

**Attachment C - Agenda File No. 2025-111**

**SAN DIEGO UNIFIED PORT DISTRICT FORM 317**

**LESSEE'S AND SUBLESSEE'S QUESTIONNAIRE  
FOR ALL LEASES (AND SUBLEASES OF MORE THAN FIVE YEARS)**

(Use UPD Form No. 320 for Subleases of Five Years or Less)

Before the San Diego Unified Port District will process requests to (Sub)Lease, all information requested in this Questionnaire must be completed by the proposed (Sub)Lessee. Even though a proposed Sublessee may complete the Questionnaire, the Questionnaire must be delivered or mailed to the District with a cover letter signed by the District's Lessee or proposed Lessee. **THE DISTRICT WILL NOT ACCEPT THE QUESTIONNAIRE, DOCUMENTS, OR OTHER INFORMATION DIRECTLY FROM A SUBLESSEE.**

All information furnished in this Questionnaire must be complete and accurate. Omissions, inaccuracies, or misstatements may cause the rejection and/or subsequent revocation of the District's Lease, consent to Sublease, or consent to Assignment of (Sub)Lease.

In submitting this Questionnaire, the proposed (Sub)Lessee completing the Questionnaire authorizes the District to make any inquiry or investigation it believes necessary to substantiate or supplement the information furnished in the Questionnaire, and authorizes others to release such information to the District.

Exact name of existing Lessee (always complete):

Marine Group Boat Works, LLC, a California limited liability company

Exact name of proposed Lessee (complete only if applicable):

N/A

Exact name of existing Sublessee (complete only if applicable):

N/A

Exact name of proposed Sublessee (complete only if applicable):

N/A

Date this Questionnaire completed: March 18, 2025.

The information furnished in and with this Questionnaire is true, complete, and correct to the best of my knowledge.

Signed by:

Signature:

Byron Besse

2BA0000000F2401...

Title:

Byron Besse, Manager of Marinus Group GP, LLC

Thank you for taking the time to complete the Questionnaire. Lessees may contact District Real Estate if they have any questions. Please return the completed Questionnaire, with any additional information or documents to:

REAL ESTATE  
SAN DIEGO UNIFIED PORT DISTRICT  
POST OFFICE BOX 120488  
SAN DIEGO, CA 92112-0488  
TEL.: (619) 686-6291 FAX: (619) 686-6297

**This Questionnaire contains 15 pages.**

**PROPOSED (SUB)LESSEE**

1. Name of proposed (Sub)Lessee exactly as it will appear on the actual tenancy document: Marine Group Boat Works, LLC, a California limited liability company D/B/A Marine Group Boat Works

2. Mailing Address of proposed (Sub)Lessee for purposes of notice or other communication relating to the proposed tenancy: 997 G Street Chula Vista, CA 91910-3414

Telephone No.: 619-427-6767 ext 123 Fax. No.: 619-427-0234

E-mail Address: todd@marinegroupbw.com

3. Billing Address (***only if different from Mailing Address***);

Telephone No.: \_\_\_\_\_

Fax. No.: \_\_\_\_\_

4. Proposed (Sub)Lessee intends to operate as a:

Sole Proprietorship ( ☐ ); Partnership ( ☐ ); Corporation ( ☐ );

Limited Liability Company (X); Other \_\_\_\_\_

Explain if necessary:

5. Effective date of assignment (complete only if applicable): Acquisition of 100% of the ownership interests in existing Lessee and existing Lessee's parent (MGBW, LLC, a Delaware limited liability company) by Marine Group Global Holdings, LLC, a Delaware limited liability company ("MGGH") pursuant to that certain Membership Interest Purchase Agreement ("MIPA") signed on February 28, 2025, and subject to approval of San Diego Port Authority for closing (a copy of the redacted MIPA is attached to this Form 317 as Addendum A). Closing on the transaction is expected to occur on or before April 30, 2025.

### **LIMITED LIABILITY COMPANY STATEMENT**

If the proposed (Sub)Lessee is an LLC, please answer the following:

1. Date of Organization: 12/30/2008
2. Where Organized: California
3. Is the Company authorized to do business in California?
  - a. Yes (X) No ( )
  - b. If so, as of what date? 12/30/2008
4. Has the Company conducted business in San Diego County?
  - a. Yes (X) No ( )
  - b. If so, when? Company assumed the existing Lease from its predecessor-in-interest, The Marine Group, LLC, a California limited liability company on April 6, 2010, pursuant to that certain Assignment of Lease on file in the Office of the Clerk of Lessor bearing Document No. 56564.
  - c. If so, where? At its existing location at 997 G Street Chula Vista, CA 91910-3414
5. Please furnish the name, address, and membership share held by each manager and officer, and each member owning more than a 10% membership interest. If a member is a partnership, corporation, or another LLC, please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity.

**Note: See Entity Structure Chart attached hereto as Addendum B to this Form 317. As noted above, Lessee is not changing but the upstream ownership will change upon Closing on the MIPA and approval of the proposed assignment.**

Manager/Officer/ Member	Name	Address	Share %
MGBW, LLC	MGBW, LLC	997 G Street Chula Vista, CA 91910-3414	100

6. Attach a complete copy of the Operating Agreement. If an Operating Agreement has been previously submitted, a new Operating Agreement need be submitted only if the

Operating Agreement on file with the District is no longer current.



## **FINANCIAL AND OTHER BACKGROUND INFORMATION OF BYRON BESSE**

### **FINANCIAL STATEMENT**

(Sub)Lessee, general partners of (Sub)Lessee, owner-corporations of (Sub)Lessee, members of (Sub)Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of (Sub)Lessee **must attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition.** The report **must** include a balance sheet **and** annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

### **OTHER INFORMATION**

Each (Sub)Lessee, each general partner of (Sub)Lessee, each owner-corporation of (Sub)Lessee, each member of (Sub)Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of (Sub)Lessee, any person or entity owning more than a 10% interest of (Sub)Lessee, and any guarantor of (Sub)Lessee must answer the following questions:

1. **Surety Information** - Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
  - a. Yes ( ) No (X)
  - b. If yes, please attach a statement naming the surety or bonding company, date, amount of bond, and the circumstances surrounding said default and performance.
2. **Bankruptcy Information** - Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
  - a. Yes ( ) No (X)
  - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.
3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
  - a. Yes ( ) No (X)
  - b. If yes, please provide detailed information for each action.
4. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
  - a. Yes ( ) No (X)
  - b. If yes, please provide detailed information for each claim, lien, or judgment.

