontingent; except, in each of clauses (i) through (v) above, to the extent specifically related to Excluded Assets or Excluded Liabilities.

"Second Fee Earn-Out Payment" shall have the meaning specified in **Section 2.4(d)(ii)(B)**.

"Second Fee Measurement Period" shall have the meaning specified in **Section 2.4(d)(ii)(B)**.

"Second Year Base Fee Revenue" shall have the meaning specified in **Section 2.4(d)(ii)(B)**.

"Software" shall have the meaning specified in **Section 3.19(m)**.

"Software License Agreement" shall have the meaning specified in **Section 2.10(j)**.

"Solvent" shall have the meaning specified in **Section 3.27**.

"Spousal Consent" means the Consent of Spouse, to be executed by the spouse of Member Corey P. Schlossmann, in the form attached hereto as **Exhibit J**.

"Subsidiary" means any corporation, partnership, limited liability company, association, trust, unincorporated association or other legal entity of which the Company or the Purchaser (as the case may be) or any such other Person (either alone or through or together with any other subsidiary), owns, directly or indirectly, more than fifty percent (50%) of the capital stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation, partnership, limited liability company, association, trust, unincorporated association or other legal entity.

"Takeover Proposal" means any proposal or offer from any Person relating to any direct or indirect acquisition or purchase of all or any portion of the Company, whether effected by sale of assets, sale of stock, merger or otherwise, other than Inventory to be sold in the ordinary course of business consistent with past practice.

"Target Working Capital Amount" shall have the meaning specified in **Section 2.4(e)**.

"Tax" shall have the meaning specified in **Section 3.11(a)**.

"Tax Return" shall have the meaning specified in **Section 3.11(a)**.

"Third Party Claim" shall have the meaning specified in **Section 9.3(a)**.

"Threshold" shall have the meaning specified in **Section 9.2(c)**.

"Transfer Tax" shall have the meaning specified in **Section 6.6(a)**.

"WARN Act" shall have the meaning specified in **Section 3.18(g)**.

"Year-End 2010 Financial Statements" means the financial statements of the Company, as of December 31, 2010 and the year then ended, attached hereto as **Exhibit D**.

1.2. Construction. Unless the context otherwise clearly indicates, words used in the singular include the plural and words used in the plural include the singular. The Schedules and Exhibits referred to herein shall be incorporated into this Agreement as an integral part hereof to the same extent as if they were set forth verbatim herein. All references herein to dollars (or $) shall mean United States Dollars.

ARTICLE II
PURCHASE AND SALE

2.1. Purchase and Sale of Acquired Assets.

(a) On the terms and subject to the conditions of this Agreement, and in reliance upon the representations, warranties and agreements herein set forth, at the Closing, the Company shall irrevocably sell, transfer, convey, assign and deliver to the Purchaser, and the Purchaser shall purchase, acquire and accept from the Company, the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) The Acquired Assets shall not include, and the Purchaser shall not purchase, any Excluded Assets, all of which shall be retained by the Company.

2.2. Assumed Liabilities; Excluded Liabilities. On the terms and subject to the conditions of this Agreement, at the Closing, the Purchaser shall assume and become responsible for the Assumed Liabilities. The Purchaser shall not assume, nor shall the Purchaser agree to pay, perform, discharge or otherwise satisfy, or agree to indemnify the Company or the Members against or otherwise have any responsibility or obligation for or with respect to, any Excluded Liabilities.

2.3. Purchase Price. In in full consideration for the Acquired Assets, at the Closing, the Purchaser shall (a) assume the Assumed Liabilities, (b) in accordance with the provisions of **Section 2.4**, pay an amount equal to the Base Consideration, which amount shall be subject to adjustment

as described in **Sections 2.4(a)**, and (c) if applicable, make the Earn-Out Payments, pursuant to and in accordance with **Section 2.4(d)** (as so adjusted and subject to further adjustment pursuant to **Section 2.4(e)**, the "Purchase Price").

2.4. Payment of Purchase Price; Escrow Fund; Earn-Out Payments; Working Capital Adjustment.

(a) At the Closing, the Purchaser shall deliver to the Company Eight Million One Hundred Thousand Dollars ($8,100,000) subject to adjustment insofar as feasible to reflect

all prorations required pursuant to **Section 6.2(a)** (as so adjusted, the "Closing Payment"), by wire transfer of immediately available funds to an account designated in writing by the Company.

(b) At the Closing, the Purchaser shall deposit with Bank of New York Mellon, as escrow agent ("Escrow Agent"), Nine Hundred Thousand Dollars ($900,000) (the "Escrow Amount") in immediately available funds to be held as the escrow fund (together with all interest accruing thereon, the "Escrow Fund") pursuant to the Escrow Agreement among the Escrow Agent, the Company, the Members and the Purchaser dated as of the Closing Date (the "Escrow Agreement"), the form of which is attached as **Exhibit E** hereto. Amounts in the Escrow Fund may be used (i) to satisfy claims arising under this Agreement (including, but not limited to, claims for indemnification pursuant to **Article IX**), and (ii) to pay any amounts due to the Purchaser under **Section 2.4(e)**.

(c) The Purchase Price delivered to the Company and the Escrow Agent in accordance with the terms hereof and the Purchaser's assumption of the Assumed Liabilities shall be deemed to be full payment for and in satisfaction of all rights in and pertaining to the Acquired Assets.

(d) In addition to the Base Consideration, the Purchaser shall, subject to all of the applicable conditions contained in this **Section 2.4(d)**, pay to the Company the EBITDA Earn-Out Payment, the First Fee Earn-Out Payment, and the Second Fee Earn-Out Payment described in this **Section 2.4(d)** (collectively, the "Earn-Out Payments"), in accordance with this **Section 2.4(d)**.

(i) EBITDA Earn-Out Payment.

(A) In the event that the actual earnings of the Purchased Business before interest, taxes, depreciation and amortization ("EBITDA") are greater than One Million Seven Hundred Fifty Thousand Dollars ($1,750,000) (the "EBITDA Target") for the twelve (12) month period commencing on the three (3) month anniversary of the Closing Date and ending on the fifteen (15) month anniversary of the Closing Date (the "EBITDA Measurement Period"), then the Purchaser shall pay to the Company an earn-out payment equal to the result of the following formula (the "EBITDA Earn-Out Payment"): the United States Dollar equivalent of the product of (I) the excess of EBITDA of the Purchased Business during the EBITDA Measurement Period over the EBITDA Target, and (II) three (3); provided, however, that in no event shall the EBITDA Earn-Out Payment exceed Three Million Seven Hundred Fifty Thousand Dollars ($3,750,000) or be less than zero. For the avoidance of doubt, in the event that the EBITDA of the Purchased Business during the EBITDA Measurement Period does not exceed the EBITDA Target, then the Purchaser shall not be obligated to pay or calculate, and the Company shall not be entitled to receive, the EBITDA Earn-Out Payment.

(1) For purposes of illustration only, if the EBITDA of the Purchased Business is Two Million Dollars ($2,000,000) during the EBITDA Measurement Period, then the EBITDA Earn-Out Payment would be calculated as follows:

Calculation of EBITDA Earn-Out Payment:

[$2,000,000 - $1,750,000] * 3 = $750,000

(B) For the purposes of determining whether the EBITDA Earn-Out Payment is due hereunder, EBITDA during the Measurement Period shall be determined by the Purchaser based on an income statement for the EBITDA Measurement Period, which such statement shall be prepared by the Purchaser in accordance with GAAP, as determined by the Purchaser. In addition to setting forth the EBITDA for the EBITDA Measurement Period, such statement also shall set forth a calculation of the EBITDA Earn-Out Payment, if any. Such statement and calculation shall be completed within forty-five (45) calendar days following the expiration of the EBITDA Measurement Period.

(C) Upon completion of the statement and calculation described in **Section 2.4(d)(i)(B)** above, the Purchaser shall delivery a copy of such statement and calculation to the Company and shall, within thirty (30) calendar days thereafter, pay to the Company the amount of the EBITDA Earn-Out Payment, if any, subject to the Purchaser's rights under **Section 9.6** hereof.

(ii) Fee Earn-Out Payments.

(A) In the event that revenue of the Purchased Business derived from buyer premiums, sales commissions, redeployment fees and service fees ("Fee Revenue") during the one (1) year period immediately following the Closing Date (the "First Fee Measurement Period") exceeds Six Million Five Hundred Ten Thousand Dollars ($6,510,000) (the "First Year Base Fee Revenue"), the Purchaser shall pay to the Company an earn-out payment equal to the result of the following formula (the "First Fee Earn-Out Payment"): the United States Dollar equivalent of the quotient of (I) the equivalent of (a) the Fee Revenue of the Purchased Business during the First Fee Measurement Period, minus (b) the First Year Base Fee Revenue, and (II) twenty-eight hundredths (0.28); provided, however, that in no event shall the First Fee Earn-Out Payment exceed Five Million Two Hundred Fifty Thousand Dollars ($5,250,000) or be less than zero. By way of explanation, the 0.28 divisor in the foregoing sentence is based on the agreement of the parties that the amount of the First Fee Earn-Out Payment should be one dollar ($1.00) for each twenty-eight cents ($0.28) of Fee Revenue of the Purchased Business during the First Fee Measurement Period in excess of the First Year Base Fee Revenue (subject to the limitation identified in the preceding sentence). For the avoidance of doubt, in the event that the Fee Revenue during the First Fee Measurement Period does not exceed the First Year Base Fee Revenue, then the Purchaser shall not be obligated to pay or calculate, and the Company shall not be entitled to receive, the First Fee Earn-Out Payment.

(1) For purposes of illustration only, if the Fee Revenue of the Purchased Business during the First Fee Measurement Period is Seven Million Dollars ($7,000,000), then the First Fee Earn-Out Payment would be calculated as follows:

Calculation of First Fee Earn-Out Payment:

($7,000,000 - $6,510,000) / 0.28 = $1,750,000

(B) If the First Fee Earn-Out Payment is less than Five Million Two Hundred Fifty Thousand Dollars ($5,250,000), the Company shall have an opportunity to receive an additional earn-out payment based on the Fee Revenue of the Purchased Business during the one (1) year period immediately following the First Fee Measurement Period (the "Second Fee Measurement Period"). In such event and in the event that Fee Revenue during the Second Fee Measurement Period exceeds Seven Million Four Hundred Eighty-Six Thousand Five Hundred Dollars ($7,486,500) (the "Second Year Base Fee Revenue"), the Purchaser shall pay such additional earn-out payment, if any, to the Company based on the following formula (the "Second Fee Earn-Out Payment"): the United States Dollar equivalent of (I) the quotient of (a) the equivalent of (i) the Fee Revenue of the Purchased Business during the Second Fee Measurement Period, minus (ii) the Second Year Base Fee Revenue, and (b) three hundred twenty-two thousandths (0.322), minus (II) the First Fee Earn-Out Payment; provided, however, that in no event shall the aggregate of the First Fee Earn-Out Payment and the Second Fee Earn-Out Payment exceed Five Million Two Hundred Fifty Thousand Dollars ($5,250,000) or be less than zero. By way of explanation, the 0.322 divisor in the foregoing sentence is based on the agreement of the parties that the amount of the Second Fee Earn-Out Payment should be one dollar ($1.00) for each thirty-two and 2/10 cents ($0.322) of Fee Revenue of the Purchased Business during the Second Fee Measurement Period in excess of the Second Year Base Fee Revenue (subject to the limitation and deduction identified in the preceding sentence). For the avoidance of doubt, in the event that the Fee Revenue during the Second Fee Measurement Period does not exceed the Second Year Base Fee Revenue, then the Purchaser shall not be obligated to pay or calculate, and the Company shall not be entitled to receive, the Second Fee Earn-Out Payment.

(1) For purposes of illustration only, if the First Fee Earn-Out Payment was One Million Seven Hundred Fifty Thousand Dollars ($1,750,000), and the Fee Revenue of the Purchased Business during the Second Fee Measurement Period is Nine Million Dollars ($9,000,000), then the Second Fee Earn-Out Payment would be calculated as follows:

Calculation of Second Fee Earn-Out Payment:

{($9,000,000 - $7,486,500) / 0.322} - $1,750,000 = $2,950,310.56

(C) For the purposes of determining whether either of the First Fee Earn-Out Payment or the Second Fee Earn-Out Payment is due hereunder, the Fee Revenue during the First Fee Measurement Period and the Second Fee Measurement Period, if applicable, shall be determined by the Purchaser based on an income statement for each such period, which such statement(s) shall be prepared by the Purchaser in accordance with GAAP, as determined by the Purchaser. In addition to setting forth the Fee Revenue for each measurement period, such statement(s) also shall set forth a calculation of the First Fee Earn-Out Payment and the Second Fee Earn-Out Payment, if any. Such statement(s) and calculation shall be completed within forty-five (45) calendar days following the First Fee Measurement Period and the Second Fee Measurement Period, as applicable.

(D) Upon completion of the statement(s) and calculation(s) described in **Section 2.4(d)(ii)(C)** above, the Purchaser shall deliver a copy of the applicable

statement and calculation to the Company and shall, within thirty (30) calendar days thereafter, pay to the Company the amount of the First Fee Revenue Earn-Out Payment and Second Fee Revenue Earn-Out Payment, if and as applicable, subject in each instance to the provisions of **Section 2.4(d)(iii)** below and to the Purchaser's rights under **Section 9.6** hereof.

(iii) Resolution of Disputes. The determination of each of the Earn-Out Payments shall become final and binding upon the parties on the date which is one (1) calendar month following receipt of the calculation statement relating thereto by the Company unless the Company delivers written notice of its disagreement to the Purchaser before such date. Any Notice of Disagreement shall specify whether the Company disagrees with the calculation of the applicable Earn-Out Payment and the basis for such disagreement in reasonable detail. Any item to which the Company does not expressly object in the Notice of Disagreement shall be deemed to have been accepted by the Company and shall become final and binding upon the Company and the Members. If a Notice of Disagreement is sent by the Company, then the Company and the Purchaser shall seek in good faith to resolve in writing any differences which they may have with respect to any amount specified in the Notice of Disagreement within the ten (10) Business Day period following receipt of the Notice of Disagreement.

(A) If, at the end of such ten (10) Business Day period, the Company and the Purchaser have not reached agreement on the amount of the applicable Earn-Out Payment, the amounts that remain in dispute shall be recalculated by a nationally recognized top ten independent auditing firm (as measured by revenues) jointly selected by the Company and the Purchaser (the "Independent Accountants"), with the Independent Accountants acting as experts and not as arbitrators. The Independent Accountants shall be authorized to resolve only those items remaining in dispute between the parties in accordance with the provisions of this **Section 2.4(d)** within the range of the difference between the Purchaser's position with respect thereto and the Company's position with respect thereto. The Company and the Purchaser shall direct the Independent Accountants to deliver to the Company and the Purchaser, within ten (10) Business Days after being retained, a report setting forth each recalculation. Any amounts so recalculated shall be final and binding on the parties hereto, and judgment thereon may be entered in any court having jurisdiction. The Company shall bear fifty percent (50%) of the fees and expenses of the Independent Accountants incurred under this **Section 2.4(d)** (which costs shall be payable out of the Escrow Fund) and the Purchaser shall bear fifty percent (50%) of the fees and expenses of the Independent Accountants incurred under this **Section 2.4(d)**.

(e) Working Capital Adjustment. The Purchase Price shall be adjusted in accordance with this **Section 2.4(e)** based on any difference between an amount equal to Two Hundred Sixteen Thousand Eight Hundred Eleven and 33/100 Dollars ($216,811.33) (the "Target Working Capital Amount") and the Closing Date Working Capital Amount. For the purposes of this Agreement, "Closing Date Working Capital Amount" means the working capital of the Company as of close of business on the date immediately preceding the Closing Date, pursuant to the following calculation: an amount equal to

the equivalent of (1) the sum of the value of the sum of the Company's (A) cash, (B) receivables, and (C) inventory, minus (2) the amount of the Company's liabilities; provided, however, that for purposes of calculating the Closing Date Working Capital Amount, vacation accrual shall not be treated as a liability, and fixed assets and prepaid expenses shall not be treated as assets.

(i) Closing Date Statement. The Purchaser shall prepare or cause to be prepared, at the Purchaser's expense, a statement setting forth the Closing Date Working Capital Amount (the "Closing Date Statement"), and a copy thereof, along with the Purchaser's calculation of any adjustment to the Purchase Price required pursuant to this **Section 2.4(e)**, shall be delivered by the Purchaser to the Company within sixty (60) Business Days after the Closing Date. The Company shall cooperate fully with all representatives of the Purchaser in the preparation of the Closing Date Statement and, without limiting the generality of the foregoing, each such representative shall be reasonably available during normal business hours to the Purchaser after the Closing upon reasonable prior request. For purposes of reviewing the Closing Date Statement, the Company shall have reasonable access to all data, schedules and work papers used by the Purchaser in preparing the Closing Date Statement, and the employees and representatives of the Purchaser involved in preparing the Closing Date Statement.

(ii) Resolution of Disputes. The determination of the Closing Date Working Capital Amount shall become final and binding upon the parties on the date which is one (1) calendar month following receipt of the Closing Date Statement by the Company unless the Company delivers a Notice of Disagreement to the Purchaser before such date. Any Notice of Disagreement shall specify whether the Company disagrees with the Closing Date Working Capital Amount and the basis for such disagreement in reasonable detail. Any item to which the Company does not expressly object in a Notice of Disagreement shall be deemed to have been accepted by the Company and shall become final and binding upon the Company and the Members. If a Notice of Disagreement is sent by the Company, then the Company and the Purchaser shall seek in good faith to resolve in writing any differences which they may have with respect to any amount specified in the Notice of Disagreement within ten (10) Business Day period following receipt the Notice of Disagreement.

(A) If, at the end of such ten (10) Business Day period, the Company and the Purchaser have not reached agreement on the Closing Date Working Capital Amount, the amounts that remain in dispute shall be recalculated the Independent Accountants, with the Independent Accountants acting as experts and not as arbitrators. The Independent Accountants shall be authorized to resolve only those items remaining in dispute between the parties in accordance with the provisions of this **Section 2.4(e)** within the range of the difference between the Purchaser's position with respect thereto and the Company's position with respect thereto. The Company and the Purchaser shall direct the Independent Accountants to deliver to the Company and the Purchaser, within ten (10) Business Days after being retained, a report setting forth each recalculation. Any amounts so recalculated shall be final and binding on the parties hereto, and judgment thereon may be entered in any court having jurisdiction. The Company shall bear fifty percent (50%) of the fees and expenses of the Independent Accountants incurred under this **Section 2.4(e)** (which costs shall be payable out of the Escrow Fund) and the Purchaser shall bear fifty percent (50%) of the fees and expenses of the Independent Accountants incurred under this **Section 2.4(e)**.

