



**DeWight Dopslauf, C.P.M., CPPO  
Harris County Purchasing Agent**

September 02, 2021

Commissioners Court  
Harris County, Texas

**RE: Job No. 160221**

Members of Commissioners Court:

Please approve the attached Order permitting the assignment of a contract for the following:

**Description:** Non-Emergency Transportation Program Providers for Harris County RIDES and the Medical Transportation Program for the Harris County Community Services Department

**Vendor(s):** Greater Houston Transportation Company (assignor)  
WHC HTX, LLC d/b/a zTrip (assignee)

**Term:** December 20, 2020 - December 19, 2021

**Effective:** August 06, 2021

**Reviewed By:** • Harris County Purchasing • Community Services Department

Sincerely,

DeWight Dopslauf  
Purchasing Agent

KAJ  
Attachment(s)  
cc: Vendor(s)

**FOR INCLUSION ON COMMISSIONERS COURT AGENDA SEPTEMBER 14, 2021**

ORDER OF COMMISSIONERS COURT  
Authorizing assignment of an agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of the Court at the Harris County Administration Building in the City of Houston, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 2021 with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING ASSIGNMENT OF THE AGREEMENT BETWEEN HARRIS COUNTY AND WHC HTX, LLC D/B/A ZTRIP.**

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and law-fully adopted. The order thus adopted follows:

***Recitals:***

1. On December 20, 2020, Harris County entered an agreement (the "Contract"), Job #16/0221, with Greater Houston Transportation Company to provide non-emergency transportation services for Harris County RIDES and the medical transportation program for the Harris County Community Services Department. Greater Houston Transportation Company now desires to assign the remainder of the Contract to WHC HTX, LLC d/b/a zTrip.

2. WHC HTX, LLC d/b/a zTrip is a separate company from Greater Houston Transportation Company as evidenced by Case No. 21-60065 in the United States Bankruptcy Court for the Southern District of Texas, Victoria Division and the Department of the Treasury Internal Revenue Service Filings.

3. The assignment shall begin upon approval by Commissioners Court and remain in effect until December 19, 2021.

**IT IS ORDERED** that:

1. The recitals set forth in this Order are true and correct.

2. The Harris County Commissioners Court authorizes the assignment of the rights, duties, and privileges under the Contract from Greater Houston Transportation Company to WHC HTX, LLC d/b/a zTrip.

3. All correspondence under the Agreement will now be sent to the following address: WHC HTX, LLC d/b/a zTrip, 4201 Langley Road, Houston, TX 77093.

4. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

**ENTERED**

August 06, 2021

Nathan Ochsner, Clerk

**THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

In re:	§	
	§	Case No. 21-60065
TEXAS TAXI, INC., <i>et al.</i>	§	
	§	(Jointly Administered)
Debtors. <sup>1</sup>	§	

**ORDER APPROVING (I) PREVAILING BIDDER'S ASSET PURCHASE AGREEMENT  
AND AUTHORIZING THE SALE OF ASSETS OUTSIDE THE ORDINARY COURSE  
OF BUSINESS; (II) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE  
DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,  
AND INTERESTS; AND (III) GRANTING RELATED RELIEF**

(Relates to Docket No. 25)

Upon the motion (the "Sale Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Sale Order"): (i) approving Prevailing Bidder's Asset Purchase Agreement and authorizing the sale of assets outside the ordinary course of business, (ii) authorizing the sale of substantially all of the Debtors' assets free and clear of liens, claims, encumbrances, and interests, and (iii) granting related relief; and this Court having entered an order on July 22, 2021 [Docket No. 25] (the "Bid Procedures Order") approving the Bidding Procedures in connection with the Sale of all or substantially all of the Debtors' assets as set forth in the Asset Purchase Agreement attached to the Bid Procedures Order (the "Bidding Procedures"); and the Debtors having determined, after a competitive marketing

---

<sup>1</sup> The debtors (along with the last 4 digits of their respective federal tax identification numbers) in these chapter 11 cases jointly administered under Case No. 21-60065 (the "Bankruptcy Case") and filed on July 19, 2021 (the "Petition Date") are: (i) Texas Taxi, Inc. (#2786); (ii) Fiesta Cab Company (#2084), Greater Austin Transportation Company (#1038), Greater Houston Transportation Company (#1348), and Greater San Antonio Transportation Company (#9823) (collectively, the "Debtors").

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Order Approving Bidding Procedures ("Bid Procedures Order")(Docket No. 25) or the Asset Purchase Agreement, attached hereto as Exhibit "1" (Houston Assets), Exhibit "2" (Austin Assets), Exhibit "3" (San Antonio Assets)(together the "Agreement", attached hereto and incorporated herein for all purposes). To the extent there is a conflict between the capitalized terms in this Order, the Bid Procedures Order, and/or the Agreement, the meaning ascribed in the Agreement shall govern.

and sale process that WHC HTX, LLC, WHC ATX, LLC, and WHC STX, LLC (collectively the “**Buyer**”), has submitted the highest or otherwise best bid with respect to the Assets<sup>3</sup> and having selected Buyer as the Prevailing Bidder in accordance with the Bidding Procedures; and upon due, adequate, and sufficient notice of the Sale Motion, the Auction, the asset purchase agreements submitted by the Buyer (attached hereto as **Exhibits 1, 2, and 3** and collectively referred to as the “**Agreement**”), and all other related transactions contemplated thereunder and in this Sale Order; and upon the testimony at the hearing on the Sale Motion (the “**Sale Hearing**”); and all interested parties having been afforded an opportunity to be heard with respect to the Sale Motion and all relief related thereto; and the Court having reviewed and considered the Sale Motion, the Agreement, and all relief related thereto and any objections and other responses thereto, and the arguments of counsel made, and the evidence adduced, at the Sale Hearing conducted by this Court on August 5, 2021 and the entire record of the Sale Hearing; and upon the full record in support of the relief requested by the Debtors in the Sale Motion; and this Court having core jurisdiction over this matter; and that this Court may enter a final order on the Sale and the Sale Motion consistent with Article III of the United States Constitution; and this Court having found that venue of the chapter 11 cases and the Sale Motion in this district is proper; and it further appearing that the legal and factual bases set forth in the Sale Motion and at the Sale Hearing establish just cause for the relief granted herein; and it appearing that the relief requested in the Sale Motion is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest; and upon the full record of this Bankruptcy Case and all other pleadings and proceedings, including but not limited to the Sale Motion; and after due deliberation thereon, the Court finds there is good and sufficient cause to grant the relief requested in the Sale Motion.