## **REFERENCES FOR BYRON BESSE**

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

### **REFERENCE NO. 1**

Name: Blake Chipman

Firm: First Fidelity Bank

Title: VP Commercial Lending

Address: 5613 DTC Parkway, Suite 810

Telephone: 785-550-3229

Nature and magnitude of purchase, sale, loan, business, association, etc.: Multiple loans in aggregate greater than \$30m for development and personal activities in Colorado.

### **REFERENCE NO. 2**

Name: Saxon Knauss

Firm: American Business Bank

Title: Senior Vice President

Address: 21800 Oxnard Street Suite 1140, Woodland Hills, CA 91367

Telephone: 818-884-0000

Nature and magnitude of purchase, sale, loan, business, association, etc.: \$4M term loan and revolving credit facility for Fasthouse Inc.

**REFERENCE NO. 3**

Name: J Jones

Firm: Co Biz Bank now Bank of Oklahoma

Title: Senior Vice President

Address: 1099 18<sup>th</sup> Street Suite 3050 Denver, CO 8020

Telephone: 303-648-1700

Nature and magnitude of purchase, sale, loan, business, association, etc.: Lender for a number of real estate related projects in Winter Park, CO. More than \$50m borrowed and repaid.

**REFERENCE NO. 4**

Name: Josh Peebles / Brooke Sauer

Firm: Collegiate Peaks Bank

Title: Senior Vice President/ Senior Loan Admin Officer

Address: 885 S Colorado Blvd Denver, CO 80246

Telephone: 303-481-1306

Nature and magnitude of purchase, sale, loan, business, association, etc.: Multiple business and personal loans between \$5m-10m borrowed and all fully repaid.

**SAN DIEGO UNIFIED PORT DISTRICT PERSONAL DESCRIPTION AND RELEASE**

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name Byron (Chip) Locke Besse Jr  
 Date of Birth 01/23/1981  
 Place of Birth Philadelphia, PA  
 Driver's License Number/State 09-008-0563/Colorado  
 Home Address 7076 Indian Peaks Trl Boulder, CO 80301  
 Previous Address 2015 Orchard Ave, Boulder Co 80304  
 Home Telephone No. 970-531-3174  
 Employer Self-employed  
 Occupation Investor/Entrepreneur  
 Business Address 7076 Indian Peaks Trl Boulder, CO 80301  
 Business Telephone No. 970-531-3174  
 Business Fax No. chipbesse1@gmail.com

The District is hereby authorized to request a credit report and other information covering my financial and business history.

Date 3/11/2025 Signed  Signed by: Byron Besse  
2BA69639C3F2491

**Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:**

Marine Group Boat Works, LLC, a California limited liability company

## **FINANCIAL AND OTHER BACKGROUND INFORMATION OF SKYE CALLANTINE**

### **FINANCIAL STATEMENT**

(Sub)Lessee, general partners of (Sub)Lessee, owner-corporations of (Sub)Lessee, members of (Sub)Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of (Sub)Lessee **must attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition.** The report **must** include a balance sheet **and** annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

### **OTHER INFORMATION**

Each (Sub)Lessee, each general partner of (Sub)Lessee, each owner-corporation of (Sub)Lessee, each member of (Sub)Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of (Sub)Lessee, any person or entity owning more than a 10% interest of (Sub)Lessee, and any guarantor of (Sub)Lessee must answer the following questions:

1. **Surety Information** - Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
  - a. Yes ( ) No ( X )
  - b. If yes, please attach a statement naming the surety or bonding company, date, amount of bond, and the circumstances surrounding said default and performance.
2. **Bankruptcy Information** - Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
  - a. Yes ( ) No ( X )
  - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.
3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
  - a. Yes ( ) No ( X )
  - b. If yes, please provide detailed information for each action.
5. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
  - a. Yes ( ) No ( X )
  - b. If yes, please provide detailed information for each claim, lien, or judgment.

## **REFERENCES FOR SKYE CALLANTINE**

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

### **REFERENCE NO. 1**

Name: Frederick Fischer

Firm: Bank of America Private Bank

Title: VP Commercial Lending

Address: 370 17<sup>th</sup> Street, Suite 5100 Denver, CO 80202

Telephone: 303-575-5806

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Multiple loans in aggregate greater than \$90m for multifamily real estate developments in Pensacola, FL. Majority owner acts / acted as a personal guarantor on these loans.

### **REFERENCE NO. 2**

Name: Katie Hallen

Firm: J.P. Morgan Private Bank

Title: Executive Director

Address: 1455 16<sup>th</sup> St. Suite 407, Denver, CO 80202

Telephone: 303-607-7743

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Private banker for Vigeo Investments' majority owner. Working knowledge of owner's financial background, payment history, liquidity, and current holder of \$36M of debt related to owner's ranch (original balance of \$43.0M).

### **REFERENCE NO. 3**

Name: Kevin Cook

Firm: Cook Development, LLC

Title: President

Address: 1276 North 15<sup>th</sup> Ave, Bozeman, MT 59715

Telephone: 406-586-0302

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Business partner for multiple successful commercial real estate developments in the Bozeman MT area, including office, medical facilities, etc. totaling more than \$20M invested.

### **REFERENCE NO. 4**

Name: Henry Berling

Firm: Turning Basin Capital

Title: Partner

Address: 1405 W Main St, Richmond, VA 23220

Telephone: (804) 357-8215

Nature and magnitude of purchase, sale, loan, business, association, etc.:

Multiple business investment made together as partners. Have deployed over \$25M of capital.

## **SAN DIEGO UNIFIED PORT DISTRICT PERSONAL DESCRIPTION AND RELEASE**

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name    Skye Arthur Callantine  
Date of Birth    08/17/1973  
Place of Birth    Bozeman, MT  
Driver's License Number/State    06-163-0245  
Home Address    158 Stillson Place Terrace Breckridge, CO 80424  
  
Previous Address    333 Milwaukee Street, Denver, CO 80206  
  
Home Telephone No.    405-420-3495  
Employer    Validus Energy Holdings II, LLC  
Occupation    Executive Chairman  
Business Address    1530 16<sup>th</sup> Mall, Denver, CO 80206  
Business Telephone No.    N/A  
Business Fax No.

The District is hereby authorized to request a credit report and other information covering my financial and business history.

Date 3/11/2025    Signed 

**Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:**

Marine Group Boat Works, LLC \_\_\_\_\_



## **METHOD OF OPERATION**

Please describe your proposed business operation on the property to be (Sub)Leased. Discuss any optional services and uses which you propose to provide.