(iii) Final Adjustment. The Purchase Price shall be adjusted, upwards or downwards, as follows:

(A) if the Closing Date Working Capital Amount as finally determined pursuant to this **Section 2.4(e)** is greater than the Target Working Capital Amount, the Purchase Price shall be adjusted upwards in an amount equal to the difference between the Closing Date Working Capital Amount and the Target Working Capital Amount, and the Purchaser shall pay such amount to the Company by wire transfer of immediately available funds to an account designated in writing by the Company within five (5) Business Days after the date on which the Closing Date Working Capital Amount is finally determined; and

(B) if the Closing Date Working Capital Amount as finally determined pursuant to this **Section 2.4(e)** is less than the Target Working Capital Amount, the Purchase Price shall be adjusted downwards in an amount equal to the difference between the Target Working Capital Amount and the Closing Date Working Capital Amount, and the Company and the Members, shall be jointly and severally responsible for, and shall pay, such amount to the Purchaser within five (5) Business Days after final determination of the Closing Date Working Capital Amount. Such amount shall be offset against the rent due pursuant to the Lease Documents (but shall not be deducted from the Escrow Fund).

(1) For purposes of illustration only and subject to **Section 2.4(e)(iv)** below, if the Closing Date Working Capital Amount is negative Twenty Thousand Dollars ($-20,000), then the Purchaser shall offset against the rent due pursuant to the Lease Documents) an amount equal to Two Hundred Thirty-Six Thousand Eight Hundred Eleven and 33/100 Dollars ($236,811.33), calculated as follows:

$216,811.33 - $-20,000 = $236,811.33

(2) For purposes of illustration only and subject to **Section 2.4(e)(iv)** below, if the Closing Date Working Capital Amount is Twenty-Five Thousand Dollars ($25,000), then the Purchaser shall offset against the rent due pursuant to the Lease Documents) an amount equal to One Hundred Ninety-One Thousand Eight Hundred Eleven and 33/100 Dollars ($191,811.33), calculated as follows:

$216,811.33 - $25,000 = $191,811.33

(iv) Amounts to be paid pursuant to this **Section 2.4(e)** shall bear interest from the Closing Date to the date of such payment at a rate equal to the prime rate in effect on the first of each month at Citibank, N.A. in New York, calculated on the basis of a year of 365 days and the number of days elapsed.

2.5. Necessary Actions; Further Action.

(a) If any further action is necessary or desirable at any time after the Closing to carry out the purposes and intent of this Agreement and the Ancillary Agreements, and to vest in the Purchaser all right, title and interest in and to the Acquired Assets, the Company and each Member shall take all such necessary or desirable actions. Without limiting the foregoing, the Company and each Member agree to assist and cooperate with the Purchaser in collecting, transferring, assigning, asserting or enforcing any claim, right or title of any kind in or to the

Acquired Assets, and to do all such acts and things in relation thereto as the Purchaser shall reasonably request.

(b) If, following the Closing, the managers of the Company and/or the Members vote to dissolve the Company and a Person is appointed to dispose of the Company's assets, discharge its liabilities, and otherwise wind up its affairs in compliance with Applicable Law (such Person, the "Liquidator"), the Company and the Members shall instruct the Liquidator to (i) cause the Company to perform all of its obligations under this Agreement and the Ancillary Agreements, and (ii) take any actions requested by the Purchaser to acknowledge and agree to the Liquidator's responsibilities under this **Section 2.5(b)** to cause the Company to perform its obligations under this Agreement and the Ancillary Agreements. The Liquidator and the Members shall be jointly and severally liable for causing the Company to perform its obligations under this Agreement and the Ancillary Agreements.

2.6. Purchase Price Allocation.

(a) Within sixty (60) calendar days after the Closing Date, the Purchaser shall provide to the Company a draft purchase price allocation (the "Price Allocation"), which shall be prepared in a manner consistent with Section 1060 of the Code and the regulations promulgated thereunder. The Company shall propose to the Purchaser any changes to the draft Price Allocation within thirty (30) calendar days of the receipt thereof. If any such changes are proposed, the Company and the Purchaser shall negotiate in good faith and shall use their reasonable efforts to agree upon the final Price Allocation. Notwithstanding the foregoing, if the Company and the Purchaser cannot agree upon a final Price Allocation, the Company and the Purchaser covenant and agree to file and cause their respective Affiliates to file, all Tax Returns (including, but not limited to, amended returns, claims for refund and those returns and forms required under Section 1060 of the Code and any applicable Treasury regulations) consistent with each of the Company's and the Purchaser's good faith allocations, unless otherwise required by law. The Company and the Purchaser agree to act in accordance with the Price Allocation, if agreed to by both the Company and the Purchaser, or in accordance with their respective good faith allocations, if the Company and the Purchaser do not agree to the Price Allocation, for all purposes and agree not to take any position on any Tax Return inconsistent therewith, and to conduct any audit, Tax proceeding or Tax litigation relating thereon in a manner consistent therewith.

(b) Any indemnification payment treated as an adjustment to the total consideration paid for the Acquired Assets under **Section 9.2** shall be reflected as an adjustment to the consideration allocated to a specific asset, if any, giving rise to the adjustment and if any such adjustment does not relate to a specific asset, such adjustment shall be allocated among the Acquired Assets in accordance with the Price Allocation method provided in this **Section 2.6**.

2.7. Withholding Rights. The Purchaser shall be entitled to deduct and withhold from the Purchase Price otherwise payable pursuant to this Agreement such amounts as the Purchaser is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of Applicable Law. To the extent that amounts are so withheld or paid over to or deposited with the relevant Governmental Authority by the Purchaser, such amounts shall be treated for all purposes of this Agreement as having been paid to the Company.

2.8. Allocation of Taxes. All state, county and local ad valorem and real or personal property Taxes on Acquired Assets ("Property Taxes") shall be prorated between the Purchaser and the Company as of the Closing Date, computed by multiplying the amount of Property Taxes for the fiscal period for which the same are levied or assessed by a fraction, the numerator of which is the number of days in the period commencing on the first day of such fiscal period and ending on the Closing Date and the denominator of which is the number of days in such fiscal period. In connection with such proration of Property Taxes, in the event that actual Property Tax figures are not available at the Closing Date, proration of Property Taxes shall be based upon the actual Property Taxes for the preceding fiscal year for which actual Property Tax figures are available, and a good faith estimate (based on facts currently available) of the Property Taxes payable with respect to the current fiscal year. Any sales taxes payable in connection with the sale of vehicles in connection with the Business shall be prorated between the Company and the Purchaser, such that the Company shall be responsible for any sales taxes payable in connection with the sale of vehicles prior to the Closing, and the Purchaser shall be responsible for any sales taxes payable in connection with sales of vehicles on and after the Closing.

2.9. Closing. The sale and purchase of the Acquired Assets and the assumption of the Assumed Liabilities contemplated by this Agreement shall take place at a closing (the "Closing") to be held at the offices of the Purchaser, at 10:00 A.M. local time on the second (2nd) Business Day following the satisfaction or, to the extent permitted by Applicable Law, waiver of all conditions to the obligations of the parties set forth in **Article VII** (other than such conditions as may, by their terms, only be satisfied at the Closing or on the Closing Date), or at such other place or at such other time or on such other date as the Purchaser and the Company mutually may agree in writing. The day on which the Closing takes place is referred to as the "Closing Date."

2.10. Deliveries by the Company. On the Closing Date, the Company and the Members, as appropriate, shall deliver (or shall have delivered), or cause to be delivered, to the Purchaser the following:

(a) the executed Escrow Agreement, Assignment and Assumption Agreement and Bill of Sale;

(b) a certificate executed by an officer of the Company, dated as of the Closing Date, certifying as to (i) the Certificate of Formation and operating agreement of the Company; (ii) resolutions adopted by the Members relating to the transactions contemplated by this Agreement and the Ancillary Agreements; (iii) the good standing of the Company in the State of Delaware; (iv) incumbency; and (v) specimen signatures of officers of the Company executing this Agreement and the Ancillary Agreements;

(c) such bills of sale, instruments of transfer, assignment and conveyance and other instruments as the Purchaser shall reasonably deem necessary or appropriate to convey, transfer and assign to the Purchaser and effectively vest in the Purchaser all right, title and interest in and to, and good and marketable or good and valid (as the case may be) title to, the Acquired Assets, free and clear of all Encumbrances, other than Permitted Encumbrances,

including, but not limited to, instruments of assignment of the Assumed Contracts and all necessary assignments of Business Intellectual Property to the Purchaser;

(d) the opinion of Parker Milliken Clark O'Hara & Samuelian, counsel for the Company, dated as of the Closing Date, the form of which is attached hereto as **Exhibit F**;

(e) such keys, passwords, codes, lock and safe combinations and other similar items as the Purchaser shall require to obtain immediate and full possession and control of the Acquired Assets;

(f) copies of all Material Consents;

(g) all Business Records;

(h) executed Offer Letters between the Purchaser and each of the persons listed in **Schedule 1.1(d)**;

(i) releases of all Encumbrances (other than Permitted Encumbrances) affecting the Acquired Assets;

(j) an executed software license agreement in the form attached hereto as **Exhibit G** (the "Software License Agreement");

(k) executed lease amendments to the existing real property leases included as Assigned Contracts in the forms attached hereto as **Exhibit H** (the "Lease Documents");

(l) an executed Consulting Agreement;

(m) an executed Spousal Consent; and

(n) such other documents and items as the Purchaser reasonably requests.

2.11. Deliveries by the Purchaser. On or prior to the Closing Date, the Purchaser shall deliver, or cause to be delivered, to the Company, the Escrow Agent or third parties, as applicable, the following:

(a) the Closing Payment and the Escrow Amount;

(b) the executed Escrow Agreement, Assignment and Assumption Agreement and Bill of Sale; and

(c) the executed Offer Letters, Software License Agreement, Lease Documents and Consulting Agreement; and

(d) such other documents and items as the Seller reasonably requests.

2.12 Deferred Consents. Nothing in this Agreement or the Ancillary Agreements shall be construed as an agreement to assign any Acquired Asset (including, but not limited to the

Permits) that by its terms or pursuant to Applicable Law is not capable of being sold, assigned, transferred or delivered without the consent or waiver of a third party or Governmental Authority unless and until such consent or waiver shall be given. The Company and Member Corey P. Schlossmann each shall use their best efforts, and the Purchaser shall cooperate reasonably with the Company and Member Corey P. Schlossmann, to obtain such consents and waivers and to resolve the impediments to the sale, assignment, transfer or delivery contemplated by this Agreement or the Ancillary Agreements and to obtain any other consents and waivers necessary to convey to the Purchaser all of the Acquired Assets. In the event any such consents or waivers have not been obtained on or prior to the Closing Date, the Company and Member Corey P. Schlossmann each shall use their best efforts to obtain the relevant consents or waivers until such consents or waivers are obtained, and the Company and Member Corey P. Schlossmann will cooperate with the Purchaser in any lawful and economically feasible arrangement to provide that the Purchaser shall receive the interest of the Company in the benefits under any such Acquired Asset, including performance by the Company, if economically feasible, as agent; provided that, subject to **Section 9.2(a)(iv)** hereof, the Purchaser shall undertake to pay or satisfy the corresponding liabilities for the enjoyment of such benefit to the extent the Purchaser would have been responsible therefor hereunder if such consents or waivers had been obtained. Without limiting the generality of the foregoing, each of the Company and Member Corey P. Schlossmann shall cooperate in all reasonable respects with the Purchaser's efforts to apply for and obtain in the Purchaser's own name licenses and permits equivalent to the Permits.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF COMPANY AND MEMBERS

As a material inducement to the Purchaser to enter into this Agreement, except as disclosed in the disclosure letter delivered to the Purchaser by the Company concurrently herewith (the "Company Disclosure Letter") and except as provided herein, the Company and Member Corey P. Schlossmann jointly and severally make the following representations and warranties to the Purchaser as of the Effective Date and as of the Closing Date. Anything in this Agreement to the contrary notwithstanding, Members Samantha Schlossmann, Jessica Schlossmann and Katie Schlossmann shall be deemed to make several representations and then only with respect to the representations and warranties set forth in **Section 3.1(c)** (but in each case only as to each such Member's Company Membership Interest), in the second and third sentences of **Section 3.3(a)**, and in **Section 3.3(b)** below (but in each case only as to each such Member) and no other representations and warranties. Notwithstanding any other provision of this Agreement or the Company Disclosure Letter, each exception set forth in the Company Disclosure Letter will be deemed to qualify only those representations and warranties set forth in this Agreement that are specifically identified (by cross-reference or otherwise) in the Company Disclosure Letter as being qualified by such exception. Unless otherwise specified, each reference in this Agreement to any numbered schedule is a reference to that numbered schedule which is included in the Company Disclosure Letter.

3.1. Organization.

(a) The Company is duly formed and organized and validly existing under the laws of the State of Delaware with full power and authority to conduct the Business as it is presently being conducted and to own or lease, as applicable, its assets and properties. The

Company is duly qualified to do business as a foreign limited liability company and is in good standing in each jurisdiction where the character of its properties owned or leased or the nature of its activities make such qualification necessary. Copies of the Company's certification of formation (the "Certificate of Formation") and the Company's current operating agreement, and all amendments thereto, have heretofore been delivered to the Purchaser, are true, correct and complete and in full force and effect as of the Closing Date.

(b) Other than the Membership Interests of the Company reflected in the Company's operating agreement ("Company Membership Interests") held by the Members, no other equity securities of the Company are issued and outstanding. There are no outstanding options, warrants, rights, calls, commitments, conversion rights, rights of exchange, subscriptions, claims of any character, agreements, obligations, convertible or exchangeable securities or other plans or commitments, contingent or otherwise, relating to equity securities of the Company. No equity securities of the Company have been reserved for issuance for any purpose. There are no outstanding or authorized equity appreciation, phantom equity plans or similar rights with respect to the Company.

(c) Each Member has good title to, and is the record holder and beneficial owner of, the Company Membership Interests held by such Member, free and clear of any Encumbrances and defects of title whatsoever. Each Member holds the amount of the Company Membership Interests set forth opposite his name on **Schedule 3.1(c)**.

3.2. No Subsidiaries. The Company does not own or control, directly or indirectly, any Subsidiary, and, except as set forth on **Schedule 3.2**, the Company has no interest in any other Person, including, but not limited to, any corporation, limited liability company, partnership, trust, joint venture, association or other entity.

3.3. Authorization.

(a) The Company has all requisite power and authority, and has taken all action necessary, to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or will be a party, to consummate the transactions contemplated hereby and thereby, and to perform its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Ancillary Agreements to which it is or will be a party by the Company and the consummation by the Company of the transactions contemplated hereby and thereby have been duly approved by the managers and/or Members of the Company. No other proceeding on the part of the Company or its Members is necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by the Company, and, upon execution and delivery of the Ancillary Agreements, this Agreement and the Ancillary Agreements to which the Company is or will be a party will be, the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally and except insofar as the availability of equitable remedies may be limited by Applicable Law.

(b) Each Member has the requisite capacity, and has taken all action necessary, to execute, deliver and perform this Agreement and the Ancillary Agreements to which she or he is or will be a party, to consummate the transactions contemplated hereby and thereby, and to perform her or his obligations hereunder and thereunder. This Agreement has been duly executed and delivered by each Member, and, upon execution and delivery of the Ancillary Agreements, this Agreement and the Ancillary Agreements to which each Member is or will be a party will be, the legal, valid and binding obligations of such Member, enforceable against her or him in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally.

3.4. Title to Properties and Assets; Sufficiency of Assets.

(a) Except as set forth on **Schedule 3.4(a)**, (i) the Company has good and valid title to or, in the case of leased properties or properties held under license, a good and valid leasehold or license interest in, all of the Acquired Assets and (ii) the Company holds title to each Acquired Asset which it purports to own, free and clear of any Encumbrances other than Permitted Encumbrances.

(b) All items of tangible personal property included in the Acquired Assets are in good operating condition and repair and are of the quality necessary for the conduct of the Business in substantially the same manner as currently conducted. **Schedule 3.4(b)** sets forth a true, correct and complete list of each item of tangible personal property included in the Acquired Assets having a value in excess of $5,000; items in **Schedule 3.4(b)** denoted with an asterisk (*) are leased by the Company.

(c) The delivery to the Purchaser of the Bill of Sale will transfer to the Purchaser good and valid title to, or a license to use or a valid leasehold interest in, as applicable, all of the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances).

(d) The Acquired Assets constitute all of the assets, property and rights, tangible or intangible, that are used or held for use by the Company in the Business, other than the Excluded Assets, and that are necessary and sufficient for the conduct of the Business as currently conducted.

3.5. Leased Property. **Schedule 3.5** sets forth a true, correct and complete list of all real property leased by the Company in respect of the Business (collectively, the "Leased Property"), including the location of, and a brief description of the nature of the activities conducted on, such Leased Property. The Company does not currently own and has not previously owned any real property. The Company does not lease any real property except as set forth on **Schedule 3.5**.

3.6. Financial Statements; Books and Records.

(a) The Company has delivered to the Purchaser true, correct and complete copies of the Financial Statements, it being acknowledged and agreed, however, that a

preliminary balance sheet as of the Closing Date (the "Preliminary Company Balance Sheet") shall be prepared with the assistance of the Purchaser and shall be delivered by the Company to the Purchaser within twenty (20) calendar days following the Closing Date and a final balance sheet as of the Closing Date (the "Final Company Balance Sheet") shall be prepared with the assistance of the Purchaser and shall be delivered by the Company to the Purchaser within ninety (90) calendar days following the Closing Date. The Year-End 2010 Financial Statements and the Preliminary Company Balance Sheet (i) are or shall fairly present the financial condition of the Company as of the dates indicated in the applicable Financial Statements, (ii) have been or will be prepared in accordance with the books and records of the Company, and (iii) and, in the case of the Year-End 2010 Financial Statements, in all material respects fairly presents the results of operations and changes in cash flows for the periods then ended, except as otherwise noted therein. The Final Company Balance Sheet (i) shall be true, correct and complete in all material respects, (ii) shall be prepared in accordance with the books and records of the Company, and (iii) shall fairly and accurately present the financial position of the Company as of the respective dates thereof. Specifically, but not by way of limitation, the Preliminary Company Balance Sheet and the Final Company Balance Sheet shall disclose all of the debts, liabilities and obligations of any nature of the Company in respect of the Business, whether due or to become due, as of the date thereof. The Purchaser has assisted the Company in the preparation of the Financial Statements and, accordingly, the Company makes no representation as to the form or presentation of the financial information in the Financial Statements.

(b) The Company has made and kept (and given the Purchaser access to) true, correct and complete books and records, which, in reasonable detail, accurately and fairly reflect the activities of the Company. The Company's books and records have been maintained in accordance with sound business practices, including, but not limited to, the maintenance of an effective system of internal control over financial reporting.