---

<sup>3</sup> “Assets” has the same meaning as “Purchased Assets” under the Agreement.

**ACCORDINGLY, THE COURT HEREBY FINDS THAT:**

**I. JURISDICTION, FINAL ORDER, AND STATUTORY PREDICATES**

A. This Court has jurisdiction to hear and determine the Sale Motion pursuant to 28 U.S.C. §1334(a). This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N), and (O). This Court may enter a final order with respect to the Sale Motion, the Sale, and all related relief, in the Bankruptcy Case, consistent with Article III of the United States Constitution. Venue of these chapter 11 cases and the Sale Motion is proper in this District and in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The statutory predicates for the relief requested in the Sale Motion are sections 105(a), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(2), 6004, 6006, 9007, and 9014.

C. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rule 6004(h), to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, waives any stay, and expressly directs entry of an order as set forth herein. Time is of the essence in consummating the sale. There is no credible basis for concluding that a delay in the sale of the Assets would result in a higher or better offer for the Assets than the offer reflected in the Agreement.

**II. NOTICE**

D. Actual written notice of the Sale Motion and the Sale Hearing was given in accordance with the Federal Rules of Bankruptcy Procedure and the Bid Procedures Order and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief

requested therein and to the entry of this Sale Order, has been afforded to all known interested entities, including, but not limited to, the following parties (the “**Notice Parties**”): (i) counsel for the Debtors, Fuqua & Associates, P.C.; attention: Richard L. Fuqua; (ii) counsel for Notre Capital (“**DIP Lender**”); attention: Bruce Ruzinsky; (iii) counsel for the official committee of unsecured creditors appointed in the Debtors’ Bankruptcy Case (the “**Creditors’ Committee**”), if any; (iv) Office of the United States Trustee for the Southern District of Texas; attention: Ha Minh Nguyen; (v) counsel for Buyer, Jones Murray & Beatty LLP; attention: Erin E. Jones; (vi) the Internal Revenue Service; (vii) all parties who are known to possess or assert a lien, claim, encumbrance, or other interests in or upon any of the Assets; (viii) counterparties to Assumed Contracts, if any; and (ix) any party that has requested notice pursuant to Bankruptcy Rule 2002 as of the time of service.

E. As further evidenced by the certificate(s) of service previously filed with the Court in this Bankruptcy Case [Docket No. 35], and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate, and sufficient notice of the Sale Motion, the Bidding Procedures, the Auction, and the Sale Hearing, pursuant to this Sale Order has been provided in accordance with Bankruptcy Code sections 102(1) and 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 9007, and 9014 and the Local Bankruptcy Rules and in compliance with the Bid Procedures Order.

### **III. CORPORATE AUTHORITY AND VALIDITY OF TRANSFER(S)**

F. The Debtors (collectively, the “**Sellers**”) (i) have full requisite corporate or other organizational power and authority to execute, deliver, and perform the Agreement, any other transactional documents required under the Agreement, and to consummate the transactions contemplated thereby, and such execution, delivery, and performance have been duly and validly

authorized by all necessary corporate or other organizational action of each of the Sellers; (ii) have taken all requisite corporate or other organizational action and formalities necessary to authorize and approve the execution, delivery, and performance of the Agreement, any other transactional documents required under the Agreement, and the consummation by the Sellers of the transactions contemplated thereby, including as required by their respective organizational documents, and, upon execution thereof, the Agreement executed by such Sellers and any other transactional documents required under the Agreement will be duly and validly executed and delivered by such Sellers and enforceable against such Sellers in accordance with its terms and constitutes a valid and binding obligation of such Sellers; (iii) no government, regulatory, or other consents or approvals, are required for the execution, delivery, and performance by the Sellers of the Agreement and any other transactional documents required under the Agreement, or the consummation of the transactions contemplated thereby; and (iv) have full requisite corporate or other organizational power and authority to cause any non-debtor subsidiaries, as applicable, to execute and deliver, or cause to be executed and delivered, all such documents and instruments, or take, or cause to be taken, all such other actions, as may be reasonably necessary to effectuate or evidence the transactions contemplated by the Agreement, any other transactional documents required under the Agreement, and consummation of the transactions contemplated by the Agreement.

G. The transfer of the Assets to Buyer in the Sale will be a legal, valid, enforceable, and effective sale and transfer of the Assets and will vest Buyer with all legal, equitable, and beneficial right, title, and interest of the Sellers to the Assets free and clear of all Interests (as defined herein) of any kind or nature whatsoever, including without limitation, rights or claims based on any Successor or Other Liabilities (as defined herein).

H. The Agreement is a valid and binding contract between the Sellers and Buyer and shall be enforceable pursuant to its terms. The Agreement, the Sale, and the consummation thereof shall be specifically enforceable against and binding upon the Sellers' estates, including but not limited to any chapter 7 or chapter 11 trustee appointed in the Bankruptcy Case (or any of them), and shall not be subject to rejection or avoidance by the foregoing parties or any other Person.

I. The Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession, or the District of Columbia, or foreign jurisdiction. The consideration provided by Buyer for the Assets pursuant to the Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Assets, (iii) will provide a greater recovery for the Sellers' creditors than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia, and any foreign jurisdiction (including the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and similar laws and acts). Neither the Sellers nor Buyer is entering into the transactions contemplated by the Agreement fraudulently for the purpose of statutory and common-law fraudulent conveyance and fraudulent transfer claims.

J. The Sellers are the sole and lawful owners of the Assets, and no other Person has any ownership right, title, or interests therein. The Assets constitute property of the Sellers' estates and good title thereto is vested in the Sellers' estates within the meaning of Bankruptcy Code section 541(a).