Marine Group Boat Works is a full-service superyacht repair and refit facility located along the San Diego Bay. The facility works on private, commercial and government vessels up to 220 feet long with specialized services including retrofits, conversions, hull extensions, carpentry, mechanical and electrical work and custom painting. The facility has been operating at this location since July 1985.

[www.marinegroupbw.com](http://www.marinegroupbw.com)

**PROPOSED METHOD OF FINANCING  
DEVELOPMENT OR LEASEHOLD PURCHASE**

Describe the method of financing for the Leasehold purchase or any new or additional development on District tidelands in excess of \$100,000. Include a schedule of approximate dates when construction of each significant improvement is expected to be commenced and completed.

All operations of Marine Group Boat Works LLC and its affiliates are being purchased. This purchase is being financed through the company's incumbent lender CB&T and Calitus Capital. The buyer is financing approx. 49.4% of the purchase price through the above lenders and the remaining proceeds are funded by investors. In addition to funding the purchase price, there is approx. \$10M in excess cash being invested into the business for transaction fees, operational improvements, working capital improvements post-acquisition, and payments to the Port of San Diego for lease modifications.

Following the closing of the MIPA, all control and management decisions over Marine Group Boat Works LLC and its affiliates will be held equally by Skye Callantine and Chip Besse, through their interests in Marinus Group GP, LLC, with any action requiring the consent of both Skye Callantine and Chip Besse.

## **ESTIMATE OF GROSS RECEIPTS**

If this Questionnaire is being completed by a prospective Lessee, please show the best estimate of the average annual gross sales for each significant use or service, and for each significant optional use or service which the Lessee and its Sublessees (if any) plan to conduct on or from the property. (If the Questionnaire is being completed by a Sublessee, only the estimate of the Sublessee's gross sales is required.) This data will be used by the District to analyze the proposed Lease or Sublease Consent application. The time periods shown should not be assumed to necessarily represent the term of a (Sub)Lease that may be granted or consented to by the District.






Average annual gross sales for each proposed significant use during each of the first five operating years:

Revenue		2023	2024	2025	2026	2027	2028	2029	2030
Commercial - Revenue		16,012	13,470	27,435	14,143	14,850	15,593	16,372	17,191
Construction - Revenue		14,585	11,599	(2,370)	12,179	12,788	13,428	14,099	14,804
Yacht - Revenue		16,996	13,641	12,965	14,323	13,613	15,039	14,294	15,791
Government - Revenue		12,722	12,105	9,946	10,443	10,965	11,513	12,089	12,694
MSR - Revenue		29,532	6,546	2,658	6,873	7,216	7,577	7,956	8,354
Rental & Storage - Revenue		481	4,416	8,681	4,637	4,869	5,112	5,368	5,636
<b>Total Revenue</b>		<b>90,328</b>	<b>61,777</b>	<b>59,314</b>	<b>62,598</b>	<b>64,302</b>	<b>68,263</b>	<b>70,179</b>	<b>74,470</b>
YoY Growth %	n/a	(1.09)%	(31.61)%	(3.99)%	5.54%	2.72%	6.16%	2.81%	6.12%
*all numbers in thousands									

## EXPERIENCE STATEMENT

Please describe in detail the duration and extent of your business experience, with special emphasis upon experience with the type of business which you propose to conduct on District property. Also state in detail the pertinent experience of the persons who will be directly involved in development and management of the business.

Chip Besse and Skye Callantine (the “Principals”) are the principal investors in MGGH. MGGH has entered into the MIPA for the purpose of purchasing, among other things, the businesses of Lessee and Lessee’s parent entity and, in doing so, are backing the existing operational team to continue managing the day-to-day business of Lessee. A great deal of time and effort has been spent working on the business plan for the Company going forward. At this time, the Principals intend to keep the key members of the operational team in place. Furthermore, the existing President, Todd Roberts, is making a material personal investment in the new business and will be a stakeholder in the Company, as well as continuing on as its President. The senior management team and their qualifications are listed below. This senior management team will report to the Principals whose bios are also included beneath the management section.

Leadership Team Overview	
 <b>Todd Roberts</b> <i>President</i>	<ul style="list-style-type: none"> <li>Todd serves as the Company’s current President and visionary and will serve as the CEO in the new entity. Having joined in 2000 and serving as the Director of Operations when he was tasked with the shutdown of the San Diego facility after originally being planned for shutdown in 2001 to make way for a hotel lot. It was after visiting the site that Roberts had produced the idea of a “Quickie Lube” for yachts, after noticing a ‘mega yacht vibe’ proliferating in SoCal. Todd relayed his vision to the Engels and got the go-ahead to revive the yard. After proving the concept over the next 5 years, Roberts received additional financing from ownership to continue to build upon Roberts’ vision to create the premier shipyard of the West Coast.</li> <li>Todd has over 21 years of maritime experience and has been a licensed USCG captain for over 34 years. He graduated with a B.S. in Maritime Transportation and Business from California Maritime Academy.</li> </ul>
 <b>Laura Machado</b> <i>CFO</i>	<ul style="list-style-type: none"> <li>Laura serves as the Company’s current CFO, and she will be remaining with the Company post-close. Laura has been with the Company since 1997 (predecessor to MGBW). Laura’s responsibilities range from financial reporting, procuring new construction contracts, implementing ERP systems, and implementing weekly reports to Project Managers.</li> <li>Laura has over 30 years of maritime and accounting experience. She graduated from the University of Iowa with a B.B.A in accounting.</li> </ul>
 <b>Eric Lundeen</b> <i>Operations Director</i>	<ul style="list-style-type: none"> <li>Eric serves as the Company’s Operations Director and works out of the San Diego facility. Eric has over 15 years of shipyard experience and 8+ years of yacht crew experience.</li> <li>Peter received his B.A. from University of Denver.</li> </ul>
 <b>Peter Horner</b> <i>GM - Cabo</i>	<ul style="list-style-type: none"> <li>Peter serves as the General Manager of the Cabo facility. Peter brings with him 10 years of boatyard experience and has been a USCG licensed captain for over 15 years.</li> <li>Peter received his B.A. from Lynchburg College, VA.</li> </ul>
 <b>Leah Yam</b> <i>Communications Director</i>	<ul style="list-style-type: none"> <li>Leah serves as the Company’s Communications Director. Leah brings with her 15 years of maritime experience and 18+ years of Marketing and PR experience.</li> <li>Leah received her B.S. from the USC Marshall School of Business.</li> </ul>

## **Board of Directors**

### **Chip Besse - Background**

Chip Besse is a seasoned executive with over 20 years' experience in leadership roles across diverse industries including marine related businesses. With a proven track record of building and scaling businesses, managing complex transactions, and creating value through strategic investments, Chip is currently an investor and board member of five entities across Colorado, Utah, California, and Mexico. Following successful exits from two (2) major ventures, Chip is now focused on successfully acquiring, financing and operating Marine Group Boat Works ("MGBW") in San Diego and San Jose del Cabo, Mexico.