3.7. Liabilities. Except (a) as disclosed in the Financial Statements, or (b) for liabilities that have been discharged or paid in full, the Company has not incurred any liabilities of any nature, including, but not limited to, in respect of the Business or to which the Business may be subject, whether known or unknown, and whether accrued, absolute, contingent, matured, unmatured or other, including, but not limited to, "off-balance sheet" liabilities, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. All liabilities of the Company (whether known or unknown, and whether accrued, absolute, contingent, matured, unmatured or other, including, but not limited to, "off-balance sheet" liabilities) are set forth on **Schedule 3.7**, which such schedule sets forth the party to which the Company is indebted, the due date of such indebtedness, the amount of the indebtedness and all interest, late charges and other fees and expenses as a result thereof.

3.8. Absence of Certain Changes. Since December 31, 2010, there has not been any change, effect, event, occurrence, state of facts or development that, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect on the Company or the Business. Without limiting the generality of the foregoing, except as disclosed in **Schedule 3.8** or except as contemplated hereby, since December 31, 2010:

(a) the Company has conducted the Business in the Ordinary Course of Business;

(b) the Company has not incurred any indebtedness for borrowed money or issued any debt securities or assumed, guaranteed or endorsed, or otherwise become responsible for, the obligations of any Person, or made any loans or advances, in each case affecting the Company, the Business or the Acquired Assets or to which the Company or the Business may be subject, or otherwise incurred any liability that would constitute an Assumed Liability, except in the Ordinary Course of Business;

(c) there has not been any change in any method of accounting or accounting practice by the Company, except for any such change required by reason of a change in GAAP and set forth on **Schedule 3.8(c)**;

(d) the Company has not (i) granted any severance or termination pay to any Employee, (ii) entered into any employment, deferred compensation or other similar agreement with (or any amendment to any such existing agreement) any Employee, (iii) increased the benefits payable under any existing severance or termination pay policies or employment agreements, or (iv) increased the compensation, bonus or other benefits payable to Employees, in each case other than in the Ordinary Course of Business;

(e) the Company has not sold, transferred or disposed of any assets, properties or rights, including, but not limited to, any Rights, other than in the Ordinary Course of Business;

(f) the Company has not entered into any joint venture, partnership, exclusive dealing, noncompetition or similar agreement with any Person;

(g) the Company has not made any loans or advances to any Person, other than ordinary advances to Employees for travel and other incidental expenses;

(h) the Company has not made any declaration, setting aside or payment of any dividend or other distribution in respect of the Company Membership Interests;

(i) there has not been any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the assets, properties, financial condition, operating results or prospects of the Company or the Business;

(j) there has not been any satisfaction or discharge of an Encumbrance or payment of any obligation by the Company, except such a satisfaction, discharge or payment made (i) in the Ordinary Course of Business, or (ii) as required pursuant to the terms of this Agreement;

(k) there has not been any write-down of the value of any asset or Inventory used or held for use in the Business or any write-off as uncollectible of any Accounts Receivable or any portion thereof of the Company in respect of the Business, provided, however, that the Company has

transferred and assigned, or will transfer and assign prior to the Closing, all vehicles generally used for noncommercial purposes to Member, Corey P. Schlossmann;

(l) the Company has not made any change or amendment to an Assumed Contract, except for changes or amendments which have been provided to the Purchaser in writing;

(m) there has not been any creation or assumption by the Company of any Encumbrance, other than Permitted Encumbrances, on any Acquired Asset;

(n) the Company has not canceled, compromised, waived or released any right or claim relating to the Business or the Acquired Assets;

(o) the Company has not permitted the lapse of any existing policy of insurance;

(p) the Company has not permitted the lapse of any right relating to any Assumed Contract, Intellectual Property or any intangible asset used or held for use in connection with the Business;

(q) the Company has not accelerated the collection of or discounted any Accounts Receivable, delayed the payment of liabilities or deferred expenses, or otherwise increased cash on hand, except in the Ordinary Course of Business; and

(r) the Company has not authorized or committed or agreed to take any of the actions described in subsections (a) through (q) of this **Section 3.8**.

3.9. Material Contracts.

(a) **Schedule 3.9(a)** sets forth a true, correct and complete list, broken down by the subcategories set forth below, of all written or oral contracts, agreements, consensual obligations, promises, undertakings, legally binding arrangements, options, leases, licenses, sales and purchase orders, warranties, guarantees, indentures, mortgages, commitments and other instruments of any kind (each a "Contract"), to which the Company is a party or to which the Company, or any of its properties, is otherwise bound, and that relates to the Company or the Business as follows (each a "Material Contract" and, collectively, the "Material Contracts"):

(i) each Contract of the Company pursuant to which the Company received (or was entitled to receive) or paid (or was purportedly obligated to pay) (A) in excess of $5,000 in the twelve (12) month period ended December 31, 2010, or (B) in excess of $2,500 in the period since December 31, 2010;

(ii) each Contract that requires payment by or to the Company after December 31, 2010 of more than $5,000;

(iii) each Contract of the Company relating to indebtedness for borrowed money, extension of credit or the deferred purchase price of property (whether incurred, assumed, guaranteed or secured by any asset) pursuant to which the Company is obligated to make any future payment or payments, in the aggregate, in excess of $5,000;

(iv) each Contract for the purchase or delivery of goods, or performance of services, to the Company or the Business;

(v) each broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing, consulting or advertising Contract;

(vi) each Contract with a Related Party;

(vii) each employment Contract;

(viii) each Contract that limits or purports to limit, the ability of the Company or the Business to compete in any line of business or with any Person or in any geographic area or during any period of time, or that restricts the right of the Company or the Business to purchase from any Person or to hire any Person;

(ix) each Contract that requires the Company to grant "most favored customer" status or any type of special discount rights to any other Person;

(x) each Contract that requires a consent to or other action by any Person for, or will be subject to default, termination, repricing or other renegotiation or cancellation because of, the transactions contemplated by this Agreement or the Ancillary Agreements, or otherwise contains a provision relating to "change of control," or that would prohibit or delay the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements;

(xi) each fidelity or surety bond or completion bond;

(xii) each Contract providing for liquidated damages upon failure to meet performance or quality milestones;

(xiii) each lease of real or personal property;

(xiv) each Contract providing for indemnification to or from any Person with respect to liabilities relating to the Company, the business or the Acquired Assets;

(xv) each Contract containing confidentiality clauses;

(xvi) each Contract relating in whole or in part to any Business Intellectual Property;

(xvii) each Contract relating to capital expenditures and involving future payments in excess of $5,000;

(xviii) each Contract for the purchase of raw materials or services, including, but not limited to, any construction Contract, involving in excess of $5,000;

(xix) each Contract relating to any joint venture or partnership, merger, asset or equity purchase or divestiture Contract;

(xx) each Contract that results in any Person holding a power of attorney that relates to the Company, the Business or the Acquired Assets;

(xxi) each Contract relating to settlement of any Proceedings within the past five (5) years;

(xxii) each Contract with a Governmental Authority; and

(xxiii) each other Contract, whether or not made in the Ordinary Course of Business that (A) involves a future or potential liability or receivable, as the case may be, in excess of $5,000 on an annual basis or in excess of $15,000 over the current Contract term, (B) has a term greater than one year and cannot be cancelled by the Company without penalty or further payment and without more than thirty (30) calendar days' notice or (C) is material to the business, operations, assets, financial condition, results of operations or prospects of the Company or the Business, each taken as a whole.

(b) Each Material Contract and each Assumed Contract is in full force and effect, paid currently and has not been materially impaired by any acts or omissions of the Company. Except for those Material Contracts denoted with an asterisk (*) as set forth on **Schedule 3.9(a)** and the Assumed Contracts denoted with an asterisk (*) on **Schedule 1.1(b)**, no Material Contract or Assumed Contract requires the consent of any other contracting party to prevent a breach of, a Default under, or a termination, change in the terms or conditions or modification of, any Material Contract or Assumed Contract as a result of the consummation of the transactions contemplated hereby. All of the Material Contracts and Assumed Contracts are valid, binding and enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting enforcement of creditors' rights generally and except insofar as the availability of equitable remedies may be limited by Applicable Law. The Company has fulfilled, or taken all action reasonably necessary to enable it to fulfill when due, all of its material obligations under each of such Material Contracts and Assumed Contracts. The Company is not in Default under any Material Contract or under any Assumed Contract. To the Knowledge of the Company, no other party is in Default under such Material Contracts and Assumed Contracts and, to the Knowledge of the Company, no event has occurred and no condition or state of facts exists which, with the passage of time or the giving of notice or both, would constitute such a Default and no written notice of any claim of Default has been given to the Company. Neither the Company nor any Member is aware of any intent by any party to any Material Contract or any Assumed Contract to terminate or amend the terms thereof or to refuse to renew any such Material Contract or Assumed Contract upon expiration of its term. The Company is not currently paying liquidated damages in lieu of performance under any Material Contract or Assumed Contract. The Company has delivered to the Purchaser true, correct and complete copies of all Material Contracts and any amendments thereto and Assumed Contracts and any amendments thereto.

3.10. Compliance with Other Instruments; No Conflicts.

(a) The Company is not in violation, breach or Default of (i) any term of its Certificate of Formation, operating agreement or similar organizational or governance documents, or (ii) any provision of Applicable Law that is applicable to or binding upon the Company, the Acquired Assets or the Assumed Liabilities, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(b) The execution, delivery and performance by the Company and the Members of and compliance with this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby will not:

(i) conflict with or violate the Certificate of Formation, operating agreement or similar organizational or governance documents of the Company,

(ii) conflict with or violate any Applicable Law applicable to the Company, the Members, the Business or any of the Acquired Assets or by which the Company, the Members, the Business or any of the Acquired Assets may be bound or affected, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;

(iii) result in any breach or violation of, constitute a Default under, require any consent of any Person pursuant to, give to others any right of termination, amendment, modification, acceleration of, give rise to any increased, accelerated or additional rights of any Person or otherwise adversely affect any rights of the Company or the Business under, or result in the creation of any Encumbrance on any of the Acquired Assets pursuant to, any Material Contract.

3.11. Taxes.

(a) Definitions. For purposes of this Agreement:

(i) the term "Tax" (including with correlative meaning, the terms "Taxes" and "Taxable") means all U.S. federal, state, local, provincial, foreign or other taxes, customs, tariffs, imposts, levies, duties, government fees or other like assessments or charges of any kind, including, but not limited to, all income, franchise, sales, use, ad valorem, transfer, license, recording, employment (including federal and state income tax withholding, backup withholding, FICA, FUTA or other payroll taxes), environmental, excise, severance, stamp, occupation, premium, prohibited transaction, property, value-added, net worth, or any other taxes and any interest, penalties and additions imposed with respect to such amounts; and

(ii) the term "Tax Return" means all U.S. federal, state, local, provincial and foreign returns, declarations, claims for refunds, forms, statements, reports, schedules, information returns or similar statements or documents, and any amendments thereof (including, but not limited to, any related or supporting information or schedule attached thereto) required to be filed with any Taxing authority in connection with the determination, assessment or collection of any Tax or Taxes.

(b) The Company has filed (or will file when due) all Tax Returns that are required to be filed in respect of the Acquired Assets or the Business, all such Tax Returns are accurate, and all Taxes with respect to such Tax Returns have been paid. The Company has paid all Taxes imposed with respect to the Acquired Assets, or otherwise payable by the Company.

(c) There are no liens for Taxes (other than for current Taxes not yet due and payable) upon the Acquired Assets and there are no grounds for the assertion or assessment of any Encumbrances against the Acquired Assets, or the Business in respect of any Taxes. The transactions contemplated by this Agreement will not give rise to (i) the creation of any Encumbrances against the Acquired Assets or the Business in respect of any Taxes or (ii) the assertion of any additional Taxes against the Acquired Assets or the Business.

(d) No claim has ever been made or threatened by a Tax authority in a jurisdiction where the Company does not file Tax Returns that the Business is or may be subject to Taxes by that jurisdiction. No Proceeding is pending or threatened by any Governmental Authority for any audit, examination, deficiency, assessment or collection from the Company of any Taxes related to the Business, no unresolved claim for any deficiency, assessment or collection of any Taxes related to the Business has been asserted against the Company and all resolved assessments of Taxes related to the Business have been paid. No issues have been raised by the relevant taxing authorities on audit that are of a recurring nature and that would have an effect upon the Taxes of the Business.

3.12. Environmental Matters. Except as set forth on **Schedule 3.12**:

(a) There have been no disposals, releases or, to the Knowledge of the Company, threatened releases of Hazardous Materials on, from or under the Leased Property or any other property at which the Business has been conducted. Neither the Company nor, to the Knowledge of the Company, any third party, has used, generated, manufactured or stored on, under or about the Leased Property or any other property at which the Business has been conducted, or transported to or from the Leased Property or any other property at which the Business has been conducted, any Hazardous Materials, except to the extent not in violation of applicable Environmental Laws. The Company has no Knowledge of any presence, disposals, releases or threatened releases of Hazardous Materials on, from or under any of the Leased Property or any other property at which the Business has been conducted, which may have occurred before the Company took possession of any of the Leased Property or any other property at which the Business has been conducted. For purposes of this Agreement, the terms "disposal," "release" and "threatened release" shall have the definitions assigned thereto by the U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., as amended ("CERCLA"). For the purposes of this **Section 3.12**, "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is regulated under, or defined as a "hazardous substance," "pollutant," "contaminant," "toxic chemical," "hazardous material," "toxic substance" or "hazardous chemical" under (i) CERCLA; (ii) the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001 et seq.; (iii) the U.S. Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; (iv) the U.S. Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; (v) the U.S. Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et seq.; (vi) regulations promulgated under any of the

above statutes or (vii) any Applicable Law that has a scope or purpose similar to those statutes identified above (collectively referred to herein as the "Environmental Laws").

3.13. Employee Benefits.

(a) **Schedule 3.13(a)** lists all "employee benefit plans" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), and all bonus, equity option, equity purchase, incentive, deferred compensation, supplemental retirement, health, life, or disability insurance, dependent care, severance and other similar fringe or employee benefit plans, programs or arrangements and any current or former employment or executive compensation or severance agreements, written or otherwise maintained or contributed to by the Company or an ERISA Affiliate for the benefit of or relating to any Employee or former Employee of the Company in respect of the Business (or any dependent thereof), or any trade or business (whether or not incorporated) that is a member of a controlled group including, but not limited to, the Company or that is under common control with the Company within the meaning of Section 414 of the Code (an "ERISA Affiliate"), as well as each plan with respect to which the Company or an ERISA Affiliate could incur liability under Section 4069 (if such plan has been or were terminated) or Section 4212(c) of ERISA (each a "Benefit Plan," collectively, the "Benefit Plans"). For each Benefit Plan, true, correct and complete copies of, where applicable, (i) the two (2) most recent annual reports on Form 5500 (with schedules and attachments), (ii) the actuarial reports for the last two (2) plan years, and (iii) any plan document, summary plan description, trust agreement, employment agreement and other governing instrument, document or Employee communication, have been delivered to the Purchaser.

(b) No Benefit Plan is subject to Title IV of ERISA or Section 412 of the Code, and neither the Company nor any ERISA Affiliate has incurred any liability (contingent or otherwise) with respect to any such Benefit Plan. Neither the Company nor any of its ERISA Affiliates sponsors or has ever sponsored, maintained, contributed to or incurred an obligation to contribute or incurred any liability (contingent or otherwise) with respect to any Multiemployer Plan or to a Multiple Employer Plan. For these purposes, (i) "Multiemployer Plan" means a multiemployer plan, as defined in Sections 3(37) and 4001(a)(3) of ERISA, and (ii) "Multiple Employer Plan" means any Employee Benefit Plan sponsored by more than one employer, within the meaning of Sections 4063 or 4064 of ERISA or Section 413(c) of the Code.

(c) Each Benefit Plan has been maintained in all respects in accordance with its terms and the requirements of Applicable Law (including, but not limited to, with the requirements of ERISA and the Code).

(d) Each Benefit Plan intended to qualify under Section 401(a) of the Code has been determined by the Internal Revenue Service ("IRS") to so qualify, and is so qualified, and the trust created thereunder satisfies the provisions of Section 501(a) of the Code. Nothing has occurred with respect to any such Benefit Plan that could cause the loss of such qualification or exemption and no such Benefit Plan has been operated in a manner which would cause it to be disqualified in operation. No Benefit Plan is funded by a trust that is intended to be exempt from tax under the provisions of Section 501(c)(9) of the Code.

(e) No "fiduciary," "party in interest" or "disqualified person" with respect to any Benefit Plan has participated in, engaged in or been a party to any transaction that is prohibited under Section 4975 of the Code or Section 406 of ERISA that is not exempt under Section 4975 of the Code or Section 408 of ERISA, respectively. With respect to any Benefit Plan, (i) neither the Company, nor any of its ERISA Affiliates has had asserted against it any claim for taxes under Chapter 43 of Subtitle D of the Code and Section 5000 of the Code, or for penalties under ERISA Sections 502(c), 502(i) or 502(l), nor, to the Knowledge of the Company, is there a basis for any such claim, and (ii) no officer, director or Employee of the Company has committed a breach of any fiduciary responsibility or obligation imposed by Title I of ERISA. Other than routine claims for benefits, there is no claim or proceeding (including, but not limited to, any audit or investigation) pending or, to the Knowledge of the Company, threatened, involving any Benefit Plan by any Person or any Governmental Authority.

(f) Subject to the terms of the Confidentiality Agreement, the Company has delivered to the Purchaser a correct and complete list containing a true, correct and complete list of the names of all current Employees who are employed in connection with the Business specifying their position and describing their areas of responsibility with respect to the Business, and their age, salary, date of hire, commission, bonus, incentive and vacation entitlements and identifying which Employees are currently receiving long-term or short-term disability benefits or are absent from active employment on pregnancy, parental or adoption leave and their anticipated dates of return to active employment.

(g) Subject to the terms of the Buyer Confidentiality Agreement, Seller has delivered to Buyer a correct and complete list containing a true, correct and complete list of all (i) employment agreements with officers of the Company, (ii) agreements with consultants who are individuals obligating the Company to make annual cash payments in an amount of $30,000 or more, (iii) severance agreements, programs and policies of the Company with or relating to its Employees, and (iv) plans, programs, agreements and other arrangements of the Company with or relating to its Employees that contain provisions that, as a result of the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby, will result in the acceleration or creation of any rights or the creation of any benefits of any Employee, whether or not listed in other parts of the Company Disclosure Letter. The Company has delivered to the Purchaser true, correct and complete copies of all such agreements, plans, programs and other arrangements.

(h) No Benefit Plan that is a "welfare benefit plan" within the meaning of Section 3(1) of ERISA provides benefits to former Employees of the Company or its ERISA Affiliates, other than pursuant to Section 4980B of the Code or similar state laws. The Company and its ERISA Affiliates have complied in all material respects with the provisions of Part 6 of Title I of ERISA, Sections 4980B, 9801, 9802, 9811 and 9812 of the Code, and the Health Insurance Portability and Accountability Act (including, but not limited to, regulations thereunder).