K. The transfer of each of the Assets to Buyer will be, as of the Closing Date, a legal, valid, and effective transfer of the Assets, which transfer vests or will vest Buyer with all right,

title, and interest of the Sellers to the Assets, to the maximum extent allowed by Section 363(f) of the Bankruptcy Code, free and clear of:

- (i) all Encumbrances (as defined in the Agreement), including but not limited to any Liens,<sup>4</sup> relating to, accruing, or arising any time prior to the Closing Date; and
- (ii) all debts (as that term is defined in section 101(12) of the Bankruptcy Code) arising under, relating to, or in connection with any act of a Seller or claims (as that term is defined in section 101(5) of the Bankruptcy Code), liabilities, obligations, demands, guaranties, options in favor of third parties, rights, contractual commitments, restrictions, interests, mortgages, hypothecations, charges, indentures, loan agreements, instruments, collective bargaining agreements, leases, licenses, deeds of trust, security interests or similar interests, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer or use, pledges, judgments, claims for reimbursement, contribution, indemnity, exoneration, infringement, products liability, alter ego liability, suits, defenses, credits, allowances, options, limitations, causes of action, choses in action, rights of first refusal or first offer, rebate, chargeback, credit, or return, proxy, voting trust or agreement or transfer restriction under any shareholder or similar agreement or encumbrance, title defects, easements, rights of way, encroachments, liabilities, and matters of any kind and nature, whether arising prior to or subsequent to the Petition Date, whether known or unknown, legal or equitable, matured or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether imposed by agreement, understanding, law, equity, or otherwise (including, without limitation, rights with respect to Claims (as defined herein) and Encumbrances (including Liens) (A) that purport to give to any party a right or option to effect a setoff or recoupment against, or a right or option to effect any forfeiture, modification, profit sharing interest, right of first refusal, purchase or repurchase right or option, or termination of, any of the Sellers' or Buyer's interests in the Assets, or any similar rights, if any, or (B) in respect of taxes, restrictions, rights of first refusal, charges of interests of any kind or nature, if any, including without limitation, any restriction of use, voting, transfer, receipt of income, or other exercise of any attribute of ownership) (collectively, as defined in this clause (ii), the "**Claims**," and together with the Encumbrances, Liens, and other interests of any kind or nature whatsoever, but excluding any Assumed Liabilities,<sup>5</sup> are referred

---

<sup>4</sup> "Lien(s)" has the same meaning as set forth in section 101(37) of the Bankruptcy Code, to include any mortgage, pledge, statutory or contractual lien, charge, or security interest against the Assets.

<sup>5</sup> "Assumed Liabilities" means only those liabilities identified and described as being assumed by the Buyer in section 1.3 of the Agreement as follows:

**Section 1.3 No Assumption of Liabilities.** Other than liabilities for (i) Driver Deposits (as defined below) and (ii) Seller's obligations under the Assumed Contracts for periods after the Closing, Buyer shall not assume any liabilities or obligations of Seller of any kind, whether known or unknown, contingent, matured or otherwise, whether currently existing or hereinafter created. As used herein, "Driver Deposits" mean

to as the “Interests”), relating to, accruing, or arising any time prior to entry of this Sale Order.

**IV. COMPLIANCE WITH BIDDING PROCEDURES AND BID PROCEDURES ORDER**

L. This Court’s findings of fact and conclusions of law in the Bid Procedures Order, including the record of the hearing to approve the Bid Procedures Order, are incorporated herein by reference.

M. As demonstrated by the testimony and other evidence proffered or adduced at the hearing to approve Bidding Procedures held on July 20, 2021 and the Sale Hearing and the representations of counsel made on the record at the Sale Hearing, the Sellers have adequately marketed the Assets and conducted the sale process in compliance with the Bid Procedures Order and the Bidding Procedures, and the bidding process was conducted in a non-collusive, fair, and good-faith manner.

N. The Sellers and their professionals conducted the sale process in compliance with the Bid Procedures Order and the Bidding Procedures and have afforded potential purchasers a full and fair opportunity to participate in the bidding process for the Assets and make higher or better offers. Sellers did not receive any Qualified Bids, other than from Buyer, by Bid Deadline on July 28, 2021 at 4:00 p.m. (CST).

O. In accordance with the Bid Procedures Order, the Agreement was deemed a Qualified Bid and Buyer was a Qualified Bidder. Buyer acted in compliance with the Bid Procedures Order and the Bidding Procedures and conducted itself in a non-collusive, fair, and good-faith manner.

---

Seller’s driver deposits at the Closing, net of any amount owed by the drivers at the Closing; provided, however, that the aggregate Driver Deposits to be assumed by Buyer under this Agreement and under all Related Agreements (as defined in Section 6.1(b)) shall not exceed \$350,000.

P. In accordance with the Bid Procedures Order and the Bidding Procedures, the Sellers determined that the Bid submitted by Buyer and memorialized by the Agreement is the Prevailing Bid.

**V. BUYER AND SELLERS ACTED IN GOOD FAITH**

Q. The Agreement was negotiated, proposed, and entered into by the Sellers and Buyer, without collusion, in good faith, and from arm's-length bargaining positions.

R. Neither the Sellers nor Buyer have engaged in any conduct that would cause or permit the Agreement to be avoided under Bankruptcy Code section 363(n).

S. The Sellers and Buyer have not engaged in any conduct that would cause or permit the Agreement or the consummation of the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

T. Buyer has not acted in a collusive manner with any Person and the purchase price was not controlled by any agreement among bidders. Among other things (i) Buyer recognized that the Sellers were free to deal with any other party interested in acquiring the Assets; (ii) Buyer complied with the provisions of the Bid Procedures Order; (iii) Buyer agreed to subject its bid to the competitive bidding procedures set forth in the Bid Procedures Order; and (iv) no common identity of directors or controlling stockholders exists between Buyer, on the one hand, and the Debtors, on the other hand.

U. Buyer is purchasing the Assets in good-faith and for value, and Buyer is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is not an "insider" of any Debtor (as defined under section 101(31) of the Bankruptcy Code). Buyer is therefore entitled to the full rights, benefits, privileges, and protections afforded under section

363(m) of the Bankruptcy Code and any other applicable or similar bankruptcy and non-bankruptcy law.

**VI. HIGHEST AND BEST OFFER**

V. The Sellers' marketing and sales process with respect to the Assets in accordance with the Bid Procedures Order and Bidding Procedures afforded a full, fair, and reasonable opportunity for any Person or Entity to make a higher or otherwise better offer to purchase the Assets. The Sellers conducted a marketing process in accordance with, and have otherwise complied in all respects with, the Bid Procedures Order and the Bidding Procedures. A reasonable opportunity has been given to any interested party to make a higher or otherwise better offer for the Assets. No other bids or offers have been received by Sellers.

W. The Agreement constitutes the highest and best offer for the Assets, and the Sellers' determination that the Agreement maximizes value for the benefit of the Sellers' estates and constitutes the highest and best offer for the Assets each constitutes a valid and sound exercise of the Sellers' business judgment and is in accordance and compliance with the Bid Procedures Order and the Bidding Procedures. The Agreement represents fair and reasonable terms for the purchase of the Assets.

X. Approval of the Sale Motion and the Agreement and the prompt consummation of the transactions contemplated thereby will maximize the value of each Debtors' estate and are in the best interests of the Debtors, their chapter 11 estates, their creditors, and other parties in interest.