MGBW interests Chip for several reasons. As a boating enthusiast who grew up in Florida and currently spends a significant portion of the year in Mexico with a boat at the MGBW facility in San Jose, he has a personal connection to the industry. He sees potential for expansion in the U.S. through the Navy and other opportunities given MGBW's reputation, solid business history and experienced management team. Additionally, Chip's existing business in Mexico, his conversational Spanish skills, and his local connections will support managing and potentially expanding the facility to better complement the Company's San Diego operations. Chip's years' long experience in navigating municipal and federal organizations also aligns with the complexities of this investment.

As a Principal in MGGH, Chip plans to provide financing, leadership, and backing to the current management team led by Todd Roberts.

### **Current and Recent Personal Investments**

- **Roam (Winter Park, Colorado):** In 2015, Chip co-purchased 171 acres in Winter Park, Colorado, with another Colorado based owner/developer. Chip led the land acquisition, planning, annexation, and initial development phases of a large-scale community project, including 87 residential condominiums, 75 single-family lots, and all related infrastructure. In partnership with the Town of Winter Park, Chip's efforts led to the creation of a public/private partnership to support employee housing and development through transfer tax contributions on the sale of real estate.

Chip and his partner invested over \$125 million before Chip exited the investment after almost 10 years to focus on other projects in Mexico and California.

- **Hideaway Station (Winter Park, Colorado):** Chip purchased, developed, and sold a mixed-use real estate project in downtown Winter Park known as "Hideaway Station." The entire project was a public-private partnership with the Town of Winter Park, Colorado that created numerous jobs and the town's first employee housing project in over two decades. The \$70 million development received the Governor's Award for Best New Addition to Downtown Colorado in 2017. Chip managed all aspects of the project and held a 50% ownership stake. He recently exited this business when he sold his interest in Roam.
- **Fasthouse (Valencia, California):** Chip is the majority owner of Fasthouse, a clothing and lifestyle business based in Valencia, California with operations in 14 countries and sales throughout the United States.

- **Alliance Building Solutions (San Diego, California):** Chip is an investor and board member of Alliance Building Solutions, a San Diego-based energy savings company focused on bringing Energy Savings to municipal markets throughout California. The business currently has active projects with the cities of Fresno, San Bernadino and others throughout the State.
- **Prospere M&A:** Chip is a minority investor and board advisor at Prospere, a boutique investment bank and owner of five Transworld Business Advisors franchises. Prospere operates across five states with over 100 active brokers.
- **Besse Aventuras (Todos Santos, Mexico):** Chip is the sole owner of Besse Aventuras, a hotel development project in its early stages in Todos Santos, Mexico.

## Previous Business Investments

- **Grand Adventures (Colorado):** Chip purchased and operated three (3) outdoor recreational businesses under the name “Grand Adventures,” which he sold to his employees in 2016. The employees grew the business by more than 40%, and it is now under contract for sale to a private equity firm.
- **Marine manufacturing and distribution owner:** Chip was the lead investor in consolidating manufacturing and distribution businesses in the marine and furniture industries. He oversaw six acquisitions, five ERP migrations, three warehouse integrations, and the relocation of 400,000 square feet of warehouse space. The consolidated entity generated over \$100 million in revenue with EBITDA exceeding \$8 million when he left. Chip sold the business to a private equity firm in 2017 and was later asked to return to help restructure and sell it again during COVID in 2020.
- **Harbourmaster Capital:** Chip was involved as a CLO manager with more than €7 billion in assets under management, which was sold to Blackstone Capital for €450 million in 2012.

## Professional Background

Before starting his entrepreneurial ventures, Chip spent six years in London in finance as a Partner at Clearbrook Capital and WestLB. He was involved in acquiring and restructuring businesses across financial services, business services, and greenfield startups. Notable achievements include a roll-up of 11 food testing operations and their sale to private equity for over \$125 million. Chip also assembled a €400 million German property portfolio, created a European small business financing platform called Hawk Finance, and helped establish mortgage finance businesses in Romania and Turkey. Earlier in his career, Chip was part of the WestLB Principal Finance Group, contributing to significant transactions such as the \$800 million acquisition of Odeon Cinemas, the \$1.2 billion Pubmaster portfolio, and the \$380 million purchase and sale of Whyte and Mackay, a Scotch whisky business. In all, Chip has borrowed more than \$300m personally in his US ventures and successfully repaid all outstanding financing. Throughout his career, Chip has been involved in more than \$1bn in transactions through a myriad of industries.

## Educational Background & Personal Life

Chip holds a Bachelor of Science degree in Finance from Florida State University. In addition to his professional endeavors, Chip is dedicated to his family and community. He is a father of two, a husband, and actively participates in various philanthropic activities. He

currently serves on the board of directors for Al Padrino, a new children's hospital in Todos Santos, Mexico. Chip and his family split their time between Mexico, Colorado, and California. Chip recently went back to school to become fluent in Spanish.

### **Skye Callantine-**

Skye Callantine is founder of Vigeo Investments, his Family Office. He has approval rights over all investments made by Vigeo and serves as a valuable resource to company executives pulling from his extensive and extremely successful track record of building multi-billion-dollar energy companies.

Skye is currently the Chairman of the board of Validus Energy, an upstream energy producer in Denver, Colorado with operations in Oklahoma, which recently completed the acquisition of Citizen Energy in a \$2Billion transaction.

Prior to Validus, Skye most recently served as Felix Energy's Founder and CEO. Under his leadership, the Denver based Felix platform built and sold approximately \$7 billion of assets consisting of upstream projects, midstream assets, and mineral interests over an 8-year period. Skye is also the Founder and Chairman of Fortis Minerals.

Prior to Felix and Fortis, Skye worked for Chesapeake Energy, where he led the building of large-scale projects in numerous basins. Skye began his career with ConocoPhillips and served in numerous roles in exploration and production in North America, South America, and Asia.

Prior to entering the energy business, Skye served in the U.S. Air Force, received a B.S. in Geophysical Engineering from Montana Tech and an M.B.A. from Oklahoma State. Skye is on the board of Montana Tech and is one of the Universities' largest benefactors.