(i) the Company and its ERISA Affiliates have made full and timely payment of all amounts required to be contributed or paid as expenses, or accrued such payments in

accordance with normal procedures under the terms of each Benefit Plan, GAAP and Applicable Law.

(j) the Company is not a party to any agreement that may result in the payment of any "excess parachute payments" within the meaning of Section 280G of the Code either directly or indirectly in connection with this Agreement or the transactions contemplated hereby.

3.14. Compliance with Law. The Company is and has been in compliance in all material respects with all Applicable Law, including, but not limited to, in connection with the conduct or operation of the Business and the ownership or use of the Acquired Assets, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. The Company has not received, and to the Knowledge of the Company, there is no basis for, any notice, order, complaint or other communication from any Governmental Authority or any other Person that the Company or the Business is not in compliance in all material respects with any such Applicable Laws.

3.15. Permits. **Schedule 3.15** sets forth a true, correct and complete list of all Permits, all of which are valid and in full force and effect. None of the Permits are transferable and, accordingly, consents of Governmental Authorities, or other Persons, are unavailable for the transfer of such Permits in connection with the consummation of the transactions contemplated hereunder. The Company has, and at all times has had, all Permits required under Applicable Law in respect of the operation of the Business and owns or possesses such Permits, free and clear of all Encumbrances, other than Permitted Encumbrances. The Company is not in Default, and has not received any notice of any claim of Default, with respect to any such Permit, and no condition exists that with notice or lapse of time or otherwise would constitute a Default.

3.16. Consents and Approvals. Except as set forth on **Schedule 3.16** (including, but not limited to, those Material Contracts and Permits denoted with an asterisk (*) as set forth on **Schedule 3.9(a)** and **Schedule 3.15**, respectively), no consent, approval or authorization of, declaration or notice to or filing or registration with, any Governmental Authority, or any other Person, is required to be made or obtained by the Company, any of its Affiliates or any Members in connection with the execution, delivery and performance by the Company and the Members of this Agreement, the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby or in order to prevent the termination of any right, privilege, license or qualification of or affecting the Business or the Acquired Assets.

3.17. Litigation. Except as set forth on **Schedule 3.17**, there is no action, suit, proceeding, claim, arbitration or investigation ("Proceeding") pending (or, to the Knowledge of the Company, threatened) against the Company, nor, to the Knowledge of the Company, is there any basis for any such Proceeding. The Company is not a party to or subject to the provisions of any court order, writ, injunction, judgment or decree of any Governmental Authority and there is no material Proceeding by the Company currently pending or which the Company intends to initiate. No Proceeding has been instituted or, to the Knowledge of the Company, threatened which questions the validity or legality of the transactions contemplated hereby or by the Ancillary Agreements. There is no regulation, court order or Proceeding that enjoins or seeks to

enjoin or makes the transactions contemplated hereby or by the Ancillary Agreements illegal or otherwise prohibited.

3.18. Labor Matters.

(a) The Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the Knowledge of the Company, has sought to represent any of its Employees or Representatives.

(b) There is no strike or other labor dispute involving the Company pending, or to the Knowledge of the Company, threatened. The Company has not, during the three (3) year period before the Effective Date, received any demand letters, civil rights charges, suits, drafts of suits, administrative or other claims of or from any of its Employees.

(c) All individuals who are performing consulting or other services for the Company are or were correctly classified by the Company as either "independent contractors" or "employees" as the case may be.

(d) The Company is in compliance in all material respects with all Applicable Laws respecting employment, termination of employment, employment practices, terms and conditions of employment and wages and hours.

(e) The Company has withheld and reported all amounts required by Applicable Law or agreement to be withheld and reported with respect to wages, salaries and other payments to Employees.

(f) There are no pending, or, to the Knowledge of the Company, threatened, claims or actions against the Company under any workers' compensation policy or long-term disability policy.

(g) Since the enactment of the Worker Adjustment and Retraining Notification Act (the "WARN Act"), 29 U.S.C. §§ 2101 et seq., the Company has not effectuated, and by the transactions contemplated by this Agreement will not effectuate, (i) a "plant closing" (as defined in the WARN Act) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the Company, or (ii) a "mass layoff" (as defined in the WARN Act) affecting any site of employment or facility of the Company. The Company has not been affected by, and the transactions contemplated by this Agreement will not result in, any layoffs or employment terminations sufficient in number to trigger application of any state or local law similar to the WARN Act. No Employee has suffered in the past three years, or will suffer as a result of the transactions contemplated by this Agreement, an "employment loss" (as defined in the WARN Act).

3.19. Intellectual Property; Software.

(a) **Schedule 3.19(a)(i)** lists all Intellectual Property and any applications and renewals for Intellectual Property owned by the Company or filed on its behalf (such items being

referred to herein as the "Owned Company Intellectual Property"). **Schedule 3.19(a)(ii)** lists all licenses (in and out), sublicenses and other agreements to which the Company is a party and pursuant to which Intellectual Property is licensed to the Company, or the Company licenses Intellectual Property to a third party (all Intellectual Property that is licensed by the Company (as licensee) pursuant to the agreements set forth on **Schedule 3.19(a)(ii)** being referred to herein as the "Licensed Company Intellectual Property"). The Owned Company Intellectual Property and the Licensed Company Intellectual Property are referred to collectively herein as the "Company Intellectual Property."

(b) Each item of Company Intellectual Property is either: (i) owned solely by the Company free and clear of all Liens, or (ii) rightfully used and authorized for use by the Company as between the Company, on the one hand, and the licensors of such Company Intellectual Property, on the other hand, pursuant to a written Contract.

(c) Except as set forth in **Schedule 3.19(c)**, the Company is not in violation of any license, sublicense or other agreement to which it is a party or otherwise bound relating to any Licensed Company Intellectual Property.

(d) All Owned Company Intellectual Property is valid, subsisting and enforceable in the United States and in each other jurisdiction in which such Owned Company Intellectual Property is presently registered. Except as set forth in **Schedule 3.19(d)**, no trademarks or service marks other than those included in the Owned Company Intellectual Property are used by the Company in connection with the current products or services sold by the Company. Each copy of any commercially available software used by the Company is used pursuant to, and in accordance with, valid license rights in favor of the Company. Except as set forth in **Schedule 3.19(d)**, no claims have been documented in writing to the Company by any Person, either: (i) challenging the validity, enforceability, effectiveness, right to use or ownership by the Company of any of the Owned Company Intellectual Property; or (ii) alleging that any Licensed Company Intellectual Property or that any services provided, processes used or products manufactured, used, imported, reproduced, modified, distributed, licensed, sublicensed, offered for sale or sold by the Company has been infringed, misappropriated or otherwise violated, is or will infringe, misappropriate or otherwise violate any Intellectual Property or other proprietary right of any Person. Except as set forth in **Schedule 3.19(d)**, to the Knowledge of the Company there is no and has not been any unauthorized use, infringement, misappropriation or other violation of any of the Owned Company Intellectual Property by any Company Employee, former Company Employee or any third party.

(e) Except as set forth in **Schedule 3.19(e)**, the Company has secured from all parties (including, but not limited to, Employees) who have created any portion of, or otherwise have any rights in or to, the Owned Company Intellectual Property valid and enforceable written assignments of any such work, invention, improvement or other rights to the Company to the extent necessary to vest title in such Owned Company Intellectual Property in the Company. No current or former Employee of the Company has any interest in any item of Owned Company Intellectual Property. The Company has recorded all such assignments with all patent offices worldwide in which any Owned Company Intellectual Property is registered or for which an application has been filed.

(f) The transactions contemplated hereby will not alter, encumber, impair, extinguish or otherwise adversely affect any Owned Company Intellectual Property or impair the right of the Purchaser to develop, use, sell, license or dispose of, or to bring any action for the infringement of, any Owned Company Intellectual Property.

(g) The Company has taken all commercially reasonable measures necessary to protect the proprietary nature of the Owned Company Intellectual Property and to maintain in confidence all trade secrets and confidential information owned by the Company.

(h) Except as set forth in **Schedule 3.19(h)**, all Company employees have executed a non-disclosure agreement in favor of the Company and each such agreement remains in full force and effect. A copy of each such agreement has been delivered to Purchaser.

(i) To the Knowledge of the Company, the Company Intellectual Property comprised of software is free of any disabling codes or instructions (a "Disabling Code"), and any virus or other intentionally created, undocumented contaminant (a "Contaminant"), that may, or may be used to, access, modify, delete, damage or disable any systems or that may result in damage thereto. The Company has taken all steps and implemented all procedures to ensure that its internal computer systems are free from Disabling Codes and Contaminants. To the Knowledge of the Company, the Licensed Company Intellectual Property that is licensed by the Company from third parties is free of any Disabling Codes or Contaminants that may, or may be used to, access, modify, delete, damage or disable any of the hardware, software, databases, embedded control systems, or other systems of the Company or that might result in damage thereto. The Company has taken all commercially reasonable steps to safeguard its systems and restrict unauthorized access thereto.

3.20. Transactions with Certain Persons. Except as set forth **Schedule 3.20**, no Member, manager, officer or director of the Company or any Affiliate of any such Person has had, either directly or indirectly, a material interest in: (a) any Person or entity which purchases from or sells, licenses or furnishes to the Company any goods, property, services, technology, intellectual or other property rights, or (b) any Contract to which the Company is a party or by which it may be bound or affected.

3.21. Insurance. **Schedule 3.21** sets forth a true, correct and complete list of all insurance policies of the Company of any kind currently in force and also sets forth for each insurance policy the type of coverage, the name of the insureds, the insurer, the premium, the expiration date, the deductibles and loss retention amounts and the amounts of coverage. True, correct and complete copies of such insurance policies have been delivered to the Purchaser. All insurance coverage is in full force and effect and insures the Company in sufficient amounts against losses as are in accordance with normal industry practice for similar businesses (taking into account the cost and availability of such insurance). No notice of cancellation or termination has been received with respect to any such policy, and all such insurance policies are in full force and effect up to and including the Closing Date (other than those that have been retired or expired in the Ordinary Course of Business). Except as set forth on **Schedule 3.21**, the Company has no self-insurance or co-insurance programs, and the reserves set forth on the

Financial Statements for the Company's fiscal year ended December 31, 2010 are adequate to cover all anticipated liabilities with respect to any such self-insurance or co-insurance programs.

3.22. Accounts Receivable. **Schedule 3.22** sets forth a true, correct and complete list of the Accounts Receivable included as part of the Acquired Assets, including the aging thereof as of the date of the Company Balance Sheet. All Accounts Receivable included as part of the Acquired Assets represent valid obligations owed to the Company arising from goods actually delivered or services actually performed by the Company in bona fide transactions entered into in the Ordinary Course of Business. Except as set forth on **Schedule 3.22**, there is no contest, claim or right of set-off against the Accounts Receivable included as part of the Acquired Assets other than those in the Ordinary Course of Business and for which adequate reserves have been established and which will be reflected in the Preliminary Company Balance Sheet and the Final Company Balance Sheet. The allowance for uncollectable Accounts Receivable included as part of the Acquired Assets set forth on the Final Company Balance Sheet shall be adequate in accordance with GAAP and shall be consistent with the historical collection experience of the Company.

3.23. Inventory. **Schedule 3.23** sets forth a true, correct and complete list of all Inventory with a value of over $1,000 as of the Closing Date, the address at which such Inventory is located and, in the case of vehicles included within Inventory, the make, model, year and mileage of each such vehicle. Such Inventory has not been consigned to any third person. Such Inventory was acquired by or consigned to the Company and has been maintained by the Company in accordance with the regular business practices of the Company.

3.24. Certain Business Practices. The Company, the Members and all agents and Employees of the Company and all of the Company's Affiliates are in compliance with the Foreign Corrupt Practices Act of 1977, as amended, including, but not limited to, the provisions thereof relating to (a) the use of funds for unlawful contributions, gifts, entertainment or other unlawful expenses, including, but not limited to, expenses related to political activity, (b) the making of unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns and the making of bribes or kickback payments, and (c) the making of any other unlawful payment.

3.25. Warranties. **Schedule 3.25** sets forth true, correct and complete summaries of the written warranties and guaranties utilized by the Company with respect to its services or products pursuant to which the Company may have any current or future obligations. There have not been any deviations from such warranties and guaranties which could result in liability to the Company exceeding $25,000, and neither the Company nor any of its salespeople, Employees, distributors and agents is authorized to undertake obligations to any customer or to other third parties in excess of such warranties or guaranties. The Company has not made any oral warranty or guaranty with respect to any of its products or services.

3.26. Suppliers and Customers. The documents and information supplied by the Company in connection with this Agreement with respect to relationships and volumes of business done with the suppliers, distributors and customers of the Business are accurate in all material respects. **Schedule 3.26** sets forth a true, correct and complete listing of (a) the Company's top ten (10) largest consignors (measured by sales), (b) the Company's top ten (10)

buyers (measured by total purchases), and (c) the Company's top ten (10) customers and suppliers (measured by total expenses), in each case during the twelve (12) months ended December 31, 2010. The Company has not received any notice of termination or written threat of termination from any of the suppliers, buyers or sellers of the Business listed on **Schedule 3.26**, or any information that any such supplier, buyer or seller intends to materially decrease the amount of business that it does with the Company.

3.27. Solvency. The Company is Solvent and will be Solvent after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements and any dividend, distribution or transfer of any portion of the Purchase Price contemplated by the Company. For purposes of this **Section 3.27**, "Solvent" means, with respect to the Company that: (a) the amount, at "fair valuation," or "present fair salable value" (whichever is the applicable test under the applicable provisions of the relevant federal and state bankruptcy and fraudulent conveyance or transfer laws) of the Company's assets is in excess of the total amount of the Company's debts and liabilities, including, but not limited to, contingent liabilities, (b) the Company is able to pay its debts and liabilities, including, but not limited to, contingent liabilities, as they become due, (c) the Company does not have unreasonably small capital or assets to carry on the Company's business as theretofore operated and as proposed to be operated, and (d) the Company does not intend to, or does not believe that it will, incur debts or liabilities beyond the Company's ability to pay as such debts and liabilities mature, in each case as of such date. The meaning of the terms "fair valuation" and "present fair salable value" and the other terms used in this definition, and the calculation of assets, debts and liabilities shall be determined and made in accordance with the applicable provisions of the relevant federal and state bankruptcy and fraudulent conveyance or transfer laws.

3.28. No Brokers. Except as set forth on **Schedule 3.28**, none of the Company or any of its Affiliates, or any of their respective officers, directors, employees, managers or Members, has entered into any contract, agreement, arrangement or understanding with any broker, finder or similar agent or any Person which will result in the obligation of the Purchaser, the Company or any of their respective Affiliates to pay any finder's fee, brokerage fees or commission or similar payment in connection with the transactions contemplated hereby and by the Ancillary Agreements.

3.29. Data Room. The on-line data room which was made available to the Purchaser and which is located at ftp://ftp.liqimg.com/ contains true, correct and complete copies of Contracts entered into by the Company in connection with the Business and which are in effect as of the Effective Date and the Closing Date, as applicable. At the Closing, the Company shall provide to the Purchaser a CD or other electronic copy of the documents contained in such on-line data room.

3.30. Separate Property. Member Corey P. Schlossmann and his spouse, Sindy Schlossmann, are parties to a valid, binding and enforceable pre-nuptial agreement pursuant to which (a) all business interests owned by Member Corey P. Schlossmann, including, but not limited to, Member Corey P. Schlossman's interests in the Company, are separate property of Member Corey P. Schlossmann, and (b) Sindy Schlossmann has no community property, joint ownership or other interest of any kind or nature in the business interests owned by Member Corey P. Schlossmann, including, but not limited to, Member Corey P. Schlossman's interests in

the Company. Member Corey P. Schlossmann has not transferred any of his separate property to his spouse in contemplation of the transactions described herein. Member Corey P. Schlossmann has not, during the one (1) year period preceding the date hereof, transferred to his spouse any of his separate property with a value, individually or in the aggregate, of one hundred thousand dollars ($100,000.00) or more. To the knowledge of Member Corey P. Schlossmann, Member Corey P. Schlossmann now has, and will after the Closing have, individual assets sufficient in value to satisfy his indemnification obligations hereunder.

3.31. Other Information. None of the representations and warranties made by the Company and the Members (taken together with the Company Disclosure Letter) in this Agreement or any Ancillary Agreement, the data room described in **Section 3.29** above and none of the documents or information delivered to the Purchaser by the Company, the Members or its Representatives in connection with the transactions contemplated by this Agreement and the Ancillary Agreements contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading. The financial projections relating to the Company delivered to the Purchaser have been prepared in good faith, are not fraudulent in any respect, and are based on reasonable assumptions, constitute the Company's best estimate of the information purported to be shown therein, and neither the Company nor any Member is aware of any fact or information that would lead any of them to believe that such projections are incorrect or misleading in any material respect; provided that, excepting fraud, neither the Company nor the Members represent or warrant that such financial projections will prove to be accurate in any respect.

3.32. Seller Schedules. Capitalized terms used and not otherwise defined in the Company Disclosure Letter shall have the respective meaning ascribed to such terms in this Agreement. Headings have been inserted in the Company Disclosure Letter for convenience of reference only and shall to no extent have the effect of amending or changing the express description of the applicable sections and subsections as set forth in the Agreement.

The schedule number set forth on each schedule in the Company Disclosure Letter corresponds to the numbered sections contained in the Agreement; however, any information set forth in one schedule shall qualify other representations and warranties of the Company and/or any Member contained in the Agreement and other schedules in the Company Disclosure Letter to the extent that such disclosure is cross-referenced to the other applicable schedules.

The Company Disclosure Letter is qualified in its entirety by reference to specific provisions of the Agreement, and is intended to constitute, and shall be construed as constituting, representations, or warranties of the Company and the Members, only to the extent provided in the Agreement. Inclusion of information in the Company Disclosure Letter shall not be construed as an admission that such information is material to the Company's Business, financial condition or results of operations, except to the extent the applicable representation or warranty calls for disclosure of such material matters. The inclusion of any item in the Company Disclosure Letter (i) does not represent a determination that such item did not arise in the ordinary course of business,

and (ii) shall not constitute, or be deemed to be, an admission to any third party concerning such item. Disclosure of any matter in the Company Disclosure Letter shall not constitute an admission or raise any inference that such matter constitutes a violation of law or an admission of liability or facts supporting liability, except to the extent the applicable

representation or warranty requires disclosure of such violation of law. The Company Disclosure Letter and the information and disclosures contained therein are intended only to qualify and limit the representations, warranties and covenants of the Company and the Members contained in the Agreement and shall not be deemed to expand in any way the scope or effect of any such representations, warranties or covenants.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

As a material inducement to the Company and the Members to enter into this Agreement, except as provided herein, the Purchaser makes the following representations and warranties to the Company and the Members as of the Effective Date and as of the Closing Date.