**VII. NO MERGER; BUYER NOT AN INSIDER; NO SUCCESSOR LIABILITY**

Y. Buyer is not a successor to, a mere continuation of, or alter ego of, any of the Sellers or their estates, and there is no continuity of enterprise or common identity between Buyer and the

Sellers. Buyer is not holding itself out to the public as a successor to or a continuation of the Sellers or their estates. Buyer is not a successor to any of the Sellers or their estates by reason of any theory of law or equity, and the Sale does not amount to a consolidation, succession, merger, or *de facto* merger of Buyer and the Sellers.

Z. Immediately prior to the Closing Date, Buyer was not an “insider” or “affiliate” of the Sellers, as those terms are defined in the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders existed between the Sellers and Buyer.

AA. Except for any Assumed Liabilities, Buyer shall not have, assume, or be deemed to assume, or in any way be responsible for, any liability or obligation of any of the Sellers or their estates, or any of the Sellers’ predecessors or affiliates with respect to the Assets or otherwise. Without limiting the generality of the foregoing, and except as otherwise specifically provided in the Agreement, Buyer is not, and will not, be liable for any Interests against, or with respect to, the Sellers, their estates, or any of the Sellers’ predecessors, or affiliates, including but not limited to, any Successor or Other Liabilities (as defined herein).

BB. Neither the purchase of the Assets by Buyer nor the fact that Buyer is using any of the Assets previously operated by the Sellers will cause Buyer to be deemed a successor to, combination of, or alter ego of, in any respect, any of the Sellers or the Sellers’ businesses, or incur any liability derived therefrom within the meaning of any foreign, federal, state, or local revenue, pension, ERISA, tax (including sales and excise tax), antitrust, environmental, labor law (including any WARN Act), employment or benefits law, *de facto* merger, business continuation, substantial continuity, successor, vicarious, alter ego, derivative, or transferee liability, veil piercing, escheat, continuity of enterprise, mere continuation, product line, or other law, rule, regulation (including filing requirements under any such laws, rules, or regulations), or under any products liability law

or doctrine with respect to the Sellers' liability under such law, rule, or regulation or doctrine, whether now known or unknown, now existing or hereafter arising, whether fixed or contingent, whether asserted or unasserted, whether legal or equitable, whether matured or unmatured, whether contingent or noncontingent, whether liquidated or unliquidated, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise, including, but not limited to, liabilities on account of warranties, intercompany loans, and receivables among the Sellers, and any taxes (including sales and excise tax), arising, accruing, or payable under, out of, in connection with, or in any way relating to the cancellation of debt of the Sellers or their affiliates, or in any way relating to the operation of any of the Assets prior to the Closing Date (collectively, the "**Successor or Other Liabilities**"). Pursuant to the Agreement, Buyer is not purchasing Excluded Assets and is therefore not purchasing all of the Sellers' assets.

**VIII. SECTION 363(F) SATISFIED**

CC. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full; therefore, the Assets may be sold to Buyer free and clear of all Interests.

DD. Buyer would not have entered into the Agreement and would not consummate the transactions contemplated thereby if (i) the sale of the Assets to Buyer were not free and clear of all Interests of any kind or nature whatsoever, or (ii) if Buyer would, or in the future could, be liable for any of the Interests. Buyer will not consummate the transactions contemplated by the Agreement unless this Court expressly orders that Buyer and its affiliates, members, and/or the Assets will have no liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, or by payment, setoff, recoupment, or otherwise, directly or indirectly, any Interests, including rights or claims based on any Successor or Other Liabilities. The total consideration to be provided under the Agreement reflects Buyer's reliance on this Sale Order to

provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Assets free and clear of all Interests of any kind or nature whatsoever (including, without limitation, any potential Successor or Other Liabilities).

EE. Not transferring the Assets free and clear of all Interests of any kind or nature whatsoever, including rights or claims based on any successor, transferee, derivative, or vicarious liability or any similar theory and/or applicable state, federal, or foreign law or otherwise, would adversely impact the Sellers' efforts to maximize the value of their estates, and the transfer of the Assets other than pursuant to a transfer that is free and clear of all Interests of any kind or nature whatsoever would be of substantially less benefit to the Sellers' estates.

FF. The Sellers may sell the Assets free and clear of all Interests because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests who did not timely object to the Sale or the Sale Motion in accordance with the Bidding Procedures and the Bid Procedures Order or withdrew objections to the Sale or the Sale Motion are deemed to have consented to the Sale and the Sale Motion pursuant to section 363(f)(2) of the Bankruptcy Code. All other holders of Interests fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code.

**IX. NOT A SUB ROSA PLAN**

GG. The Sale does not constitute a sub rosa chapter 11 plan for which approval has been sought without the protection that a disclosure statement would afford. The Sale neither impermissibly restructures the rights of the Sellers' creditors nor impermissibly dictates a liquidating plan for the Sellers.

**X. COMPELLING CIRCUMSTANCES FOR AN IMMEDIATE SALE**

HH. Sellers have articulated good and sufficient reasons for approval of the Agreement and the Sellers' decision to enter into the Agreement and the transactions contemplated thereby represents an exercise of sound and reasonable business judgment. The sale of the Assets must be approved and consummated promptly in order to preserve the value of the Assets. The relief requested in the Sale Motion is in the best interests of the Sellers, their estates, their creditors, and other parties in interest. The Sellers have demonstrated both (i) good, sufficient, and sound business purposes and justifications for approving the Agreement and (ii) compelling circumstances for the immediate approval and consummation of the transactions contemplated by the Agreement, outside the ordinary course of business, pursuant to section 363(b) and (f) of the Bankruptcy Code before, and outside of, a plan of reorganization, in that the prompt consummation of the Sale to Buyer is necessary and appropriate to maximize the value of the Sellers' estates and the Sale will provide the means for the Sellers to maximize distributions to creditors. Accordingly, there is cause to waive the stay contemplated by Bankruptcy Rule 6004 with respect to the transactions contemplated by this Sale Order.

**ACCORDINGLY, IT IS HEREBY ORDERED THAT:**

**I. GENERAL PROVISIONS**

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these chapter 11 cases pursuant to Bankruptcy Rule 9014. To the extent that any of the findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law constitute findings of fact, they are adopted as such.

2. The Sale Motion and the relief requested therein is granted and approved, the transactions contemplated in the Sale Motion and by the Agreement and any other transactional documents required by the Agreement, in the Bankruptcy Case, as set forth herein and on the record at the hearing on the Sale Motion, which is incorporated herein as if fully set forth in this Sale Order.