In addition to starting Vigeo, he started a foundation in his name which supports numerous health care and animal-based companies including the Dumb Friends League. Skye is an avid traveler and outdoorsman and enjoys spending time away from work on his working ranch in Montana, The LF ranch. The ranching operations in Montana support a large local based staff is also one of four ranches in the state part of the Old Salt Co-Op a fully integrated processing and meat distribution company based in Helena.

### **Steven Folse -**

Steven Folse runs the Private Investment division of Vigeo Investments. He has over 15 years of experience in finance driven roles, including serving as a Senior Associate at Denver-based private equity firm, Bow River Capital, and 6 years as an associate analyst in Equity Research at Stifel, where he covered a number of sectors including Infrastructure and Industrial.

Steven holds a Masters in Finance, with an Energy Specialization from Tulane University, and a BS in Finance from Colorado State University. He is also a CFA Charter holder.

At Vigeo, Steven continues to lead all sourcing, structuring and execution aspects of investing in Real Estate and Operating Companies having completed over \$200m+ of transactions across various industries. Vigeo is focused on investing in lower middle market companies across "Old World Economy Businesses" and enters each transaction with a plan and vision for a 5+ year partnership vs a quick flip. The company places a focus on alignment of vision,

hold flexibility (long term solution), and being good stewards of the community, which allows it to succeed where more traditional Private Equity cannot.

Steven currently serves on the Board of five Vigeo Invested companies including:

**Aquafinity-** a commercial pool distribution and service company headquartered in Jupiter, Florida, with a large office in Santa Ana, California and satellite offices in Texas, Arizona and South Carolina. Aquafinity has successfully grown from ~\$20M in sales to over ~\$85M during the 3.5 years of Vigeo partnership. The company succeeds by taking a cradle to grave approach to water quality management as opposed to the more specialized approach of its competitors.

**NGS-** is a window film and window distribution and service company based in Atlanta Georgia. The company “makes buildings better” either through enhanced security solutions, increasing energy efficiency (solar based films) or improving aesthetics (graphics based options). The company is the largest Window Film partner of 3M in the country and has grown from ~\$30M in Sales to \$80M in the four years during its Partnership with Vigeo.

**Pinnacle Manufacturing-** Pinnacle is an industrial tank manufacturing company based in Northern Alabama with a secondary facility in Ogden, Utah. The company specializes in manufacturing a wide variety of tanks and containers for the Environmental, Industrial and Energy Industries. Large customers include United Rentals and Mobil Mini. The Company has grown from \$25M to \$45M under Vigeo’s 6 year partner ship with the company.

**Alliance Building Solutions-** is an Energy Service Company (ESCO) based in San Diego California. Vigeo and Chip have been partners on this transaction since June of this year. The company is focused on making buildings in the Municipality and K-12 industries more efficient through a variety of solutions including: Solar installation, lighting retrofit, HVAC replacement and other building envelope options.

Away from work, Steven is focused on bettering the Denver community and has served on young professional boards of several organizations including Junior Achievement and Strive Preparatory schools. Steven met his wife Amy through a leadership program in Denver titled “Impact Denver” which was sponsored through the Chamber of Commerce. Steven and Amy now share two children- Landon (Age 4) and Olivia (age 6 months) and enjoy showing them all the things they love about the Colorado outdoors including skiing, hiking, and camping.

## **Kelly Grindle**

Kelly has a 25+ year track record of successfully growing, acquiring and turning around consumer branded, manufacturing based business, including Hatteras/Cabo Yachts LLC. Kelly currently is CEO of Velocity Outdoor which, before selling off its airgun division earlier this year, was a \$200+ million business made up of iconic outdoors brands such as Crosman and Benjamin airguns, and premium performance archery brands like Ravin and Centerpoint crossbows. Prior to Velocity, Kelly was CEO of Hatteras/Cabo Yachts LLC, where he turned around a highly distressed business operation by significantly improving the operations, repositioning the brands and driving sales efforts while dramatically elevating the overall customer experience. Hatteras builds 60-105' motor yachts and 45-70' sportfishing yachts. Before Hatteras, Kelly was President of the \$1.3 billion outdoor products business of Vista Outdoor where he was responsible for more than 40 brands and managed a global organization of over 4500 people. While at Vista, Kelly acquired two businesses which added more than



\$400 million in revenue. Kelly began his management experience with Johnson Outdoors where he spent 15 years and was responsible for \$425+ million of business including the Fishing, Diving and Watercraft groups. Prior to Johnson Outdoors, he spent 6 years leading M&A and venture investment deals for the family office of Samuel C. Johnson and the professional cleaning chemical business of S.C. Johnson & Son. Over his career, Kelly has acquired 14 businesses and turned around three. Kelly holds an MBA from Marquette University and a BS in Finance from The Kelley School of Business at Indiana University.

**TERMS AND CONDITIONS OF PURCHASE, SALE,  
OR TRANSFER OF (SUB)LEASEHOLD INTEREST**

(NOTE: Complete this page only if the transaction involves a Lease transfer, or the transfer of a Sublease having a remaining term of more than five years.)

Please summarize the terms and conditions of the purchase, sale, or transfer of (Sub)Leasehold interest(s) which requires District consent, as specified in the Assignment-Sublease provisions of the District Lease. Please attach copies of the applicable sales agreement(s), escrow instructions, assignment agreement(s), or other documents in conjunction with the sale, purchase, or transfer of the (Sub)Leasehold interest(s).

Attached is the executed copy of the MIPA executed on February 28, 2025. The closing of this purchase is dependent on, among other things, the transfer and approval of the current Lease and an amended or new lease by the San Diego Port Authority. Note that the transaction value and other economic terms are redacted from the attached purchase agreement.

## ADDENDUM A

MIPA

(attached)

**MEMBERSHIP INTEREST PURCHASE AND CONTRIBUTION AGREEMENT**

**BY AND AMONG**

**MARINE GROUP GLOBAL HOLDINGS, LLC,**

**MGBW, LLC,**

**MARINE GROUP LOS CABOS LLC,**

**MS SD, LLC,**

**ARTHUR E. ENGEL (IN THE CAPACITY OF SELLERS' REPRESENTATIVE),**

**AND**

**THE MEMBERS OF THE COMPANIES AS SET FORTH ON EXHIBIT A**

Dated as of February 28, 2025

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## MEMBERSHIP INTEREST PURCHASE AND CONTRIBUTION AGREEMENT

**THIS MEMBERSHIP INTEREST PURCHASE AND CONTRIBUTION AGREEMENT** (this “**Agreement**”) is dated as of February 28, 2025 (the “**Effective Date**”), and entered into by and among Marine Group Global Holdings, LLC, a Delaware limited liability company (“**Buyer**”), MGBW, LLC, a Delaware limited liability company (“**MGBW**”), Marine Group Los Cabos LLC, a Delaware limited liability company (“**MG Cabo**”), MS SD, LLC, a Delaware limited liability company (“**MS SD**” and together with MGBW and MG Cabo, each a “**Company**” and, collectively the “**Companies**”), the Persons identified on Exhibit A hereto (each, a “**Seller**” and, collectively, the “**Sellers**”), and Arthur E. Engel, an individual, in the capacity as the Sellers’ Representative under this Agreement (the “**Sellers’ Representative**”).