4.1. Organization. The Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to conduct its business as it is presently being conducted, and to own or lease, as applicable, its assets and properties.

4.2. Authorization. The Purchaser has requisite power and authority, and has taken all action necessary, to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or will be a party, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Ancillary Agreements to which it is or will be a party by the Purchaser and the consummation by the Purchaser of the transactions contemplated hereby and thereby have been duly approved by all necessary action under the organizational documents of the Purchaser. No other proceedings on the part of the Purchaser or its equity owner(s) are necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by the Purchaser and is, and upon execution and delivery of each of the Ancillary Agreements to which the Purchaser is or will be a party will be, a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally.

4.3. Compliance with Other Instruments; No Conflicts.

(a) The Purchaser is not in violation, breach or Default of (i) any term of its certificate of formation, operating agreement or similar organizational or governance documents, or (ii) any provision of Applicable Law that is applicable to or binding upon the Purchaser.

(b) The execution, delivery and performance by the Purchaser and compliance with this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby will not:

(i) conflict with or violate the certificate of formation, operating agreement or similar organizational or governance documents of the Purchaser; or

(ii) conflict with or violate any Applicable Law applicable to the Purchaser or by which the Purchaser may be bound or affected.

4.4 Sufficiency of Funds. The Purchaser has access to sufficient funds to deliver the Purchase Price in accordance with the terms and subject to the conditions of this Agreement.

4.5. No Brokers. None of the Purchaser or any of its Affiliates, or any of their respective officers, directors or employees, has entered into any contract, agreement, arrangement or understanding with any broker, finder or similar agent or any Person which will result in the obligation of the Purchaser, the Company or any of their respective Affiliates to pay any finder's fee, brokerage fees or commission or similar payment in connection with the transactions contemplated hereby and by the Ancillary Agreements.

4.6. Other Information. None of the representations and warranties made by the Purchaser in this Agreement or any Ancillary Agreement and none of the documents or information delivered to the Company by the Purchaser or its Representatives in connection with the transactions contemplated by this Agreement and the Ancillary Agreements contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading.

4.7. Consents and Approvals. Except as set forth on **Schedule 4.7**, no consent, approval or authorization of, declaration or notice to or filing or registration with, any Governmental Authority, or any other Person is required to be made or obtained by the Purchaser, or any of its Affiliates in connection with the execution, delivery and performance by the Purchaser of this Agreement, the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby. The Purchaser has obtained all such required consents, approvals and authorizations and made all such required declarations, notices, filings and registrations with any Governmental Authority, or any other Person, all as set forth on **Schedule 4.7**.

4.8 Solvency. The Purchaser is Solvent and will be Solvent after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements. For purposes of this **Section 4.8**, "Solvent" means, with respect to the Purchaser that: (a) the amount, at "fair valuation," or "present fair salable value" (whichever is the applicable test under the applicable provisions of the relevant federal and state bankruptcy and fraudulent conveyance or transfer laws) of the Purchaser's assets is in excess of the total amount of the Purchaser's debts and liabilities, including, but not limited to, contingent liabilities, (b) the Purchaser is able to pay its debts and liabilities, including, but not limited to, contingent liabilities, as they become due, (c) the Purchaser does not have unreasonably small capital or assets to carry on the Purchaser's business as theretofore operated and as proposed to be operated, and (d) the Purchaser does not intend to, or does not believe that it will, incur debts or liabilities beyond the Purchaser's ability to pay as such debts and liabilities mature,

in each case as of such date. The meaning of the terms "fair valuation" and "present fair salable value" and the other terms used in this definition, and the calculation of assets, debts and liabilities shall be determined and made in accordance with the applicable provisions of the relevant federal and state bankruptcy and fraudulent conveyance or transfer laws.

ARTICLE V
COVENANTS

5.1. Conduct of Business. From the Effective Date through the Closing, the Company shall carry on the operation of the Business in the Ordinary Course of Business and will not take any action inconsistent with this Agreement. The Company will maintain the present character and quality of the Business, including its present operations, physical facilities, working conditions and relationships with lessors, licensors, suppliers, customers, contractors and Employees, and shall take such actions as are necessary to protect the Acquired Assets and their value before the Closing Date. Without limiting the generality of the foregoing, unless consented to by the Purchaser in writing, the Company, except as specifically contemplated by this Agreement, shall not:

(a) amend its Certificate of Formation or operating agreement (or other similar governing documents);

(b) declare, set aside or pay any dividend or other distribution (whether in cash, membership interests or property or any combination thereof) in respect of its membership interests, make any other actual, constructive or deemed distribution in respect of its membership interests or otherwise make any payments to holders of securities issued by the Company in their capacities as such;

(c) sell, transfer, license, lease or otherwise dispose of any Acquired Assets, other than sales or transfers of Inventory in the Ordinary Course of Business;

(d) enter into any joint venture, strategic alliance, noncompetition, exclusive license, distribution, marketing, sales or other similar agreement;

(e) revalue in any respect any of the Acquired Assets, including writing off any indebtedness or Accounts Receivable;

(f) incur any indebtedness for borrowed money or letters of credit, or issue any debt securities or assume, guarantee, endorse (other than endorsements for deposit or collection in the Ordinary Course of Business) or otherwise become responsible for, obligations of any other Person, except in the Ordinary Course of Business;

(g) mortgage, pledge or otherwise subject to any Encumbrance any of the Acquired Assets;

(h) adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization or otherwise permit its corporate existence to be suspended, lapsed or revoked;

(i) terminate, renew or make any amendment to any Assumed Contract, enter into any new contract or agreement with respect to the Business, in each case other than in the Ordinary Course of Business;

(j) make any change in any method of accounting or accounting practice except as required by GAAP;

(k) fail to maintain the books and records on a basis consistent with past practice except to the extent changes are required by changes in Applicable Law;

(l) except as required by Applicable Law, establish, enter into, adopt, amend or terminate any employment agreement or Benefit Plan of any Employee in any manner, or increase in any manner the compensation or fringe benefits of any Employee or consultant (other than increases in the Ordinary Course of Business) or pay any benefit not required by any Benefit Plan as in effect on the Effective Date;

(m) institute, settle, or agree to settle any Proceeding related to the Acquired Assets, Assumed Liabilities or the Business (other than any Proceeding related solely to Excluded Assets or Excluded Liabilities), except with respect to claims having a value less than $5,000 in the aggregate;

(n) make or change any election in respect of Taxes; enter into any closing agreement, settle any claim or assessment in respect of Taxes; or consent to any extension or waiver of the limitation period applicable to any claim or assessment in respect of material Taxes; fail to file any Tax Returns when due (taking into account valid extensions of time to file); fail to cause such Tax Returns when filed to be true, correct and complete in all material respects; prepare or file any Tax Return of the Company in a manner inconsistent with past practices in preparing or filing similar Tax Returns in prior periods, or fail to pay any Taxes when due;

(o) authorize any new capital expenditure or expenditures that individually is in excess of $1,000 or in the aggregate are in excess of $5,000;

(p) acquire any corporation, partnership, limited liability company, other business organization or division thereof or any amount of assets in excess of $5,000 in the aggregate (other than any acquisition of Inventory in the Ordinary Course of Business);

(q) pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise) relating to the Business or the Acquired Assets, other than (i) the payment, discharge or satisfaction, in the Ordinary Course of Business of liabilities reflected or reserved against on the books and records of the Company or subsequently incurred in the Ordinary Course of Business; or (ii) the repayment of debt set forth on **Schedule 5.1(q)** to be repaid by the Company at Closing;

(r) cancel, compromise, waive or release any right or claim relating to the Business or the Acquired Assets, other than in the Ordinary Course of Business;

(s) permit the lapse of any existing policy of insurance relating to the Business or the Acquired Assets;

(t) permit the lapse of any right relating to Business Intellectual Property or any other intangible asset used or held for use in connection with the Business;

(u) accelerate the collection of or discount any Accounts Receivable, delay the payment of liabilities that would become Assumed Liabilities or defer expenses, reduce Inventories or otherwise increase cash on hand in connection with the Business, except in the Ordinary Course of Business; or

(v) take or agree to do (i) any of the actions described in subsections (a) through (u) of this **Section 5.1**, or (ii) any other act which would cause any representation or warranty of the Company or the Purchaser in this Agreement to be or become untrue in any material respect.

5.2. Access to Information.

(a) Between the Effective Date and the Closing Date, the Company will permit the Purchaser and its authorized Representatives access (including for inspection and copying) at all reasonable times to the Acquired Assets, the Company's Representatives, and the Company's properties, offices, plants and other facilities, and non-privileged books and records, including, without limitation, non-privileged Business Records, and will cause its Representatives to furnish the Purchaser with such financial and operating data and other information as Purchaser may from time to time request.

(b) Each party hereto will hold, and will cause its Representatives to hold, in confidence all documents and information furnished to it by or on behalf of another party to this Agreement in connection with the transactions contemplated by this Agreement pursuant to the terms of the Confidentiality Agreement.

5.3. Notification of Certain Matters.

(a) The Company or a Member, as applicable, shall give prompt written notice to the Purchaser of (i) the occurrence, or failure to occur, of any event before the Closing which occurrence or failure would cause any representation or warranty of the Company or a Member contained in this Agreement, an Ancillary Agreement or any exhibit or schedule hereto or thereto to be untrue or inaccurate in any material respect; (ii) any failure of the Company or a Member to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement, any Ancillary Agreement or any exhibit or schedule hereto or thereto; (iii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements; and (iv) any Proceeding pending or threatened against a party or the parties relating to the transactions contemplated by this Agreement or the Ancillary Agreements; provided, however, that such disclosure shall not be deemed to cure any breach of a representation, warranty, covenant or agreement or to satisfy any condition.

(b) From time to time before the Closing Date, the Company shall promptly supplement or amend the Company Disclosure Letter with respect to any matter arising after the delivery thereof pursuant hereto that, if existing at, or occurring on, the Effective Date, would have been required to be set forth or described in the Company Disclosure Letter, and in any event, not earlier than ten (10) and not less than five (5) days before the date scheduled for Closing, the Company shall so supplement or amend the Company Disclosure Letter, so that such information shall be correct and complete at the time such updated information is so provided. Any corrected and supplemental information shall not be deemed to amend the Company Disclosure Letter for purposes of determining whether the conditions set forth in **Article VII** hereof have been satisfied, shall not be deemed to cure any breach of any representation or warranty or to limit the rights and remedies of Purchaser under this Agreement for any breach by the Company or any Member of such representations and warranties.

5.4. No Solicitation.

(a) None of the Members or the Company shall, nor shall they authorize or permit any Employee or Representative of the Company to: (i) solicit, initiate, seek, consider, discuss or encourage the submission of, any Takeover Proposal; (ii) enter into any letter of intent, agreement in principle, acquisition agreement or other agreement with respect to, or approve or recommend, any Takeover Proposal; or (iii) participate in any discussions or negotiations regarding, or furnish to any Person any information with respect to the Business in connection with, or take any other action to facilitate any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Takeover Proposal. The Company and the Members immediately shall cease and cause to be terminated all existing discussions, conversations, negotiations and other communications with any Persons other than Purchaser conducted heretofore with respect to any of the foregoing. Without limiting the foregoing, it is understood that any violation of the restrictions set forth in the first sentence of this **Section 5.4(a)** by any Employee of the Company or any Representative of the Company, whether or not such Person is purporting to act on behalf of the Company or otherwise, shall be deemed to be a breach of this **Section 5.4(a)** by the Company.

(b) The Company shall advise the Purchaser orally and in writing within twenty-four (24) hours of (i) any Takeover Proposal or any inquiry with respect to or which would reasonably be expected to lead to a potential Takeover Proposal that is received by or communicated to any Member or any Employee of the Company or, to the Knowledge of the Company, any Representative of the Company, (ii) the material terms of such Takeover Proposal (including a copy of any written proposal) and (iii) the identity of the Person making any such Takeover Proposal or inquiry. The Company will keep the Purchaser informed of the status of such Takeover Proposal or inquiry (including, without limitation, notifying the Purchaser orally and in writing of any material change to the terms of such Takeover Proposal or inquiry and providing copies of any revised written proposal within twenty-four (24) hours of the receipt thereof by the Company). The Company shall not release any Person from, or waive any provision of, any confidentiality or standstill agreement to which the Company is a party, without the prior written consent of the Purchaser.

5.5 Public Announcements. From and after the Effective Date (including, but not limited to, periods after the Closing) none of the Company or the Members shall issue a press

release or make any other public announcement regarding this Agreement or the transactions contemplated hereby without the Purchaser's prior written consent. The Purchaser shall provide to the Company a copy of any public announcement by the Purchaser prior to the public issuance thereof.

ARTICLE VI
POST-CLOSING COVENANTS

6.1. Accounts Receivable and Other Payments. At the Closing, the Company shall retain all rights in the Retained Receivables and the Purchaser shall receive payments on account of the Retained Receivables for and on behalf of the Company, it being understood that Purchaser shall use commercially reasonable efforts to collect the Retained Receivables, but shall not be required to undertake extraordinary efforts to pursue the collection of the Retained Receivables, and the Purchaser shall not have any liability for the failure to collect any Retained Receivables notwithstanding the Purchaser's commercially reasonable efforts. If the Purchaser receives any cash or other form of payment related to the Business that is intended as a payment of the Retained Receivables due to the Company, then the Purchaser shall, and shall cause its Subsidiaries to, as soon as possible thereafter within the Ordinary Course of Business, properly deliver (and endorse as necessary) such payment to the Company. If the Company or any of its Affiliates receives any cash or other form of payment related to the Business, but that is not intended as a payment of Retained Receivables due to the Company, then the Company shall, or shall cause its Affiliate to, as soon as possible thereafter within the Ordinary Course of Business, properly deliver (and endorse as necessary) such payment to the Purchaser.

6.2. Proration of Liabilities.

(a) The Company and the Purchaser shall cooperate with each other to provide for payments due with respect to the Assumed Liabilities during the payment period in which the Closing occurs with all the Assumed Liabilities prorated as of the Closing Date, if applicable. In furtherance and not in limitation of the foregoing, all utility charges, gas charges, electric charges, water charges, water rents and sewer rents, if any, shall be apportioned between the Purchaser and the Company as of 11:59 P.M. on the Closing Date, computed on the basis of the most recent meter charges or, in the case of annual charges, on the basis of the established fiscal year. All prepaid expenses (including, but not limited to, any rent) of the Company paid prior to the Closing Date in respect of the Business shall be apportioned between the Purchaser and the Company as of 11:59 P.M. on the Closing Date computed on the basis of the benefit received by the Company prior to the Closing Date and the benefit to be received by the Purchaser subsequent to the Closing Date with respect to any Contract or other matter to which the prepaid expense relates. All prorations described in this **Section 6.2(a)** shall be made insofar as feasible on the Closing Date, and the Base Consideration shall be adjusted accordingly as set forth in **Section 2.4**.

(b) In the event the Purchaser or the Company shall receive bills after the Closing Date for expenses incurred prior to the Closing Date that were not prorated in accordance with this **Section 6.2(b)**, then the Purchaser or the Company, as the case may be, shall promptly notify the other party as to the amount of the expense subject to proration and the responsible party shall promptly pay its portion of such expense (or, in the event such expense

has been paid on behalf of the responsible party, reimburse the other party for its portion of such expenses).

6.3. Non-Competition; Non-Solicitation.

(a) The Company shall not, and shall cause its Members and its and their Affiliates not to, and no Member shall, directly or indirectly through any Person or contractual arrangement, either individually or as a shareholder, director, officer, partner, member, consultant, owner, employee, agent, or in any other capacity for a period of seven (7) years following the Closing, (i) solicit or offer to provide or provide Restricted Services anywhere in the world; (ii) operate an Internet site through which Restricted Services are offered or provided; or (iii) directly or indirectly through any Person or contractual arrangement, perform management, executive or supervisory functions with respect to, operate, join, control, render financial assistance to, receive any economic benefit from, exert any influence upon, or participate in or allow any of its officers or employees to be connected as a shareholder, director, officer, partner, member, consultant, owner, employee, agent or otherwise with, any business or Person that provides Restricted Services. Notwithstanding the foregoing, Corey P. Schlossmann and his Affiliates, directly or indirectly through any Person or contractual arrangement, either individually or as a shareholder, director, officer, partner, member, consultant, owner, employee, agent, or in any other capacity, shall be permitted to engage in the retail sale of passenger vehicles, provided, however, that Corey P. Schlossmann and his Affiliates, directly or indirectly through any Person or contractual arrangement, either individually or as a shareholder, director, officer, partner, member, consultant, owner, employee, agent, or in any other capacity (x) shall not sell passenger vehicles acquired from any Governmental Authority on a fee for services or consignment basis, and (y) shall not knowingly target (for marketing or solicitation purposes) any existing customers of the Company or future customers of the Purchaser. Notwithstanding the foregoing, Corey P. Schlossmann shall be permitted to send to the customers of the Company (existing as of the Closing Date) one (1) e-mail message announcing the passenger vehicle business; provided, however, that such message must be sent within the earlier of (A) ninety (90) days after the location from where such business will operate is available and permitted to be used for the conduct of such business, and (B) two (2) years from the Closing Date. Such message shall be sent only if it is approved in writing by the Purchaser in the Purchaser's sole discretion. Such e-mail shall give customers the option to opt-in to receive marketing materials with respect to such business, and within forty-five (45) days from the date on which such e-mail is sent by Corey P. Schlossmann, Mr. Schlossmann shall provide the Purchaser with a true, correct and complete list of all customers that elected to opt-in under such e-mail. The restrictions contained in (y) above shall not apply to any customers that elected to opt-in under such e-mail, as evidenced by the list provided to the Purchaser. In connection with the foregoing, the accounting practice of Member, Corey P. Schlossmann shall not be subject to the provisions of this **Section 6.3**, provided, however, that he agrees not to provide accounting services to any business or Person that engages in Restricted Services.

(b) For a period of seven (7) years following the Closing, the Company shall not, and shall cause its Affiliates not to, and no Member shall, directly or indirectly solicit, recruit, hire or offer to hire, induce or attempt to induce or otherwise counsel, advise, ask or encourage any person who is a Hired Employee to leave the employ of the Purchaser or to accept employment with another employer or as an independent contractor. The foregoing shall not

prohibit (i) a general solicitation to the public of general advertising or similar methods of solicitation by search firms not specifically directed at Hired Employees; or (ii) the Company or any of its Affiliates from soliciting, recruiting or hiring any Hired Employee who has ceased to be employed or retained by the Purchaser for at least twelve (12) months.