3. All objections to, reservations of rights regarding, or other responses to the Sale Motion or the relief requested therein, the Agreement, any transactional documents required by the Agreement, the entry of this Sale Order, or the relief granted herein, that have not been withdrawn, waived, or settled, or that have not otherwise been resolved pursuant to the terms hereof, as announced to the Court at the hearing on the Sale Motion, or by stipulation filed with the Court, are hereby denied and overruled on the merits with prejudice; further, nothing in this Sale Order shall act as an adjudication or finding as to any of the matters raised in any of the objections, reservation of rights, and joinders. Those parties who did not timely object to the Sale Motion or the entry of this Sale Order in accordance with the Bid Procedures Order and/or Bidding Procedures, or who withdrew their objections thereto, are deemed to have consented to the relief granted herein for all purposes, including without limitation, pursuant to section 363(f)(2) of the Bankruptcy Code.

## **II. APPROVAL OF THE AGREEMENT**

4. The Agreement and the Other Transaction Documents, including, in each case, any amendments, supplements, and modifications thereto, and all of the terms and conditions thereof, are hereby approved.

5. Pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code, the Sellers are authorized and directed, without further notice to or order of this Court, to take any and all

actions necessary or appropriate to (i) consummate the transactions pursuant to and in accordance with the terms and conditions of this Sale Order, the Agreement and any other transactional documents required under the Agreement; (ii) close the transactions as contemplated in the Agreement and any other transactional documents required under the Agreement and consistent with this Sale Order; and (c) execute and deliver, perform under, consummate, implement, and take any and all other acts or actions consistent with this Sale Order as may be reasonably necessary or appropriate to the performance of their obligations as contemplated by the Agreement and any other transactional documents required under the Agreement and consistent with this Sale Order.

6. The Agreement and any other transactional documents required under the Agreement shall be binding in all respects upon the Sellers, their estates, the Buyer, and all successors and assigns of each of the foregoing, including without limitation, any trustee subsequently appointed in these chapter 11 cases or upon conversion to chapter 7 under the Bankruptcy Code. This Sale Order shall be binding in all respects upon the Sellers, their estates, all creditors, all holders of equity interests in any of the Debtors, all holders of Claims (whether known or unknown) against the Sellers, any holders of Liens, Claims, Encumbrances, or other Interests against, in, or on all or any portion of the Assets, and the Buyer.

### **III. TRANSFER OF THE ASSETS**

7. Pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code, the Sellers shall transfer the Assets, to Buyer on the Closing Date in accordance with the terms of the Agreement and any other transactional documents required by the Agreement; such transfer shall constitute a legal, valid, binding, and effective transfer of such Assets; and Buyer shall take title to and possession of such Assets free and clear of all Interests of any kind or nature whatsoever.

Any and all valid and perfected Interests in the Assets shall attach solely to any proceeds of the Sale, but not to the Assets, with the same validity, force, and effect, if any, and in the same order of priority, that they have now as against the Assets, subject to any and all rights, claims, and defenses the Sellers or their estates, as applicable, may possess with respect thereto.

8. The transfer of the Assets to Buyer pursuant to the Agreement does not require any governmental, regulatory, or other consents or approvals other than as specifically provided for in the Agreement. Each and every federal, state, local, and other governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement. Buyer may, but shall not be required to, file a certified copy of this Sale Order in any filing or recording office in any federal, state, county, or other territory or jurisdiction in which any of the Sellers is incorporated or has real or personal property, or with any other appropriate clerk or recorder with any other appropriate recorder, and such filing or recording shall be accepted and shall be sufficient to release, discharge, and terminate any of the Interests as set forth in this Sale Order as of the Closing Date.

9. If any Person that has filed a financing statement, mortgage, mechanic's lien, *lis pendens*, or other statement, document, or agreement evidencing an Interest against or in any portion of the Assets (other than statements or documents with respect to any Assumed Liabilities) shall not have delivered to the Sellers prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases, and/or other similar documents necessary for the purpose of documenting the release of all Interests that such Person has against or in the Assets, then (i) the Sellers are hereby authorized to execute and file such statements, instruments, releases, and/or other similar documents on behalf of such Person with respect to the Assets, (ii) Buyer is hereby authorized to file, register, or otherwise

record a certified copy of this Sale Order that, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Interests of any kind or nature against or in the Assets, and (iii) Buyer may seek in this Court, or any other court of competent jurisdiction, to compel the appropriate parties to execute termination statements, instruments of satisfaction, releases, and/or other similar documents with respect to all Interests that such Person has against or in the Assets. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department, or office.

10. Notwithstanding the foregoing, the provisions of this Sale Order authorizing the sale and assignment of the Assets free and clear of Interests shall be self-executing, and neither the Sellers nor Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments or documents in order to effectuate, consummate, and implement the provisions of this Sale Order.

11. All Persons that are in or come into possession of any portion of the Assets, at any time, are hereby directed to surrender possession of such Assets to Buyer on the Closing Date. Subject to the terms, conditions, and provisions of this Sale Order, all Persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Sellers to sell and transfer the Assets to Buyer in accordance with the terms of the Agreement and this Sale Order.

12. This Sale Order is and shall be binding upon and govern the acts of all Persons (including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other

persons or entities) who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing Persons shall accept for filing any and all of the documents and instruments necessary and appropriate to release, discharge, and terminate any of the Interests or to otherwise consummate the transactions contemplated by the Agreement, any other transactional documents required by the Agreement, and this Sale Order.

13. To the extent permitted under applicable law, Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Sellers with respect to the Assets, and all such licenses, permits, registrations, and governmental authorizations or approvals, including, but not limited to, any and all right and benefits related to all preexisting nonconforming uses of the Assets, are deemed to have been, and hereby are, directed to be transferred to Buyer as of the Closing Date. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Assets, including, but not limited to, any and all right and benefits related to all preexisting nonconforming uses of the Assets, on account of the filing or pendency of the Bankruptcy Case or the consummation of the transactions contemplated by the Agreement.

**IV. NO SUCCESSOR LIABILITY; PROHIBITION OF ACTIONS AGAINST BUYER**

14. Buyer is not a successor to, a mere continuation of, or alter ego of, any of the Sellers or their estates, and there is no continuity of enterprise or common identity between Buyer and the Sellers.

15. Buyer is not holding itself out to the public as a successor to or continuation of the Sellers or their estates. Buyer is not a successor to any of the Sellers or their estates by reason of any theory of law or equity, and the Sale does not amount to a consolidation, succession, merger, or *de facto* merger of Buyer and the Sellers.

16. Immediately prior to the Closing Date, Buyer was not an “insider” or “affiliate” of the Sellers, as those terms are defined in the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders existed between the Sellers and Buyer.