**WHEREAS**, Sellers collectively own all of the issued and outstanding membership interests of the Companies (the “**Interests**”);

**WHEREAS**, Buyer desires to purchase and acquire from Sellers, and each Seller desires to sell to Buyer, all of its right, title, and interest in and to the Purchased Interests (as hereafter defined), subject to the terms and conditions set forth herein;

**WHEREAS**, Fidelity Charitable owns a membership interest in MGBW which is managed as a donor-advised fund; and

**WHEREAS**, Roberts Trust, a Seller, desires to contribute to Buyer, and Buyer desires to accept from Roberts Trust, all of Roberts Trust’s right, title and interest in and to the Contributed Interests (as hereafter defined) in exchange for the Rollover Securities (as hereafter defined), subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing recitals (which are incorporated herein by this reference), the representations, warranties, covenants and agreements contained herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

1.01 Definitions. The following terms have the meanings specified or referred to in this Section 1.01:

“**A. Engel**” means Arthur E. Engel, an individual.

“**Accrued Employee Obligations**” means, as of the Closing Date, with respect to the employees and service providers of the Target Companies, all accrued and unpaid (i) bonuses and other related obligations (including Taxes), (ii) severance obligations owed under Laws, (iii) vacation or other paid time off, and (iv) payments required to be made by the Target Companies under any Benefit Plans.

“**Acquisition Proposal**” has the meaning set forth in Section 6.01(e).

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” and “**Affiliated**” means, with respect to any Person, any other Person that directly or indirectly Controls, is Controlled by, or is under common Control with, such Person. In addition to the foregoing, if the specified Person is an individual, the term “**Affiliate**” also includes (a) the individual’s spouse, (b) the parents and children of the individual or the individual’s spouse and (c) any corporation, limited liability company, general or limited partnership, trust, association or other business or investment entity that directly or indirectly, through one or more intermediaries, is Controlled by any of the foregoing individuals. The term “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms “**Controlled**” and “**Controlling**” have meanings correlative thereto. For purposes of this Agreement, the Target Companies shall not be Affiliates of Buyer on or prior to the Closing Date.

“**Agreement**” has the meaning set forth in the preamble.

“**Anti-Corruption Laws**” means any applicable law, regulation, or rule related to combating corruption or bribery, including, but not limited to, the United States Foreign Corrupt Practices Act of 1977 as amended.

“**Anti-Money Laundering Laws**” means any applicable law, regulation, or rule related to combating money laundering, suspicious transactions, trade embargos, economic sanctions, or terrorist financing, including, but not limited to, the US Bank Secrecy Act of 1986, the USA Patriot Act of 2001 (in each case to the extent applicable to the Parties and to this Agreement) and any Governmental List.

“**Benefit Plan**” means each and every pension, benefit, compensation, retirement, profit-sharing, savings, deferred compensation, health and welfare, social, disability, life, severance, retention, change in control, equity or equity-based, equity option, profits interest, phantom equity, paid leave, or fringe-benefit agreement, plan, policy, fund and program, including each “employee benefit plan” within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA), which is maintained, sponsored, contributed to, or required to be contributed to by any Target Company or any ERISA Affiliate for the benefit of any current or former employee of a Target Company or any spouse or dependent of such individual.

“**Business Day**” means any day except Saturday, Sunday, or any other day on which commercial banks located in Denver, Colorado are authorized or required by Law to be closed for business.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer’s Knowledge**” means the knowledge of Steven Folse and Chip Besse. For purposes of this Agreement, Steven Folse and Chip Besse shall be deemed to have knowledge of a particular fact or other matter if such individual is actually aware of such fact or other matter. For the avoidance of doubt, nothing in this Agreement shall subject Steven Folse and Chip Besse to any personal liability hereunder.

“**Buyer Indemnified Parties**” has the meaning set forth in Section 9.03(a).

“**Buyer Released Claims**” has the meaning set forth in Section 6.04.

“**Buyer Released Parties**” has the meaning set forth in Section 6.03.

“**Buyer Releasors**” has the meaning set forth in Section 6.04.

**“Cabo Concession”** means the Concession granted to the lessor under the Cabo Lease by the applicable Governmental Authority(ies) and pursuant to which such lessor has the authority to use, occupy and lease the Cabo Property.

**“Cabo Lease”** means that certain Lease Agreement, by and between Banco Invex, Sociedad Anonima, Multiple Banking Institution, Invex Financial Group, acting as Trustee of the Trust identified as “Fideicomiso Puerto Los Cabos Fonatur 192”, as Lessor, and Marine Group Boat Works de Los Cabos, SDRL C.V., as Lessee, entered into as of July 10, 2008, recorded in the Public Registry of Property and Commerce of Los Cabos, Baja California Sur, under entry number 129, Page 129, Volume V, and as amended by that certain Amendment to Lease, dated July 2, 2009. For the avoidance of doubt, the Cabo Lease is a Real Property Lease.

**“Cabo Property”** means that certain real property which is more particularly described in and leased by the applicable Target Company pursuant to the Cabo Lease. For the avoidance of doubt, the Cabo Property is Leased Real Property.

**“Cap”** has the meaning set forth in Section 9.02(c).

**“CARES Act”** means the Coronavirus Aid, Relief, and Economic Security Act (H.R. 748), as amended or restated, including all other acts, regulations and guidance related thereto, including the Coronavirus Preparedness and Response Supplemental Appropriations Act (H.R. 6074), the Families First Coronavirus Response Act (H.R. 6201), the Paycheck Protection Program and Health Care Enhancement Act (H.R. 266), and the Paycheck Protection Program Flexibility Act of 2020 (H.R. 7010).

**“Cash Consideration”** has the meaning set forth in Section 2.02(a).

**“CERCLA”** means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.), as amended, and all rules, regulations and standards issued thereunder.