(c) The parties hereto acknowledge and agree that, in the event of a breach of the covenants set forth in **Sections 6.3(a)** or **(b)** above, the Purchaser shall have the right, pursuant to the Lease Documents, to terminate any or all of the leases represented by the Lease Documents; provided, however, that if a breach of the covenants set forth in **Sections 6.3(a)** or **(b)** above is not material or intentional, the Purchaser shall, within seventy-five (75) days of the date Purchaser becomes aware of an immaterial and unintentional breach, first give written notice of such unintentional and immaterial breach to the breaching party, who shall have a period of twenty (20) Business Days following receipt of such written notice to cure completely such breach to the satisfaction of the Purchaser, in its sole and absolute discretion, and if such cure is effected within such time period, then the Purchaser shall not have the right to terminate any or all of the leases represented by the Lease Documents. If the Purchaser has so determined that an immaterial and unintentional breach has not been so cured, the Purchaser shall give written notice thereof to the breaching party within seventy-five (75) days of the expiration of the aforementioned twenty (20) Business Day cure period. The Purchaser shall exercise such right of termination by providing no less than seventy-five (75) days' written notice to the applicable landlord(s), and such written notice shall be provided to the applicable landlord(s) within (i) one (1) year of the date that the Purchaser becomes aware of a material or intentional breach, and/or (ii) one (1) year from the date the Purchaser notifies the Seller or the applicable Member in writing that the Seller or the applicable Member has failed to cure an immaterial and unintentional breach. For the purposes of this **Section 6.3(c)**, a material breach of the covenants set forth in **Sections 6.3(a)** or **(b)** shall include, but not be limited to, the receipt by a breaching party of any sum, regardless of amount, as a result of the activities constituting such a breach.

(d) The Company and each Member acknowledge that the covenants of the Company and the Members set forth in this **Section 6.3** are an essential element of this Agreement and that any breach by the Company or the Members of any provision of this **Section 6.3** will result in irreparable injury to the Purchaser. The Company and each Member acknowledge that in the event of such a breach, in addition to all other remedies available at law, the Purchaser shall be entitled to equitable relief, including, but not limited to, injunctive relief, and an equitable accounting of all earnings, profits or other benefits arising therefrom, as well as such other damages as may be appropriate. The Company and each Member have independently consulted with its, his or her respective counsel and after such consultation agree that the covenants set forth in this **Section 6.3** are reasonable and proper to protect the legitimate interest of the Purchaser.

(e) If a court of competent jurisdiction determines that the character, duration or geographical scope of the provisions of this **Section 6.3** are unreasonable, it is the intention and the agreement of the parties that these provisions shall be construed by the court in such a manner as to impose only those restrictions on the Company's and each Member's conduct that are reasonable in light of the circumstances and as are necessary to assure to the Purchaser the benefits of this Agreement, and such court shall reform the covenants set forth in this **Section 6.3** to make them enforceable to the maximum extent permissible. If, in any judicial proceeding, a

court shall refuse to enforce all of the separate covenants of this **Section 6.3** because taken together they are more extensive than necessary to assure to the Purchaser the intended benefits of this Agreement, it is expressly understood and agreed by the parties that the provisions hereof that, if eliminated, would permit the remaining separate provisions to be enforced in such proceeding, shall be deemed eliminated, for the purposes of such proceeding, from this Agreement.

(f) For the avoidance of doubt, the parties acknowledge and agree that if the duration of the covenants set forth in **Sections 6.3(a)** or **(b)** above is shortened for any reason whatsoever other than the agreement of the parties (including as a result of a court of competent jurisdiction limiting the duration of such covenants), then the Purchaser shall have the right, pursuant to the Lease Documents to terminate any or all of the leases represented by the Lease Documents, effective at any time at or following the expiration of the revised or reformed duration of the covenants set forth in **Section 6.3(a)** and; provided, however, that such termination right shall not be exercisable by the Purchaser if all of the parties bound by the covenants set forth in **Sections 6.3(a)** and **(b)** continue, notwithstanding the change in such duration, to comply with the covenants set forth in **Sections 6.3(a)** or **(b)** for the time periods originally set forth in such sections (i.e., for a period of seven (7) years from the Closing Date).

6.4. Employment.

(a) The Purchaser, or an Affiliate of the Purchaser, shall offer employment to Employees of the Business selected by the Purchaser in its discretion, and the Company shall terminate such employees immediately prior to the Closing. Such employment shall be at will and subject to terms and conditions imposed by the Purchaser, including, but not limited to, at the Purchaser's election, the Employee's agreement to confidentiality, non-disclosure, non-competition and/or non-solicitation covenants. All Employees of the Business who accept employment with the Purchaser or an Affiliate of the Purchaser shall be referred to herein as "Hired Employees." To the extent permitted by Applicable Law, the Purchaser shall offer Hired Employees employee benefits on a basis which is substantially comparable to those offered to the Purchaser's similarly-situated employees. Nothing contained in this Agreement shall limit the Purchaser's ability to modify or terminate, in accordance with Applicable Law, the employment of the Hired Employees or their terms and conditions of employment. Nothing contained in this Agreement shall create any third party beneficiary rights in any Transferring Employee, any beneficiary or dependents thereof, with respect to the compensation, terms and conditions of employment and benefits that may be provided to any Transferring Employee by the Purchaser or under any benefit plan that the Purchaser may maintain.

(b) From and after the Closing Date, the Purchaser shall grant all Hired Employees credit for all service (to the same extent as service with the Purchaser is taken into account with respect to similarly situated employees of the Purchaser) with the Company prior to the Closing for (i) eligibility and vesting purposes, and (ii) for purposes of vacation accrual after the Closing as if such service with the Purchaser was service with the Company. Subject to the approval of any insurance carrier and to the extent consistent with Applicable Law and Tax qualification requirements, the Purchaser shall cause any and all pre-existing condition (or actively-at-work or similar) limitations, eligibility waiting periods and evidence of insurability requirements under any group medical plans to be waived with respect to the Hired Employees

and their eligible dependents and shall provide them with credit for any co-payments, deductibles and offsets (or similar payments) made during the applicable plan year before the Closing Date for purposes of satisfying any applicable deductible, out-of-pocket, or similar requirement under any Purchaser employee benefit programs in which they are eligible to participate on and after the Closing Date.

(c) The Company shall comply with the requirements of the WARN Act or any similar state, provincial or local law with respect to any "plant closing" or "mass layoff", as those terms are defined in the WARN Act or such other Applicable Law, which may result from the Company's termination of the employment of any Employees, if applicable.

(d) In addition to the foregoing, (i) pursuant to a separate agreement between Purchaser and Paula A. Delgado, Purchaser shall offer to employ Paula A. Delgado for a period commencing on the Closing Date and continuing for a period of six (6) months, or such shorter period as the Purchaser may determine in its sole discretion; and (ii) Purchaser shall enter into the Consulting Agreement with Member Corey P. Schlossmann pursuant to the terms of **Exhibit I**.

6.5. Payment of Liabilities. After the Closing, the Company shall pay or otherwise satisfy any Excluded Liabilities not satisfied at Closing. For the period ending forty-eight (48) months after the Closing, prior to adopting any proposal to dissolve the Company, (a) the Company's managers or the Members shall provide to the Purchaser a copy of the Company's plan to discharge the Company's liabilities in connection with the dissolution of the Company, including, but not limited to, the Excluded Liabilities, and (b) the Company shall obtain the Purchaser's approval of such plan, such approval not to be unreasonably withheld or delayed. After the requirements of the preceding sentence are satisfied, if applicable, the Company shall thereafter provide to the Purchaser evidence of the satisfaction of all such Excluded Liabilities that were not satisfied on or prior to the Closing.

6.6. Tax Matters.

(a) The Purchaser and the Company shall cooperate in preparing, executing and filing use, sales, real estate, transfer and similar Tax Returns relating to the purchase and sale of the Acquired Assets or the Business. Such Tax Returns shall be prepared in a manner that is consistent with the determination of the fair market values allocated to the Acquired Assets as contemplated by **Section 2.6**. All sales, transfer, documentary, stamp, recording and similar Taxes incurred in connection with the purchase and sale of the Assets ("Transfer Taxes") shall be paid by the Company, subject to **Section 2.8** hereof.

(b) Any payments made pursuant to **Section 9.2** of this Agreement shall constitute an adjustment to the Purchase Price for Tax purposes and shall be treated as such by the Purchaser and the Company on their Tax Returns to the extent permitted by law.

6.7. Refunds and Remittances. After the Closing: (a) if the Company or any of its Affiliates receive any refund or other amount that is an Acquired Asset or is otherwise properly due and owing to the Purchaser in accordance with the terms of this Agreement, the Company shall promptly remit, or shall cause to be remitted, such amount to the Purchaser, and (b) if the

Purchaser receives any refund or other amount that is an Excluded Asset or is otherwise properly due and owing to the Company or any of its Affiliates in accordance with the terms of this Agreement, the Purchaser shall promptly remit, or shall cause to be remitted, such amount to the Company. If either party receives a payment from a customer that cannot be identified to a specific invoice or obligation, the recipient shall inquire of the customer as to the intended application thereof and, lacking a response, the payment shall be applied to the post-Closing outstanding invoices or obligations first, and then to pre-Closing outstanding invoices or obligations.

6.8. Power of Attorney. The Company hereby constitutes and appoints the Purchaser the true and lawful attorney-in-fact of the Company, with full power of substitution, in the name of the Company, but for the benefit of the Purchaser (provided, however, that the Company's obligations will not in any way be limited as a result of the Purchaser undertaking such expense) following the Closing to (a) perfect the transfer of Acquired Assets from the Company to the Purchaser, (b) collect money that has been earned and to which the Purchaser is entitled to, and (c) endorse, without recourse, the name of the Company on any check or other evidence of indebtedness received by the Purchaser on account of any Acquired Asset or Retained Receivable, subject to the provisions of **Section 6.1** hereof. The Company acknowledges that such powers are coupled with an interest and shall not be revocable by it in any manner or for any reason, including, but not limited to, its dissolution, and that the Purchaser shall be entitled to retain for its own account any amounts collected pursuant to such powers, including, but not limited to, any amounts payable as interest in respect thereof. Such powers shall be granted by such powers of attorney and other instruments as shall be reasonably requested by the Purchaser.

6.9. Customer and Other Business Relationships. During the term of the Consulting Agreement and for an additional twelve (12) months thereafter, Member Corey P. Schlossmann shall, in accordance with the terms of the Consulting Agreement (but without limiting the terms of the Consulting Agreement), cooperate with the Purchaser in its efforts to continue and maintain for the benefit of the Purchaser those business relationships of the Company existing prior to the Closing relating to the Business, including, but not limited to, relationships with lessors, Hired Employees, Governmental Authorities, licensors, customers, suppliers and others, and the Company will satisfy the Excluded Liabilities in a manner that is not detrimental to any of such relationships. None of the Members or the Company, nor any of its officers, Employees, Representatives or Affiliates, shall take any action that would tend to diminish the value of the Acquired Assets after the Closing or that would interfere with the business of the Purchaser to be engaged in after the Closing, including, but not limited to, disparaging the name or business of the Purchaser; provided, however, that the foregoing shall not prohibit (a) Corey P. Schlossmann from prosecuting or defending any claims under this Agreement, or (b) the landlords under the Lease Documents from prosecuting or defending any claims under such Lease Documents.

6.10. Prohibition on Use. From and after the Closing Date, the Company and the Members shall not use, directly or indirectly, any trademarks, trade names or domain names or addresses, including, but not limited to, corporate names, symbols or identifiers included in Business Intellectual Property, any derivatives thereof or any marks confusingly similar thereto. Without limiting the generality of the foregoing, the Company shall change its name to remove the phrase "TruckCenter.com" therefrom within ten (10) Business Days following the Closing Date, and the Company shall deliver evidence of such name change to Purchaser.

6.11 Delivery of and Payment for Phase I Reports. Promptly following receipt of the reports of the Phase I environmental investigations referred to in **Section 7.2(j)** hereof, the Company shall deliver true, correct and complete copies of such reports to the Purchaser. The Purchaser and the Company have agreed to share equally in the costs of such Phase I reports.

6.12 Remediation of Environmental Conditions. (a) Anything in this Agreement to the contrary notwithstanding, the Company and Member Corey P. Schlossmann shall be solely responsible for and shall remediate, or cause to be remediated, each environmental condition at the properties where the Business is conducted if such condition exists as of the Closing Date, arises from or relates to periods prior to the Closing Date, or is identified in the Phase I environmental investigation reports to be delivered by the Seller to the Purchaser provided in any case such remediation (i) is required by Applicable Law (subject to the Company's right to contest such requirement to or with the applicable Governmental Authority), or (ii) is reasonably determined by the Purchaser to be necessary in order to allow the Purchaser's future operation and/or expansion of the Business at such properties (but not new activities of Purchaser unrelated to the Business). If pursuant to the first sentence of this **Section 6.12**, Purchaser in its reasonable discretion determines it is necessary to alter the current vehicle washing procedures at one or more of the Leased Properties in order to contain and/or pretreat wastewater from vehicle washing activities, Purchaser shall determine a reasonable alternative to the current vehicle washing and wastewater practices. If Purchaser determines that the most reasonable alternative to current practice is the installation and operation of a wash mat containment and treatment system (the "Mat System"), Purchaser shall notify the Company, member Corey P. Schlossmann and the lessor of such Leased Property in writing of such determination. After receipt of such notice, the Company, Member Corey P. Schlossmann or the lessor of such Leased Property shall, at its or his sole cost and expense, promptly install (or cause to be installed) at a place designated by Purchaser at such Leased Property, a Mat System reasonably acceptable to Purchaser. The party installing such Mat System shall own the Mat System and shall be responsible, at its or his sole cost and expense, for the maintenance, repair and replacement of the Mat System, and Purchaser, shall have the right to use the Mat System and shall be responsible, at its sole cost and expense, for the labor and benefit costs of Purchaser's employees, contractors and independent contractors who perform vehicle washing activities using the Mat System.

(b) In the event that a Governmental Authority notifies Purchaser in writing that remediation is required at any of the properties where the Business is conducted, Purchaser shall promptly notify the Company and Member Corey P. Schlossmann of same. Purchaser also shall reasonably cooperate with the Company and Member Corey P. Schlossmann with respect to any remediation which is performed or caused to be performed by the Company or Member Corey P. Schlossmann at any of the properties where the Business is conducted.

6.13 Name Change. From and after the Closing Date, the Company shall cease all use of the name "Truckcenter.com" and all derivations thereof except as directed by the Purchaser for the purposes of effectuating the terms of **Section 2.12** hereof. Within five (5) Business Days following receipt by the Purchaser in its name of all licenses and permits equivalent to the Permits, the Company shall take all necessary steps, company, statutory or otherwise, in order to change its company name to remove all reference to "Truckcenter.com," or any derivative thereof, and cease using such name, or any derivative thereof.

6.14 Maintenance of Individual Assets. Following the Closing Date and for the purpose of enabling Member Corey P. Schlossmann to perform his indemnification obligations hereunder, Member Corey P. Schlossmann shall not transfer any of his separate property to his spouse and shall maintain separate property assets sufficient in value to satisfy his indemnification obligations hereunder; provided, however, that the foregoing shall not (a) give Purchaser the right, in the absence of a judgment against Member Corey P. Schlossmann in favor of Purchaser, to audit or otherwise examine Member Corey P. Schlossmann's financial condition or assets following the Closing Date, (b) prohibit transfers to a trust of which Member Corey P. Schlossmann is both the trustor and trustee and whose assets are available for satisfaction of Member Corey P. Schlossmann's indemnification obligations hereunder, or (c) prohibit transfers through a will or trust upon the death of Member Corey P. Schlossmann.

ARTICLE VII
CONDITIONS TO CLOSING

7.1. Conditions to Obligations of the Company. The obligations of the Company and the Members to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, either of which may be waived in writing by the Company in its sole discretion:

(a) Representations, Warranties and Covenants. The representations and warranties of the Purchaser contained in this Agreement or any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby shall be true and correct in all material respects (except for such representations and warranties as are qualified by materiality, which representations and warranties shall be true and correct in all respects) both as of the Effective Date and as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date. The Purchaser shall have performed in all material respects all obligations and agreements and complied in all material respects with all covenants and conditions required by this Agreement or any Ancillary Agreement to be performed or complied with by it the Closing. The Company shall have received from the Purchaser a certificate to the effect set forth in this **Section 7.1(a)** signed by an executive officer thereof.

(b) Deliveries. The Company shall have received an executed copy of each of the documents listed in **Section 2.11** and the certificate described in **Section 7.1(a)**.

7.2. Conditions to Obligations of the Purchaser. The obligations of the Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Purchaser in its sole discretion:

(a) Representations, Warranties and Covenants. The representations and warranties of the Company and the Members contained in this Agreement or any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby (without giving effect to any supplement to the Company Disclosure Schedule delivered after the Effective Date) shall be true

and correct in all material respects (except for such representations and warranties as are qualified by materiality or Material Adverse Effect, which representations and warranties shall be true and correct in all respects) both as of the Effective Date and as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date. The Company and the Members shall have performed in all material respects all obligations and agreements and complied in all material respects with all covenants and conditions required by this Agreement or any Ancillary Agreement to be performed or complied with by them prior to or at the Closing. The Purchaser shall have received from the Company a certificate to the effect set forth in this **Section 7.2(a)** signed by an executive officer thereof and from the Members a certificate to the effect set forth in this **Section 7.2(a)**.

(b) Consents and Approvals. All Material Consents shall have been received and shall be satisfactory in form and substance to the Purchaser in its sole discretion.

(c) No Litigation. No Proceeding (except Proceedings between the parties arising out of this Agreement, if applicable) shall have been commenced or threatened by or before any Governmental Authority that, in the reasonable, good faith determination of the Purchaser, is reasonably likely to (i) prohibit or impose limitations on the Purchaser's ownership or operation of all or a material portion of the Business or the Acquired Assets or any of its other businesses or assets (or those of any of its Subsidiaries or Affiliates) or (ii) impose limitations on the ability of Purchaser or its Affiliates, or render the Purchaser or its Affiliates unable, effectively to control the Business or the Acquired Assets in any material respect.

(d) Deliveries. The Purchaser shall have received an executed copy of each of the documents listed in **Section 2.10** and the certificates described in **Section 7.2(a)**.

(e) No Material Adverse Effect. There shall not have occurred any change, event or development or prospective change, event or development that, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect on the Company or the Business.

(f) Certain Contracts. The Assumed Contracts set forth on **Schedule 7.2(f)** shall be in full force and effect as of the Closing Date and none of the parties thereto shall have notified the Company of its intent to terminate any of such contracts.

(g) Certain Employees. The Employees set forth on **Schedule 7.2(g)** shall have executed an Offer Letter accepting an offer of employment from the Purchaser.

(h) Damage to Inventory. The parties shall have agreed in writing to the value of damage to Inventory which shall have occurred since the Effective Date (the "Inventory Damage Amount").

(i) Resolution of License Violations. All license and other violations identified on **Schedule 3.19(c)** shall be fully and finally resolved and remediated to the satisfaction of the Purchaser, in its sole discretion.