17. Except for any Assumed Liabilities, to the extent expressly provided for in the Agreement, Buyer shall not have, assume, or be deemed to assume, or in any way be responsible for, any liability or obligation of any of the Sellers or their estates, or any of the Sellers’ predecessors or affiliates with respect to the Assets or otherwise. Without limiting the generality of the foregoing, and except as otherwise specifically provided in the Agreement, Buyer shall not be liable for any Interests against, or with respect to, the Sellers, their estates, or any of the Sellers’ predecessors, or affiliates, including but not limited to, any Successor or Other Liabilities. Neither the purchase of the Assets by Buyer nor the fact that Buyer is using any of the Assets previously operated by the Sellers will cause Buyer to be deemed a successor to, combination of, or alter ego of, in any respect, any of the Sellers or the Sellers’ businesses, or incur any liability derived therefrom within the meaning of any foreign, federal, state, or local revenue, pension, ERISA, tax, antitrust, environmental, labor law (including any WARN Act), employment or benefits law, *de facto* merger, business continuation, substantial continuity, successor, vicarious, alter ego, derivative, or transferee liability, veil piercing, escheat, continuity of enterprise, mere continuation, product line, or other law, rule, regulation (including filing requirements under any such laws, rules, or regulations), or under any products liability law or doctrine with respect to the Sellers’

liability under such law, rule, or regulation or doctrine, whether now known or unknown, now existing or hereafter arising, whether fixed or contingent, whether asserted or unasserted, whether legal or equitable, whether matured or unmatured, whether contingent or noncontingent, whether liquidated or unliquidated, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise, including, but not limited to, liabilities on account of warranties, intercompany loans, and receivables among the Sellers, and any taxes, arising, accruing, or payable under, out of, in connection with, or in any way relating to the cancellation of debt of the Sellers or their affiliates, or in any way relating to the operation of any of the Assets prior to the Closing Date.

18. Except with respect to Assumed Liabilities and to the extent specifically agreed by Buyer in the Agreement, Buyer shall not have any liability, responsibility, or obligation for any Interests of the Sellers or their estates, including any claims, liabilities, or other obligations related to the Assets which may become due or owing (a) prior to the Closing Date or (b) from and after the Closing Date but which arise out of or relate to any act, omission, circumstance, breach, default, or other event occurring prior to the Closing Date. Under no circumstances shall Buyer be deemed a “successor” to, continuation of, or alter ego of, any of the Sellers or their estates by reason of any theory of law or equity of or to the Sellers for any Interests against, in, or to the Sellers or the Assets.

19. Except with respect to Assumed Liabilities, all Persons (including but not limited to, all debt holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, litigation claimants, contract counterparties, customers, landlords, licensors, employees), and other holders of Interests of any kind or nature whatsoever against or in any of the Sellers or any portion of the Assets (whether legal or equitable, secured or unsecured, matured

or unmatured, known or unknown, contingent or noncontingent, liquidated or unliquidated, senior or subordinate, asserted or unasserted, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise), arising under or out of, in connection with, or in any way relating to, the Sellers, the Assets, the operation of the Sellers' business prior to the Closing, or the transfer of the Assets to Buyer (including without limitation any Successor or Other Liabilities or rights or claims based thereon) shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing against Buyer, any of Buyer's affiliates or subsidiaries, or any of their respective officers, directors, partners, principals, shareholders, professionals, or representatives, successors, or assigns, or their respective assets or properties, including, without limitation, the Assets, the Interests of any kind or nature whatsoever such Person had, has, or may have against or in the Sellers, their estates, officers, directors, shareholders, or the Assets, including, without limitation, the following actions: (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral, or other proceeding) against Buyer, any of Buyer's affiliates or subsidiaries, or any of their respective officers, directors, partners, principals, shareholders, professionals, or representatives, successors, or assigns, or their respective assets or properties, including the decree, or order against Buyer, any of Buyer's affiliates or subsidiaries, or any of their respective officers, directors, partners, principals, shareholders, professionals, or representatives, successors, or assigns, or their respective assets or properties, including the Assets; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, subsidiaries, or any of their respective officers, directors, partners, principals, shareholders, professionals, or representatives, successors, or assigns, or their respective assets or properties,

including the Assets; (c) creating, perfecting, or enforcing any Interest against Buyer, any of Buyer's affiliates or Assets; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due Buyer, any of its affiliates or subsidiaries, or any of their respective officers, directors, partners, principals, shareholders, professionals, or representatives, successors, or assigns, or their respective assets or properties, including the Assets; (e) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of the Court, or the agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to transfer or renew any license, permit, or authorization to operate any of the Assets or conduct any of the businesses operated with the Assets, including, but not limited to, any and all right and benefits related to all preexisting nonconforming uses of the Assets.

20. Notwithstanding anything else herein, and except for any and all rights and benefits related to all preexisting nonconforming uses of the Assets, nothing in this Sale Order or the Agreement (i) releases, nullifies, precludes or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the post-sale owner or operator of property after the date of entry of this Sale Order, and (ii) authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law.

21. All Persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Sellers to sell and transfer the Assets to Buyer in accordance with the terms of the Agreement and this Sale Order.

22. Except as provided in the Agreement and without limiting other applicable provisions of this Sale Order, Buyer is not, by virtue of the consummation of the Transactions, assuming, nor shall it be liable or responsible for, as a successor or otherwise (including with respect to successor or vicarious liabilities of any kind or character), under any theory of law or equity, including without limitation, the Successor or Other Liabilities, whether presently in existence or arising hereafter, known or unknown, disputed or undisputed, contingent or non-contingent, liquidated or unliquidated, or otherwise with respect to the Sellers, or any of their predecessors or affiliates or any obligations of the Sellers or their predecessors or affiliates prior to the Closing Date, for any liabilities, debts, commitments, or obligations (whether known or unknown, disclosed or undisclosed, absolute, contingent, inchoate, fixed, or otherwise) in any way whatsoever relating to or arising from the Sellers, the Assets, or the Sellers' operation of their businesses or use of the Assets on or prior to the Closing Date or any such liabilities, debts, commitments, or obligations that in any way whatsoever relate to periods on or prior to the Closing Date or are to be observed, paid, discharged, or performed on or prior to the Closing Date (in each case, including, without limitation, any liabilities that result from, relate to, or arise out of tort or product liability claims), or any liabilities calculable by reference to the Sellers or their assets or operations (including, without limitation, by reference to the Sellers' experience or similar ratings), or relating to continuing conditions existing on or prior to the Closing Date, including with respect to any of the Sellers' predecessors or affiliates, which liabilities, debts, commitments, and obligations are hereby extinguished insofar as they may give rise to successor liability, without regard to whether the claimant asserting any such liabilities, debts, commitments, or obligations has delivered to Buyer a release thereof. Buyer has given substantial consideration under the Agreement for the benefit of the holders of Interests.