**“Closing”** has the meaning set forth in Section 7.03.

**“Closing Date”** has the meaning set forth in Section 7.03.

**“Closing Date Balance Sheet”** has the meaning set forth in Section 2.03.

**“Closing Date Certificate”** has the meaning set forth in Section 2.03.

**“Closing Indebtedness”** has the meaning set forth in Section 2.02(a).

**“Closing Seller Expenses”** has the meaning set forth in Section 2.02(a).

**“COBRA”** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and the regulations and other guidance promulgated thereunder.

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

**“Company”** has the meaning set forth in the preamble.

**“Company Environmental Permits”** has the meaning set forth in Section 4.19(d).

**“Company Intellectual Property”** means all Intellectual Property that is owned by the Target Companies.

**“Company IP Agreements”** means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases, permissions and other Contracts, whether written or oral, relating to Intellectual Property to which a Target Company is a party, beneficiary or otherwise bound.

**“Company IT Systems”** means all software, computer hardware, servers, networks, platforms, peripherals, and similar or related items of automated, computerized or other information technology networks and owned, leased, licensed, or used (including through cloud-based or other third-party service providers) by the Target Companies.

**“Condition”** means any condition that results in or otherwise relates to an Environmental Claim.

**“Confidential Information”** means any information concerning the business and affairs of the Target Companies not already generally available to the public.

**“Contracts”** has the meaning set forth in Section 4.16(a).

**“Contributed Interests”** means a pro rata share of the Interests held by Roberts Trust equal to the following ratio: (i) the Rollover Securities Consideration Value, as the numerator, and (ii) Roberts Trust’s Overall Share of the Purchase Price, as the denominator.

**“Coronavirus Pandemic”** means as declared by the World Health Organization on March 11, 2020, the 2020 Coronavirus Pandemic caused by COVID-19.

**“Coronavirus Relief Programs”** means any federal, state, provincial and local Governmental Authority relief programs established in response to the Coronavirus Pandemic, including any relief established or authorized under the CARES Act, and applicable rules, regulations and guidance, in each case, as amended.

**“COVID-19”** means SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), coronavirus disease or COVID-19.

**“COVID-19 Measures”** means any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, shut down, closure, sequester or any other Law, Order, directive, guidelines or recommendations by any Governmental Authority in connection with or in response to COVID-19, including, but not limited to, the CARES Act.

**“Deductible”** has the meaning set forth in Section 9.02(c).

**“Designated Accounting Firm”** means RSM US.

**“Direct Claim”** has the meaning set forth in Section 9.05(c).

**“Due Diligence Materials”** has the meaning set forth in Section 4.25.

**“Effective Date”** has the meaning set forth in the preamble.

**“Encumbrance”** means any security interest, lien, pledge, bailment, mortgage, hypothecation, deed of trust, conditional sales and title retention agreement, charge, covenant, encumbrance, condition, voting trust arrangement, restriction, claim or right of a third party of whatever kind or nature, or other similar arrangement or interest in real or personal property.

**“Environmental Claims”** means any Action by any Person alleging Liability that is (a) based upon any Environmental Law, or (b) associated with the presence or Release of any Hazardous Material. The term “Environmental Claims” includes (without limitation): (i) fines, penalties, Orders, awards, settlements, losses, damages (including foreseeable and unforeseeable consequential damages), costs, fees (including attorneys’ and consultants’ fees), expenses and disbursements; (ii) defense and other response to an administrative or judicial action (including notices, claims, complaints, Orders, suits and other assertions of liability); and (iii) financial responsibility or liability for (A) cleanup costs and/or injunctive relief, including any Removal, Remedial or Response actions, and natural resource damages, and (B) any other compliance or remedial measures.

**“Environmental Laws”** means, as enacted and in effect on or prior to the Closing Date, any Laws which address, are related to, or are otherwise concerned with environmental, health or safety issues (including occupational safety and health but only to the extent relating to exposure to Hazardous Materials), pollution, natural resources (including natural resource damages) or the environment (including ambient air, surface water, ground water, land surface or subsurface strata), including, but not limited to, laws relating to Releases or threatened Releases of Hazardous Materials or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, transport or handling of any Hazardous Material.

**“Environmental Notice”** means any written directive, written notice of violation or infraction, or written notice respecting any Environmental Claim relating to actual or alleged non-compliance with (a) any Environmental Law applicable to the Leased Real Property or any other property formerly owned or operated by any of the Target Companies, or (b) any term or condition of any Environmental Permit issued to a Target Company and related to the Leased Real Property or any other property formerly owned or operated by any of the Target Companies.

**“Environmental Permit”** means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to an Environmental Law.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

**“ERISA Affiliate”** means, with respect to any Person, any member of a controlled group of entities under Section 414(b) of the Code of which such Person is a member, and any trade or business (whether or not incorporated) under common control with such Person under Section 414(c) of the Code, and all other entities which together with such Person are or were within any of last three (3) years treated as a single employer under Section 414(m) or 414(o) of the Code.

**“Escrow Agent”** shall mean Argent Institutional Trust Company, a trust company organized and existing under the laws of the State of Florida.

**“Escrow Agreement”** shall mean an Escrow Agreement entered into as of the Closing Date by and among Buyer, Sellers and/or Sellers’ Representative, and the Escrow Agent, substantially in the form attached hereto as Exhibit I.

**“Escrow Amount”** means an amount equal to one-half of the retention amount listed under the R&W Insurance Policy.

**“Escrow Fund”** means the Escrow Amount, as the same may be adjusted from time to time pursuant to the terms of the Escrow Agreement.

**“Excluded Assets”** means the items listed in Schedule 6.01(c)(vi).

**“Excluded Entity”** means each of Star & Crescent Boat Company, Ferry Landing Associates, LLC, FLA Holdings, LLC, Port Coronado Associates, LLC, PCA Holdings, LLC, San Diego California Properties, LLC, SDCP, LLC, The Marine Group, LLC, TM Group Holdings, LLC, Fifth Avenue Landing, LLC, and 14754 Ceres Avenue LLC.

**“Fidelity Charitable”** means Fidelity Investments Charitable Gift Fund, a Massachusetts charitable trust.

**“Fraud”** means, with respect to a party, an actual and intentional misrepresentation of a material existing fact with respect to the making of any representation or warranty in ARTICLE III, ARTICLE IV or ARTICLE V, made by such party, to such party’s actual knowledge of its falsity and made for the purpose of inducing the other party to act, and upon which the other party reasonably relies, with resulting Indemnifiable Losses.