(j) Phase I Reports. The Seller shall have ordered Phase I environmental investigations of each of the sites at which the Seller operates the Business, and delivered, or caused to be delivered, to the Purchaser written confirmation that such investigations have been ordered.

(k) Equipmentfacts Agreement. The Seller shall have entered into a non-exclusive online bidding provider contract with Equipmentfacts, LLC on terms and with conditions that are acceptable to the Purchaser in its sole discretion.

ARTICLE VIII
TERMINATION

8.1. Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of the Purchaser and the Company;

(b) (i) by the Company, if the Purchaser breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement or any Ancillary Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in **Article VII**, (B) with respect to failure to perform any covenant, such covenant cannot be or has not been cured within fifteen (15) days following delivery by Purchaser of written notice of such failure to perform, and (C) has not been waived by the Company, or (ii) by the Purchaser, if the Company or any Member breaches or fails to perform in any respect any of their respective representations, warranties or covenants contained in this Agreement or any Ancillary Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in **Article VII**, (B) with respect to failure to perform any covenant, such covenant cannot be or has not been cured within fifteen (15) days following delivery by the Company of written notice of such failure to perform, and (C) has not been waived by the Purchaser;

(c) (i) by the Company, if any of the conditions set forth in **Article VII** shall have become incapable of fulfillment prior to July 2, 2011 or (ii) by the Purchaser, if any of the conditions set forth in **Article VII** shall have become incapable of fulfillment prior to July 2, 2011; provided that the right to terminate this Agreement pursuant to this **Section 8.1** shall not be available if the failure of the party so requesting termination to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of such condition to be satisfied on or prior to such date;

(d) by either the Company or the Purchaser if the Closing shall not have occurred by July 2, 2011; provided that the right to terminate this Agreement under this **Section 8.1** shall not be available if the failure of the party so requesting termination to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to such date;

(e) by either the Company or the Purchaser in the event that any Governmental Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; provided that the party so requesting termination shall have used its best efforts, in accordance with **Section 2.5(a)**, to have such order, decree, ruling or other action vacated; or

(f) by the Purchaser, if between the date hereof and the Closing, an event or condition occurs that has resulted or is reasonably likely to result in a Material Adverse Effect.

The party seeking to terminate this Agreement pursuant to this **Section 8.1** (other than **Section 8.1(a)**) shall give prompt written notice of such termination to the other parties.

8.2. Effect of Termination. In the event of termination of this Agreement as provided in **Section 8.1**, this Agreement shall forthwith become void and there shall be no liability on the part of either party except for the provisions of **Sections 3.28** (No Brokers), **5.2** (Access to Information), **5.5** (Public Announcements), **9.7** (Members' Representative), **10.1** (Binding Effect; Assignment), **10.2** (Notices), **10.3** (Governing Law), **10.12** (Dispute Resolution), **10.14** (Expenses), and this **Section 8.2**; provided that nothing herein shall relieve any party from liability for any breach of this Agreement or any Ancillary Agreement.

ARTICLE IX
INDEMNIFICATION; ESCROW

9.1. General Survival. The representations and warranties of the parties contained in this Agreement or in any certificate and other writing delivered pursuant to this Agreement shall survive the Closing until the date that is twelve (12) months following the Closing Date, except for (a) the representation and warranty contained in each of **Sections 3.11** (Taxes), **3.15** (Permits) and **3.27** (Solvency), which shall survive the Closing until the 120th calendar day following the expiration of the applicable federal or state statute of limitation (including extensions thereof) with respect to the liabilities in question; (b) the representations and warranties contained in **Sections 3.1** (Organization), **3.3** (Authorization), **3.4** (Title to Assets), **3.28** (No Brokers), **4.1** (Organization), **4.2** (Authorization) and **4.5** (No Brokers) shall survive the Closing indefinitely; and (c) the representations and warranties contained in **Section 3.12** (Environmental Matters) and **Section 3.19** (Intellectual Property; Software) shall survive the Closing until the fifth (5^{th}) anniversary of the Closing Date. Notwithstanding the preceding sentence, any representation or warranty in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentence, if written notice of the inaccuracy of such representation or warranty giving rise to such right of indemnity shall have been given to the party from whom such indemnity may be sought before such time. The covenants and agreements of the parties contained in this Agreement shall survive indefinitely.

9.2. Indemnification.

(a) The Company and Member Corey P. Schlossmann shall jointly and severally indemnify the Purchaser and its Affiliates, subsidiaries, members, officers, directors,

managers, employees, Representatives, agents, successors and assigns (collectively, the "Purchaser Indemnitees") (provided, however, that the stockholders of the Purchaser's parent company, Liquidity Services, Inc., shall not be Purchaser Indemnitees) against, and hold each of the Purchaser Indemnitees harmless from, and shall reimburse each of them for, any and all Losses alleged against, incurred by, resulting from, arising out of, relating to, imposed upon or incurred by any Purchaser Indemnitee by reason of:

(i) any inaccuracy in, misrepresentation or breach of any representation or warranty made by the Company or any Member contained in this Agreement or any Ancillary Agreement (disregarding any qualification or exception contained in such representation or warranty relating to materiality or Material Adverse Effect);

(ii) any breach of any covenant or agreement by the Company or any Member contained in this Agreement or any Ancillary Agreement;

(iii) any Excluded Liabilities or Excluded Assets;

(iv) the Purchaser's operation of the Business without the Permits during the six (6) month period commencing on the Closing Date; provided, however, that neither the Company nor Corey P. Schlossmann shall be responsible for Losses primarily caused by any action or inaction of Purchaser (other than proceeding with the Closing without having obtained all licenses and permits equivalent to the Permits);

(v) all environmental conditions of the properties at which the Business is conducted as of the Closing Date, including, but not limited to, (A) such conditions resulting from the presence of Hazardous Materials at such properties, and (B) such conditions identified in the Phase I environmental investigation reports referred to in **Section 7.2(j)** hereof, in each case regardless of whether any such conditions constitute a breach of the representations and warranties contained herein or a violation of Environmental Law; or

(vi) the Inventory Damage Amount.

For purposes of this Agreement, the term "Losses" means any and all judgments, settlements, deficiencies, demands, claims, suits, actions or causes of action, assessments, administrative proceedings (including, but not limited to, informal proceedings), investigations, audits, liabilities, losses, damages (whether direct, indirect, incidental or consequential), interest, applicable Taxes, fines, penalties, diminution in value, costs, expenses (including, but not limited to, reasonable legal, accounting and other fees, costs and expenses of professionals and other reasonable out-of-pocket costs incurred in investigating, preparing or defending the foregoing), whether or not involving a third-party claim, and interest on any of the foregoing from the date incurred until paid at a rate equal to the prime rate in effect on the date incurred at Citibank, N.A. in New York, in each case as calculated by the Purchaser. Payments by an indemnified party of amounts for which such indemnified party is indemnified hereunder shall not be a condition precedent to recovery.

(b) Any claims for indemnification hereunder must be set forth in writing and be received by the Company not later than the expiration of the applicable survival period (an "Indemnification Claim").

(c) No Purchaser Indemnitee shall be entitled to indemnification hereunder pursuant to **Section 9.2(a)(i)** for any Losses until the aggregate amount of all Losses under all claims of all the Purchaser Indemnitees pursuant to **Section 9.2(a)(i)** shall exceed $35,000 (the "Threshold"), at which time all such Losses incurred in excess of the Threshold shall be subject to indemnification hereunder in full; provided, however, that any Indemnification Claim pursuant to **Section 9.2(a)(i)**, with respect to the breach of any Fundamental Representation shall be indemnifiable in full up to the amount of the aggregate consideration paid pursuant to this Agreement (i.e., the Base Consideration together with the Earn-Out Payments, if applicable) without regard to the Threshold.

(d) No Purchaser Indemnitee shall be entitled to indemnification hereunder pursuant to **Section 9.2(a)(i)** for any Losses that exceed thirty percent (30%) of the aggregate consideration paid pursuant to this Agreement (i.e., the Base Consideration, together with the Earn-Out Payments, if applicable) (the "Cap") provided, however, that any Indemnification Claim pursuant to **Section 9.2(a)(i)** with respect to the breach of any Fundamental Representation shall be indemnifiable in full up to the amount of the aggregate consideration paid pursuant to this Agreement (i.e., the Base Consideration together with the Earn-Out Payments, if applicable).

(e) Notwithstanding the foregoing or anything in this Agreement to the contrary, the limitations set forth in subsections (c) and (d) above shall not be applicable with respect to any claims for Losses by any Purchaser Indemnitee against the Company or any Member resulting from common law fraud (applying the proof standard for common law fraud under applicable New York law) or similar statutory provisions, or intentional misrepresentation or intentional breach.

9.3. Procedures.

(a) In order for a Purchaser Indemnitee to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a Loss or a claim or demand made by any third party against the Indemnified Party (a "Third Party Claim"), such Purchaser Indemnitee shall deliver notice thereof to the party against whom indemnity is sought (the "Indemnifying Party") promptly after receipt by such Purchaser Indemnitee of written notice of the Third Party Claim attaching, if applicable, a copy of such Third Party Claim. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this **Article IX** except to the extent that the Indemnifying Party is materially prejudiced by such failure.

(b) If the Indemnifying Party acknowledges in writing its obligation to indemnify the Purchaser Indemnitee against any and all Losses that may result from a Third Party Claim pursuant to the terms of this Agreement, the Indemnifying Party shall have the right, upon written notice to the Purchaser Indemnitee within ten (10) Business Days of receipt of notice from the Purchaser Indemnitee of the commencement of such Third Party Claim, to assume the defense thereof at the expense of the Indemnifying Party (which expenses shall not be applied against any indemnity limitation herein) with counsel selected by the Indemnifying Party and reasonably satisfactory to the Purchaser Indemnitee. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Purchaser Indemnitee for any period

during which the Indemnifying Party has failed to assume the defense thereof. If the Indemnifying Party does not expressly elect to assume the defense of such Third Party Claim within the time period and otherwise in accordance with the first sentence of this **Section 9.3(b),** the Purchaser Indemnitee shall have the sole right to assume the defense of and to settle such Third Party Claim on reasonable terms and conditions. If the Indemnifying Party assumes the defense of such Third Party Claim, the Purchaser Indemnitee shall have the right to employ separate counsel and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Purchaser Indemnitee unless (i) the employment of such counsel shall have been specifically authorized in writing by the Indemnifying Party, or (ii) the named parties to the Third Party Claim (including any impleaded parties) include both the Purchaser Indemnitee and the Indemnifying Party, and the Purchaser Indemnitee reasonably determines that representation by counsel to the Indemnifying Party of both the Indemnifying Party and such Purchaser Indemnitee may present such counsel with a conflict of interest. If the Indemnifying Party assumes the defense of any Third Party Claim, the Purchaser Indemnitee shall, at the Indemnifying Party's expense, cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party all witnesses, pertinent records, materials and information in the Purchaser Indemnitee's possession or under its control relating thereto as is reasonably required by the Indemnifying Party. If the Indemnifying Party assumes the defense of any Third Party Claim, the Indemnifying Party shall not, without the prior written consent of the Purchaser Indemnitee, enter into any settlement or compromise or consent to the entry of any judgment with respect to such Third Party Claim if such settlement, compromise or judgment (x) involves a finding or admission of wrongdoing, (y) does not include an unconditional written release by the claimant or plaintiff of the Purchaser Indemnitee from all liability in respect of such Third Party Claim, or (z) imposes equitable remedies or any obligation on the Purchaser Indemnitee other than solely the payment of money damages for which the Purchaser Indemnitee will be indemnified hereunder.

(c) The indemnification required hereunder in respect of a Third Party Claim shall be made by prompt payment by the Indemnifying Party of the amount of Losses in connection therewith, as and when bills are received by the Indemnifying Party or Losses incurred have been notified to the Indemnifying Party.

(d) No Indemnifying Party shall be entitled to require that any action be made or brought against any other Person before action is brought or claim is made against it hereunder by a Purchaser Indemnitee.

(e) Notwithstanding the provisions of **Section 9.3(b)**, each Indemnifying Party hereby consents to the nonexclusive jurisdiction of any court in which an action in respect of a Third Party Claim is brought against any Purchaser Indemnitee for purposes of any claim that a Purchaser Indemnitee may have under this Agreement with respect to such action or the matters alleged therein and agrees that process may be served on the Indemnifying Party with respect to such claim anywhere.

(f) In the event any Purchaser Indemnitee should have a claim against an Indemnifying Party hereunder that does not involve a Third Party Claim being asserted against or sought to be collected from such Purchaser Indemnitee, the Purchaser Indemnitee shall deliver

notice of such claim with reasonable promptness to the Indemnifying Party. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this **Article IX**, except to the extent that the Indemnifying Party is materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or liability that it may have to the Purchaser Indemnitee otherwise than pursuant to this **Article IX**.

(g) If the Indemnifying Party does not notify the Purchaser Indemnitee within ten (10) Business Days following the Indemnifying Party's receipt of an Indemnification Claim that the Indemnifying Party disputes its liability thereunder, the claim specified in such Indemnification Claim shall be conclusively deemed a liability of the Indemnifying Party hereunder and shall be paid upon demand of the Purchaser Indemnitee by the Indemnifying Party or by the Escrow Agent pursuant to the Escrow Agreement, as applicable. If the Indemnifying Party agrees that it has an indemnification obligation but asserts that it is obligated to pay a lesser amount than that claimed in the Indemnification Claim, such lesser amount shall be conclusively deemed a liability of the Indemnifying Party hereunder and shall be paid upon demand of the Purchaser Indemnitee by the Indemnifying Party or by Escrow Agent pursuant to the Escrow Agreement, as applicable, without prejudice to or waiver of the Indemnified Party's claim for the difference. If the Indemnifying Party notifies the Purchaser Indemnitee in writing within ten (10) Business Days following the Indemnifying Party's receipt of an Indemnification Claim that the Indemnifying Party disputes all or a portion of its liability thereunder, either party may seek to resolve the matter in accordance with the terms of **Section 10.12** hereof; provided, however, that the fourteen (14) calendar day period referred to in **Section 10.12(b)** shall be reduced to five (5) calendar days.

9.4. Remedies Not Affected by Investigation, Disclosure or Knowledge. No investigation conducted by or on behalf of any party at any time and no disclosure provided to knowledge of any party with respect to any event, condition or circumstance that renders inaccurate any representation or warranty or reveals the occurrence of a breach of any covenant of any other party contained in this Agreement or any Ancillary Agreement shall be deemed to be a waiver of, or to relieve such other party of any liability for, (a) the breach of any such representation, warranty or covenant, (b) the nonfulfillment of any of the conditions set forth in this **Article IX**, or (c) any rights to indemnification or other remedy arising in connection therewith. The Purchaser hereby expressly reserves the right to seek indemnity or other remedy for any Losses arising out of or relating to any such breach notwithstanding any investigation or, disclosure as described herein.

9.5. Escrow Fund. The Purchaser hereby agrees that prior to the termination of the Escrow Fund it shall first seek a remedy from the Escrow Fund, to the extent of the amount then held in the Escrow Fund with respect to any indemnification claim asserted hereunder before seeking to recover any Losses directly from an Indemnifying Party. Subject to the following requirements, and subject to the terms of the Escrow Agreement, the Escrow Fund shall be in existence immediately following the Closing and shall terminate at 5:00 p.m., Washington, D.C. time, on the Escrow Termination Date; provided that the Escrow Fund shall not terminate on such date with respect to such remaining portion of the Escrow Fund (or some portion thereof) that is subject to any then pending Indemnification Claims, including, but not limited to,

Indemnification Claims based on a Third Party Claim that have not been finally adjudicated or settled, for which notice is delivered to the Escrow Agent prior to the Escrow Termination Date. After the Escrow Termination Date and as soon as each pending Indemnification Claim has been resolved, the Escrow Agent shall distribute from the Escrow Fund, in accordance with the terms of the Escrow Agreement, the balance of the amount held in respect of such Indemnification Claim to the Company. After release of the Escrow Fund, or if the entire amount of the Escrow Fund is subject to pending Indemnification Claims, subject to the limitations provided in this Agreement, the Purchaser Indemnitees may seek to recover Losses from the Indemnifying Parties directly. No provision of the Escrow Agreement shall limit the Purchaser Indemnitees' rights to seek injunctive relief or other rights or remedies to which the Purchaser Indemnitees' are or may be entitled, at law or equity, under this Agreement.

9.6. Right of Set-Off. In addition to any rights of a Purchaser Indemnitee to recover amounts due to it from any Indemnifying Party and from the Escrow Fund, the Purchaser shall be entitled to set-off all amounts due to any Purchaser Indemnitee from any Earn-Out Payment due to the Company. In the event that the Purchaser exercises its foregoing right of set-off, the Indemnifying Party shall be released from its indemnification obligations only to the extent of the funds actually set-off by the Purchaser.

9.7. Members' Representative.

(a) Appointment of Members' Representative. Upon execution of this Agreement by the Members, effective as of the Effective Date and without any further action by the Members, Corey P. Schlossmann will be appointed as agent and attorney-in-fact (the "Members' Representative") for each Member. The Members' Representative shall have full power and authority to represent all of the Members and their heirs, personal representatives, administrators and successors with respect to all matters arising under this Agreement and the Ancillary Agreements to which the Members are parties (collectively, the "Representative Agreements") and all actions taken by the Members' Representative hereunder and thereunder shall be binding upon Members and their heirs, personal representatives, administrators and successors as if expressly confirmed and ratified in writing by each of them. The Members' Representative shall take any and all actions which he believes are necessary or appropriate under this Agreement and the Representative Agreements for and on behalf of the Members, as fully as if the Members were acting on their own behalf, including, but not limited to, defending all Indemnification Claims against the Members pursuant to **Article IX**, consenting to, compromising or settling all Indemnification Claims, conducting negotiations with the Purchaser and its agents regarding such claims, dealing with the Purchaser under this Agreement and the Representative Agreements with respect to all matters arising hereunder and thereunder, taking any and all other actions specified in or contemplated by this Agreement and the Representative Agreements, and engaging counsel, accountants or other Members' Representatives in connection with the foregoing matters. Without limiting the generality of the foregoing, the Members' Representative shall have full power and authority to interpret all the terms and provisions of this Agreement and the Representative Agreements and to consent to any amendment hereof or thereof on behalf of all such Members and such heirs, personal representatives, administrators and successors. The Members' Representative shall act as promptly as reasonably possible in carrying out his duties.

(b) Indemnification of Members' Representative. The Members' Representative shall be, and hereby is, indemnified and held harmless, jointly and severally, by the Members from all losses, costs and expenses (including, but not limited to, reasonable attorneys' fees) that may be incurred by the Members' Representative as a result of the Members' Representative's performance of his duties under this Agreement and the Representative Agreements, provided that the Members' Representative shall not be entitled to indemnification for losses, costs or expenses that result from any action taken or omitted by the Members' Representative as a result of his willful misconduct or gross negligence.