23. The consideration given by Buyer shall constitute valid and valuable consideration for the releases of any potential claims of Successor or Other Liabilities of Buyer, which releases shall be deemed to have been given in favor of Buyer by all holders of Interests in or against the Sellers or the Assets. Upon consummation of the transactions contemplated in the Agreement and other transactional documents required by the Agreement, Buyer shall not be deemed to (i) be the successor to the Sellers or their estates, (ii) have, *de facto* or otherwise, merged with or into the Sellers, or (iii) be a mere continuation, alter ego, or substantial continuation of the Sellers.

24. Following the Closing Date, no holder of an Interest in the Sellers shall interfere with Buyer's title to or use and enjoyment of the Assets based on or related to such Interest or any actions that the Sellers may take in this Bankruptcy Case.

**V. OTHER PROVISIONS**

25. The transactions contemplated by the Agreement, any other transactional documents required by the Agreement, and this Sale Order are undertaken by Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the transactions shall not alter, affect, limit, or otherwise impair the validity of the Agreement or any transactional documents required by the Agreement, unless such authorization and consummation of the transactions are duly stayed pending such appeal.

26. Buyer is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and hereby granted, the full rights, benefits, privileges, and protections of section 363(m) of the Bankruptcy Code. As a good-faith purchaser of the Assets, Buyer has not entered into an agreement with any other bidders and has not colluded

with any bidders, and therefore the Sale may not be avoided pursuant to section 363(n) of the Bankruptcy Code.

27. Nothing in this Sale Order shall (i) be interpreted to deem Buyer the successor to the Sellers under any state or federal law successor liability doctrine with respect to any liabilities under environmental statutes, laws, or regulations for penalties for days of violation prior to the Closing Date or for liabilities relating to the generation, manufacture, use, storage, or disposal of any Hazardous Materials by the Sellers prior to the date of the Closing Date, or deem Buyer to have assumed any liability or obligation of the Sellers not expressly assumed; (ii) be construed as a waiver by any party, including Buyer, of any applicable rights or defenses under non-bankruptcy law; or (iii) be construed to create for any Governmental Entity any substantive right that does not already exist under law.

28. For cause shown, pursuant to Bankruptcy Rules 6004(h), 7062, and 9014, this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the stays provided in Bankruptcy Rule 6004(h) is hereby expressly waived and shall not apply. Accordingly, the Sellers and Buyer are authorized and empowered to close the Sale immediately upon entry of this Sale Order.

29. The failure to include or specifically reference any particular provision of the Agreement or and any other transactional documents required by the Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety.

30. To the extent that this Sale Order is inconsistent with the Sale Motion, the terms of this Sale Order shall control and govern. To the extent that there are any substantive inconsistencies between the terms of this Sale Order, on the one hand, and the Agreement or any transactional

document required by the Agreement, on the other hand, the terms of the Sale Order shall control and govern. Any terms not defined in the Sale Order, Sale Motion, Agreement or any other transactional document required by the Agreement, shall have the same meaning as set forth in section 101 of the Bankruptcy Code.

31. The Agreement and any other transactional documents required by the Agreement may be modified, amended, or supplemented in a writing signed by the parties thereto and in accordance with the terms thereof, without further notice to or order of the Court, but solely in a manner consistent with the terms of this Sale Order.

32. The Court shall retain exclusive jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order, the Agreement, any other transactional documents required by the Agreement, and any amendments thereto and any waivers and consents given thereunder, and to adjudicate, if necessary, any and all disputes concerning or in any way relating to the Sale, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Assets to Buyer, (b) interpret, implement, and enforce the provisions of this Sale Order, including but not limited to the injunctions and limitations of liability set forth in this Sale Order, (c) protect Buyer against any Interests in or against the Sellers or the Assets of any kind or nature whatsoever, attaching to the proceeds of the Sale, and (d) enter any orders under sections 105 and 363 of the Bankruptcy Code with respect to the Assets.

33. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Sale Motion in this Bankruptcy Case, the terms of this Sale Order shall govern. To the extent that any plan of reorganization or liquidation, or any order of any type or kind entered in these chapter 11 cases or any subsequent chapter 7 case into which these chapter 11 cases may be converted, conflicts with or derogates from the terms of the Agreement or this Sale Order, the

terms of the Agreement and this Sale Order shall control and govern to the extent of any such conflict or derogation.

34. The Sellers and Buyer have agreed that notwithstanding anything to the contrary in the Agreement or any other transactional document required by the Agreement: (i) upon entry of the Sale Order, Buyer may contact Sellers' employees and communicate that Buyer submitted the Prevailing Bid; and (ii) upon entry of this Sale Order, Buyer may issue one or more public statements or press releases without review or consent of Sellers stating that the Court has approved the sale to Buyer and Buyer may freely meet with and/or communicate with Sellers' employees, contract counterparties, creditors, and other interested parties regarding the business transition process and related topics.

35. Notwithstanding anything to the contrary in this Sale Order, Bexar County's secured ad valorem tax claim (the "**Bexar County Tax Claim**") owed by the Debtors for year 2021 pertaining to the Assets shall attach to the sales proceeds and that the closing agent shall pay the Tax Claim owed incident to the Assets immediately upon Closing and prior to any disbursement of proceeds to any other person or entity.

36. Notwithstanding anything to the contrary in this Sale Order or the Agreement, Galveston County and Harris County's secured ad valorem tax claim (the "**Tax Claims**") for tax years 2021 and prior pertaining to the Assets shall attach to the proceeds in the same order, priority and validity as existed on the Petition Date and shall be paid from the sales proceeds once the final tax amounts have been determined. Neither the Bexar County Tax Claim nor the Tax Claims are an Assumed Liability under the Agreement.

37. Notwithstanding any other provision of this Sale Order or the Agreement, (a) this Sale Order does not authorize the assumption, assignment, sale, conveyance, or transfer of (i)

either METRO Contract No. CT1600004 for Backup Taxi Services (the “**Backup Taxi Services Contract**”) or METRO Contract CT1600003 for Operation of Minivan Transportation Services (the “**Minivan Transportation Services Contract**,” together with the Backup Taxi Services Contract, the “**Bonded Contracts**”) to the Buyer or any other person or entity or (ii) the surety bonds (the “**Westchester Surety Bonds**”) issued on behalf of or at the request of any Debtor by Westchester Fire Insurance Company or its affiliates (collectively, “**Westchester**”) and (b) nothing in this Sale Order shall be deemed to bar, impair, alter, diminish, or enlarge any rights, defenses, or claims held by Westchester, if any, at law and equity, against the Debtors or any third party, including but not limited to, those related to the Bonded Contracts, the Westchester Surety Bonds, and any indemnification or collateral agreements executed by the Debtors or any third parties in favor of Westchester relating to the Westchester Surety Bonds.

38. Buyer is not assuming any executory contracts pursuant to this Sale Order, including but not limited to any contracts between the Debtors and METRO. All rights are reserved with respect to any and all rights or obligations, whether in contract or otherwise, as between the Debtors and METRO.

39. Notwithstanding any other provision of this Sale Order or the Agreement, (a) this Sale Order does not authorize the assignment, sale, conveyance, or transfer of METRO’s equipment in Debtors’ possession, including but not limited to mobile data terminals (“**METRO Equipment**”) and (b) within 7 business days of the entry of this Sale Order, Debtors will remove with care and return all of the METRO Equipment to METRO.

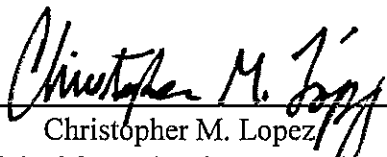
40. Buyer is acquiring Records (as that term is defined in the Agreement) of the Debtors as set forth in section 1.1(e) of the Agreement. Buyer agrees that the Debtors shall retain a right to access and/or copy records, at no expense to Buyer, needed to comply with its duties as debtors-

in-possession in this Bankruptcy Case, including any and all legal obligations they have to preserve and protect their records.

41. Regarding insurance policies, the Debtors have represented without dispute that they have already produced copies of all insurance policies (which consist of Self-Insurance Certificates, and the third party insurance policies issued by Mt.Hawley and Axis Surplus, with both insurance policies being issued through Marsh USA, Inc (the insurance broker of record, attention Keith Wright, whose email address is [Keith.wright@marsh.com](mailto:Keith.wright@marsh.com)). Debtors have agreed that METRO is authorized to contact Marsh USA as the broker to determine the status of any such third party insurance policies and that Marsh USA is authorized to respond to such requests for information directly, without objection by Debtors. Additionally, Debtors are ordered to again provide copies of the SIC certificates and the Mt. Hawley and Axis Surplus policies for the coverage period from January 1, 2021 through the date of this Order, as well as notices of cancellation and Debtors' responses to the issue of cancellation of such insurance policies, on or before 11:59 p.m. (CST) on August 6, 2021.

42. On or before the Closing Date, Debtors shall name a custodian to be responsible for Debtors' possession, custody, control, and preservation of the Debtors' records ("**Custodian of Records**") and shall give METRO in writing the name, phone numbers and business and home address of the person designated Custodian of Records within 5 business days.

Signed: August 06, 2021

  
Christopher M. Lopez  
United States Bankruptcy Judge

**AGREED AS TO FORM:**

**FUQUA & ASSOCIATES, P.C.**

By: */s/Richard L. Fuqua*

Richard L. Fuqua

State Bar No. 07552300

8558 Katy Freeway, Suite 119

Houston, Texas 77024

Telephone: (713) 960-0277

Facsimile: (713) 960-1064

Email: [rlfuqua@fuqualegal.com](mailto:rlfuqua@fuqualegal.com)

**ATTORNEYS FOR DEBTORS**

**JONES MURRAY & BEATTY LLP**

By: */s/ Erin E. Jones*

Erin E. Jones

Texas Bar No. 24032478

4119 Montrose Blvd., Suite 230

Houston, TX 77006

Phone: 832-529-1999

Fax: 832-529-3393

Email: [erin@jmbllp.com](mailto:erin@jmbllp.com)

**COUNSEL FOR WHC WORLDWIDE, LLC,  
WHC HTX, LLC, WHC ATX, LLC, AND  
WHC STX, LLC**

**JACKSON WALKER, L.L.P.**

By: */s/ Bruce J. Ruzinsky*

Bruce J. Ruzinsky

State Bar No. 17469425

1401 McKinney Street, Suite 1900

Houston, Texas 77010

Telephone: (713) 752-4204

Telecopier: (713) 308-4155

Email: [bruzinsky@jw.com](mailto:bruzinsky@jw.com)

**ATTORNEYS FOR NOTRE CAPITAL  
AND STEVEN HARTER**

**MANIER & HEROD, P.C.**

By: */s/ Robert W. Miller*

Michael E. Collins (TX Bar No. 24029006)

Sam H. Poteet, Jr. (admitted *pro hac vice*)

Robert W. Miller (admitted *pro hac vice*)

1201 Demonbreun Street, Suite 900

Nashville, Tennessee 37203

Telephone: (615) 244-0030

Facsimile: (615) 242-4203  
Email: mcollins@manierherod.com  
spoteet@manierherod.com  
rmiller@manierherod.com  
**ATTORNEYS FOR WESTCHESTER  
FIRE INSURANCE COMPANY**

**CRAIN CATON & JAMES, PC**  
By: /s/ Michelle V. Friery  
H. Miles Cohn  
Texas State Bar No. 04509600  
Email: mcohn@craincaton.com  
Michelle V. Friery  
Texas State Bar No. 24040934  
Email: mfriery@craincaton.com  
1401 McKinney, Suite 1700  
Houston, Texas 77010  
Telephone: (713) 752-8668  
Facsimile: (713) 658-1921  
**ATTORNEYS FOR METROPOLITAN  
TRANSIT AUTHORITY OF HARRIS COUNTY, TX**

# Request for Taxpayer Identification Number and Certification

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
requester. Do not  
send to the IRS.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>WHC HTX, LLC</b>	
	2 Business name/disregarded entity name, if different from above <b>zTrip</b>	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input checked="" type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ►	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>	
	5 Address (number, street, and apt. or suite no.) See instructions. <b>4201 Langley Road</b>	
	6 City, state, and ZIP code <b>Houston, TX 77093</b>	
	7 List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
			-			-		
or								
Employer identification number								
8	7	-	1	2	0	1	6	0 5

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ► 	Date ► <b>08/13/2021</b>
-----------	--	--------------------------

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (Interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

**a. Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

**b. Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

**c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

**d. Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

**e. Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

• Generally, individuals (including sole proprietors) are not exempt from backup withholding.

- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered inactive during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.