(c) Reasonable Reliance. In the performance of his duties hereunder, the Members' Representative shall be entitled to rely upon any document or instrument reasonably believed by him to be genuine, accurate as to content and signed by any Member or the Purchaser. The Members' Representative may assume that any Person purporting to give any notice in accordance with the provisions hereof has been duly authorized to do so.

(d) Attorney-in-Fact. The Members' Representative shall be hereby appointed and constituted by the Members the true and lawful agent and attorney-in-fact of each Member, with full power in his name and on his behalf to act according to the terms of this Agreement and the Representative Agreements in the absolute discretion of the Members' Representative; and in general to do all things and to perform all acts including, but not limited to, executing and delivering the Escrow Agreement and any other agreements, certificates, receipts, instructions, notices or instruments contemplated by or deemed advisable in connection with the Escrow Agreement. This power of attorney and all authority conferred shall be granted and shall be irrevocable, coupled with an interest and shall not be terminated by any act of any Member, by operation of law, whether by such Member's death, disability, protective supervision or any other event. Each Member shall waive any and all defenses which may be available to contest, negate or disaffirm the action of the Members' Representative taken in good faith. Notwithstanding the power of attorney granted pursuant to this **Section 9.7**, no agreement, instrument, acknowledgement or other act or document shall be ineffective by reason only of the Members having signed or given such agreement, instrument, acknowledgement or other act or document directly instead of the Members' Representative.

(e) Orders. The Members' Representative is authorized, in his sole discretion, to comply with final, nonappealable orders or decisions issued or process entered by any court of competent jurisdiction or arbitrator with respect to this Agreement and the Ancillary Agreements, including, but not limited to, with respect to the Escrow Fund. Without limiting the generality of the foregoing, if any portion of the Escrow Fund is disbursed to the Members' Representative and is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, the Members' Representative is authorized, in his sole discretion, but in good faith, to rely upon and comply with any such order, writ, judgment or decree which he is advised by legal counsel selected by him is binding upon him without the need for appeal or other action; and if the Members' Representative complies with any such order, writ, judgment or decree, he shall not be liable to any Member or to any other Person by reason of such compliance even though such

order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

(f) Cessation of Duties or Removal of Members' Representative; Authority of Successor Members' Representative. Members who in the aggregate hold at least a majority of the Company Membership Interests as of the Closing Date shall have the right at any time to (i) appoint a successor Members' Representative upon the resignation, disability or death of the then-acting Members' Representative, and (ii) remove the then-acting Members' Representative and appoint a successor Members' Representative; provided, however, that neither such removal of the then-acting Members' Representative nor such appointment of a successor Members' Representative shall be effective until the delivery to the Purchaser and, during the term of the Escrow Agreement, to the Escrow Agent of executed counterparts of a writing signed by each such Member with respect to such removal and appointment, together with an acknowledgment signed by the successor Members' Representative appointed in such writing that he or she accepts the responsibility of successor Members' Representative and agrees to perform and be bound by all of the provisions of this Agreement applicable to the Members' Representative. Each successor Members' Representative shall have all of the power, authority, rights and privileges conferred by this Agreement upon the original Members' Representative, and the term "Members' Representative" as used herein and in the Escrow Agreement shall be deemed to include any interim or successor Members' Representative.

ARTICLE X
MISCELLANEOUS

10.1 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, in accordance with the terms hereof, and nothing in this Agreement is intended to or shall confer upon any other Person, any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by the Company or the Members without the prior written consent of the Purchaser, or by the Purchaser without the prior written consent of the Company and the Members' Representative, except that the Purchaser may, without such consent, assign its rights hereunder, to one of its Affiliates; provided, however, that no such assignment shall release the Purchaser from any of its obligations under this Agreement.

10.2 Notices. All notices, requests, claims, consents, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt or, in the case of a facsimile, upon confirmation of receipt) by delivery in person, by facsimile, by recognized overnight delivery service, or by registered or certified mail (postage prepaid, return receipt requested) to each other party as follows:

if to Purchaser: Youk Acquisition Partners, LLC
c/o Liquidity Services, Inc.

1920 L. Street, N.W., 6th Floor
Washington, DC 20036
Attention: James Williams, Esq.,
Vice President, General Counsel and
Secretary
Fax: (202) 467-4030

with copies to:	Babst Calland Clements and Zomnir, P.C. Two Gateway Center, 6th Floor Pittsburgh, PA 15222 Attention: Joseph S. Koscinski, Esquire Peter J. Veltri, Esquire Fax: (412) 394-6576
if to the Company:	Truckcenter.com, LLC 20130 Via Cellini Porter Ranch, CA 91326 Attention: Corey P. Schlossmann Fax: (951) 344-2207
with a copy to:	Parker Milliken Clark O'Hara & Samuelian, a professional corporation 555 S. Flower Street, 30th Floor Los Angeles, CA 90071 Attention: Richard D. Robins, Esq. Fax: (213) 683-6669
if to Members' Representative:	Corey P. Schlossmann 20130 Via Cellini Porter Ranch, CA 91326 Fax: (951) 344-2207
with a copy to:	Parker Milliken Clark O'Hara & Samuelian 555. S. Flower Street, 30th Floor Los Angeles, CA 90071 Attention: Richard D. Robins, Esq. Fax: 213 683 6669

or to such other address as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above.

10.3. Governing Law.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of law thereof.

(b) Each party irrevocably agrees that any legal action, suit or proceeding against them arising out of or in connection with this Agreement or the transactions contemplated hereby or disputes relating hereto (whether for breach of contract, tortious conduct or otherwise) shall be brought exclusively in the United States District Court for the Northern District of Texas, or, if such court does not have subject matter jurisdiction, the courts of the State of Texas located in the city of Ft. Worth, Texas, and hereby irrevocably accepts and submits to the exclusive jurisdiction and venue of the aforesaid courts *in personam*, with respect to any such action, suit or proceeding, and each of the parties waives any objection that it may have based on improper venue or *forum non conveniens* to the conduct of any such action or proceeding in any such court and waives personal service of any and all process upon it, and consent to all such service of process made in the manner set forth in **Section 10.2**. Nothing contained in this **Section 10.3(b)** shall affect the right of any party to serve legal process on any other party in any other manner permitted by law.

10.4. Entire Agreement; Amendments; Third Party Beneficiary. This Agreement (including the Company Disclosure Letter (and any amendments or supplements thereto) and the Exhibits hereto), the Ancillary Agreements and the Confidentiality Agreement (which shall survive and not be superseded hereby only with respect to the disclosures of employee information described in **Sections 3.13(f)** and **3.13(g)** hereof) constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all other prior agreements and understandings both written and oral between the parties with respect to the subject matter hereof. This Agreement (including the Company Disclosure Letter) may be amended only by an instrument in writing signed on behalf of the parties hereto. Except as specifically provided in this Agreement, no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the parties hereto and their respective successors and assigns.

10.5. Counterparts. This Agreement may be executed by facsimile and in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.6. Severability. If any provision of this Agreement is deemed or held to be illegal, invalid or unenforceable, this Agreement shall be considered divisible and inoperative as to such provision to the extent it is deemed to be illegal, invalid or unenforceable, and in all other respects this Agreement shall remain in full force and effect; provided, however, that if any provision of this Agreement is deemed or held to be illegal, invalid or unenforceable there shall be added hereto automatically a provision as similar as possible to such illegal, invalid or unenforceable provision that is legal, valid and enforceable. Further, should any provision contained in this Agreement ever be reformed or rewritten by any judicial body of competent jurisdiction, such provision as so reformed or rewritten shall be binding upon all parties hereto.

10.7. Descriptive Headings; Section References. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement. All references herein to Articles, Sections,

subsections, paragraphs and clauses are references to Articles, Sections, subsections, paragraphs and clauses, respectively, of this Agreement unless specified otherwise.

10.8. Schedules. The Company Disclosure Letter and the Exhibits referenced in this Agreement are a material part hereof and shall be treated as if fully incorporated into the body of the Agreement.

10.9. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity without the necessity of demonstrating the inadequacy of monetary damages.

10.10. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

10.11. Waiver. Each party hereto may waive compliance by another party with any of the agreements or conditions contained herein. Any agreement on the part of any party hereto to any such waiver shall be valid only if set forth in an instrument, in writing, signed by such party. The failure of any party hereto to assert any of its rights hereunder shall not constitute a waiver of such rights.

10.12. Dispute Resolution. (a) It is understood and agreed between the parties hereto that any and all claims, grievances, demands, controversies, causes of action or disputes of any nature whatsoever (including, but not limited to, tort and contract claims, and claims upon any law, statute, order, or regulation) ("Disputes"), arising out of, in connection with, or in relation to (i) this Agreement, or (ii) questions of arbitrability under this Agreement, shall be resolved by final, binding, nonjudicial arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. **Section 1**, et seq. pursuant to the following procedures:

(b) Any party may send another party or parties written notice identifying the matter in dispute and invoking the procedures of this **Section 10.12** (the "Dispute Notice"). Within fourteen (14) calendar days from delivery of the Dispute Notice, each party involved in the dispute shall meet at a mutually agreed location in Ft. Worth, Texas, for the purpose of determining whether they can resolve the dispute themselves by written agreement, and, if not, whether they can agree upon an impartial third party arbitrator (the "Arbitrator") to whom to submit the matter in dispute for final and binding arbitration.

(c) If such parties fail to resolve the dispute by written agreement or agree on the Arbitrator within the later of fourteen (14) calendar days from any such initial meeting or within thirty (30) calendar days from the delivery of the Dispute Notice, any such party may make written application to the Judicial Arbitration and Mediation Services ("JAMS"), in New York, New York for the appointment of a single Arbitrator to resolve the dispute by arbitration. At the request of JAMS the parties involved in the dispute shall meet with JAMS at its offices

within ten (10) calendar days of such request to discuss the dispute and the qualifications and experience which each party respectively believes the Arbitrator should have; provided, however, that the selection of the Arbitrator shall be the exclusive decision of JAMS and shall be made within fifteen (15) calendar days of the written application to JAMS.

(d) Within thirty (30) calendar days of the selection of the Arbitrator, the parties involved in the dispute shall meet in Ft. Worth, Texas with such Arbitrator at a place and time designated by such Arbitrator after consultation with such parties and present their respective positions on the dispute. Each party shall have no longer than one (1) calendar day to present its position, the entire proceedings before the Arbitrator shall be no more than three (3) consecutive calendar days, and the decision of the Arbitrator shall be made in writing no more than thirty (30) calendar days following the end of the proceeding. Such an award shall be a final and binding determination of the dispute and shall be fully enforceable as an arbitration decision in any court having jurisdiction and venue over such parties. The prevailing party or parties (as determined by the Arbitrator) shall in addition be awarded by the Arbitrator such party's or parties' own legal fees and expenses in connection with such proceeding. The non-prevailing party or parties (as determined by the Arbitrator) shall pay the Arbitrator's fees and expenses.

(e) By signing this Agreement, the parties hereto are giving up their respective right to a jury trial.

10.13. Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

10.14. Expenses. All out-of-pocket costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be the sole responsibility of, and shall be paid by, the party incurring such cost and expense.

10.15. Bulk Transfer Laws. To the extent the bulk sales laws of any state are ultimately held to apply to the transactions contemplated by this Agreement, Purchaser hereby waives compliance by the Company with the provisions of any and all such laws relating to bulk transfers in connection with the sale of the Acquired Assets. The Company and Member Corey P. Schlossmann covenant and agree to indemnify and save harmless the Purchaser from and against any and all losses, liability, cost and expense (including, without limitation, reasonable attorneys' fees) arising out of any such noncompliance with such bulk transfers laws.

10.16. Corporate Guaranty.Liquidity Services, Inc., a Delaware corporation and parent of Purchaser ("Guarantor"), hereby absolutely, unconditionally and irrevocably guarantees the full and punctual payment and performance of all obligations of Purchaser under the Agreement and any Ancillary Agreements (to the extent such Ancillary Agreements are for the benefit of the Company or any of the Members, or any of the Company's or the Member's permitted transferees and assignees), together with all expenses of collection or enforcement of such obligations incurred by the Company or any of the Members by reason of any default in such payment or performance of Purchaser or any of its successors or assignees. Subject to the last sentence of **Section 10.6(b)**, the liability of Guarantor hereunder shall not be affected by the validity, legality or enforceability of any of such obligations of Purchaser; by the amount or type of such

obligations; by any change in such amount or type (whether such change is an increase, a decrease, a waiver, a renewal, an extension or a release of Purchaser) or in the time, manner or place of payment or performance of any such obligations; or by any other fact, circumstance or condition that might otherwise constitute a legal or equitable defense available to Guarantor under this guaranty, or a discharge of Guarantor's obligations under this guaranty, all of which defenses are hereby waived and released. Guarantor, in providing this guaranty, is not relying on any explicit or implicit representation, whether oral or in writing. Guarantor, as the sole owner of Purchaser, acknowledges that it has received adequate and sufficient consideration for this guaranty and that this guaranty is the product of negotiations among Guarantor, Purchaser and the Company.

(b) This **Section 10.16** is a guaranty of payment, not of collection. Except as prohibited by applicable law, Guarantor waives any right to require the Company to proceed or take any action against Purchaser before doing so against Guarantor, or to disclose any information about Purchaser or its obligations or performance before taking action against Guarantor, or to pursue any remedy or course of action at all or in any order. Subject to the last sentence of **Section 10.6(b)**, Guarantor also unconditionally waives any and all rights or defenses to this guaranty arising by reason of any modification or change in terms of Purchaser's obligations, including any change in the time payment of Purchaser's obligations are due. Guarantor understands and agrees that the foregoing waivers are unconditional and irrevocable waivers of substantive rights and, subject to the last sentence of **Section 10.16(b)**, defenses to this guaranty to which Guarantor might otherwise be entitled under state and federal law, and Guarantor acknowledges that Guarantor has provided these waivers of rights and, subject to the last sentence of **Section 10.16(b)**, defenses to this guaranty with the intention that they be fully relied upon by the Company and the Members. It is the intent of the parties that, subject to subsection (ii) of the proviso in the next succeeding sentence, Guarantor's guaranty hereby will make Guarantor obligated hereunder to the same extent as Purchaser, and not to a lesser or greater extent than Purchaser, as if Guarantor were the Purchaser under this Agreement, or otherwise primary obligor under the applicable Ancillary Agreement (or, if and as applicable, Purchaser's successors and assignees). Notwithstanding anything to the contrary contained in this **Section 10.16**, to the extent that Purchaser is asserting a defense to any claim by the Company or any Member under this Agreement or any of the Ancillary Agreements (a "Defense"), Guarantor shall have the right to assert such Defense, provided, however, that (i) when the Purchaser ceases asserting such Defense or such Defense is denied by a court or arbitrator, as applicable, Guarantor shall no longer be entitled to assert such Defense, and (ii) Guarantor's obligations under this guaranty shall not be affected by any bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws now or hereafter in effect relating to or affecting creditors' rights generally, by or against, or as such laws may relate to or be applied to, the Purchaser, nor by any reduction or discharge of the Purchaser's obligations in connection with any such proceedings.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be duly executed on their respective behalf, by their respective officers thereunto duly authorized, all as of the day and year first above written.

YOUK ACQUISITION PARTNERS, LLC

By: /s/ G. Cayce Roy
Name: G. Cayce Roy
Title: Vice President

TRUCKCENTER.COM, LLC

By: /s/ Corey P. Schlossmann
Name: Corey P. Schlossmann
Title: Managing Member

MEMBER

/s/ Corey P. Schlossmann
Corey P. Schlossmann

MEMBER

/s/ Samantha Schlossmann
Samantha Schlossmann, for the sole purpose of making the representations and warranties in **Section 3.1(c)**, in the second and third sentences of **Section 3.3(a),** and in **Section 3.3(b)** and for making the covenants set forth in **Section 6.3.**

MEMBER

/s/ Jessica Schlossmann
Jessica Schlossmann, for the sole purpose of making the representations and warranties in **Section 3.1(c)**, in the second and third sentences of **Section 3.3(a),** and in **Section 3.3(b)** and for making the covenants set forth in **Section 6.3.**

MEMBER

/s/ Katie Schlossmann

Katie Schlossmann, for the sole purpose of making the representations and warranties in **Section 3.1(c)**, in the second and third sentences of **Section 3.3(a),** and in **Section 3.3(b)** and for making the covenants set forth in **Section 6.3.**

LIQUIDITY SERVICES, INC.

By: /s/ G. Cayce Roy
Name: G. Cayce Roy
Title: Executive Vice President and President, Asset Recovery Division
with respect to **Section 10.16** only

EXHIBIT 31.1

CERTIFICATION PURSUANT TO RULE 13a-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, William P. Angrick, III, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Liquidity Services, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2011

/s/ William P. Angrick, III
By: William P. Angrick, III
Title: *Chairman of the Board of Directors and Chief Executive Officer*

EXHIBIT 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, James M. Rallo, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Liquidity Services, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2011

/s/ James M. Rallo
By: James M. Rallo
Title: *Chief Financial Officer and Treasurer*

EXHIBIT 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the quarterly report of Liquidity Services, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2011 as filed with the Securities and Exchange Commission (the "Report"), I, William P. Angrick, III, Chief Executive Officer of the Company, certify, to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 9, 2011

/s/ William P. Angrick, III
William P. Angrick, III
Chairman of the Board of Directors and Chief Executive Officer

THE FOREGOING CERTIFICATION IS BEING FURNISHED SOLELY PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 AND IS NOT BEING FILED AS PART OF THE FORM 10-Q OR AS A SEPARATE DISCLOSURE DOCUMENT.

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, OR OTHER DOCUMENT AUTHENTICATING, ACKNOWLEDGING, OR OTHERWISE ADOPTING THE SIGNATURE THAT APPEARS IN TYPED FORM WITHIN THE ELECTRONIC VERSION OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, HAS BEEN PROVIDED TO LIQUIDITY SERVICES, INC. AND WILL BE RETAINED BY LIQUIDITY SERVICES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the quarterly report of Liquidity Services, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2011 as filed with the Securities and Exchange Commission(the "Report"), I, James M. Rallo, Chief Financial Officer of the Company, certify, to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 9, 2011

/s/ James M. Rallo
James M. Rallo
Chief Financial Officer and Treasurer

THE FOREGOING CERTIFICATION IS BEING FURNISHED SOLELY PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 AND IS NOT BEING FILED AS PART OF THE FORM 10-Q OR AS A SEPARATE DISCLOSURE DOCUMENT.

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, OR OTHER DOCUMENT AUTHENTICATING, ACKNOWLEDGING, OR OTHERWISE ADOPTING THE SIGNATURE THAT APPEARS IN TYPED FORM WITHIN THE ELECTRONIC VERSION OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, HAS BEEN PROVIDED TO LIQUIDITY SERVICES, INC. AND WILL BE RETAINED BY LIQUIDITY SERVICES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.