**“Fundamental Representations”** means the representations set forth in Section 3.01 (Organization and Good Standing), Section 3.02 (Authority), Section 3.03 (Enforceability), Section 3.04 (No Conflict), Section 3.05 (Ownership of Interests), Section 3.06 (No Brokers or Finders), Section 3.07 (Investment Representations), Section 4.01 (Organization and Good Standing), Section 4.02 (Authority; Enforceability), Section 4.03 (No Conflicts), Section 4.06 (Capitalization and Subsidiaries), Section 4.12 (Taxes), Section 4.13 (Benefits Plans; ERISA); Section 4.14(a) (Title to Assets), Section 4.18(c) (Union Activity); Section 4.23 (Transactions with Related Parties), Section 4.24 (No Brokers or Finders), Section 5.01 (Organization; Standing and Power), Section 5.02 (Authority; Enforceability), Section 5.03 (No Conflict) and Section 5.04 (No Brokers or Finders).

**“GAAP”** means the United States Generally Accepted Accounting Principles as modified by the Financial Accounting Standards Board of the United States from time to time.

**“Governing Documents”** means, with respect to any particular entity: (a) if a corporation, the articles, statutes, or certificate of incorporation and the rules of operation of specific corporate bodies thereof (including bylaws of such entity); (b) if a general partnership, the partnership agreement and any statement of partnership of such entity; (c) if a limited partnership or limited liability partnership, the limited partnership agreement or limited liability partnership agreement and the certificate of limited partnership or limited liability partnership of such entity; (d) if a limited liability company, the articles or certificate of organization or formation and the operating agreement or limited liability company agreement of such entity; (e) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (f) if a trust, any trust agreements; (g) all equity holders’ agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements, subscription agreements, restricted share grant agreements, share purchase agreements, share grant plans, or other agreements, plans or documents relating to the organization, management or operation of such entity or relating to the rights, duties and obligations of the equity holders of such entity with respect thereto; and (h) any amendment, modification or supplement to any of the foregoing.

**“Governmental Authority”** means any: (a) federal, state, provincial, national, supranational, local, municipal, foreign, administrative, regulatory, supervisory or other government or political subdivision thereof; (b) governmental authority of such government or political subdivision (including any agency, branch, department, board, commission or other similar governmental entity exercising governmental powers); or (c) court, arbitrator, or tribunal of competent jurisdiction, in each case, to extent that the rules, regulations or orders of the authorities set forth in clauses (a) – (c) have the force of Law in that jurisdiction.

**“Governmental List”** means any list of any Governmental Authority of denied or restricted parties, including the Office of Foreign Assets Control of the U.S. Treasury Department Specially Designated Nationals and Blocked Persons List, the U.S. Department of Commerce Denied Persons List, the U.S. Department of Commerce Entity List, and the U.S. Department of State Debarred List.

**“Governmental Official”** means any official, employee or Representative of any Governmental Authority (or agency, instrumentality, or entity owned or controlled by any Governmental Authority) or public international organization, any political party or employee thereof or any candidate for political office.

**“Gradilla Action”** means that certain Action filed by Enrique Gradilla against Marine Group Boat Works, LLC in the San Diego Superior Court, Case No. 24CU019911C and any all Actions related to such causes of action brought thereunder, including, without limitation, any claims brought under the Private Attorney General Act of 2004 (as amended).

**“Hazardous Activity”** means any distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use of any Hazardous Material.

**“Hazardous Material”** means any substance, material or waste which is currently regulated by any applicable Governmental Authority or applicable Environmental Law or any other applicable Law, including any material, substance or waste defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “contaminant,” “toxic waste,” “toxic substance,” “dangerous goods” or words of similar import, under any provision of Environmental Law, including petroleum, petroleum products, asbestos, asbestos-containing material, lead paint, and formaldehyde, polychlorinated biphenyls.

**“Income Tax”** (and, with the correlative meaning, **“Income Taxes”**) means any Tax that is based on, or computed with respect to, net income or earnings, gross income or earnings, capital or, net worth (and any franchise Tax or other Tax in connection with doing business imposed in lieu thereof) and any related penalties, interest and additions to Tax; provided, however, for the avoidance of doubt, the term **“Income Tax”** shall not include any sales or use tax.

**“Indebtedness”** of any Person at any date means, without duplication, (a) all indebtedness of such Person for borrowed money whether short-term or long-term, including any PPP Loan, (b) any Liability evidenced by bonds, debentures, notes or similar instruments, including any PPP Loan, (c) any Liability to pay the deferred purchase price of property or services, (d) any capitalized lease obligations or other obligations arising under conditional sales contracts and other similar title retention instruments, (e) all Liability in respect of letters of credit, bankers’ acceptances or similar facilities, (f) all unpaid Taxes of the Target Companies to the extent accruing or arising prior to the Closing Date, (g) any deferred payments of the employer’s share of the Social security employment Tax and other Tax deferrals, (h) outstanding or unsatisfied obligations under any interest rate swap, interest rate cap, interest rate collar, currency swap agreement, cap agreement, collar agreement or other hedging or derivative agreement or arrangement (whether entered into for hedging or speculative purposes), (i) all interest, penalties, fees (including any prepayment premiums) and other expenses owed with respect to indebtedness in the foregoing clauses (a) through (h), and (j) all indebtedness referred to in the foregoing clauses (a) through (g) that is directly or indirectly guaranteed by such Person.

**“Indemnifiable Losses”** means any and all damages, losses, Liabilities, obligations, diminution in value, costs and expenses, and any and all claims, demands or suits (by any Person, including without limitation any Governmental Authority), including without limitation the costs and expenses of any and all

actions, suits, proceedings, demands, assessments, judgments, settlements and compromises relating thereto and including reasonable out-of-pocket attorneys' fees and expenses in connection therewith.

**"Indemnifying Party"** means any Person required to provide indemnification under this Agreement.

**"Indemnitee"** means any Person entitled to indemnification under this Agreement.

**"Indemnity Payment"** means any amount of Indemnifiable Losses required to be paid by a party pursuant to this Agreement.

**"Insurance Policies"** has the meaning set forth in Section 4.22.

**"Insurer"** means the insurer under the R&W Insurance Policy.

**"Intellectual Property"** means all domestic and foreign intellectual property and proprietary rights, including all (a) patents, patent applications and statutory invention registrations, (b) trademarks, service marks, domain names, social media identifiers, handles, passwords, logins, tags, trade dress, design rights, logos, trade names, corporate names and other identifiers of source or goodwill, including registrations and applications for registration thereof and including the goodwill of the business symbolized thereby or associated therewith, (c) copyrights, and copyrightable works and works of authorship, including copyrights in computer software, promotional materials and any websites, and registrations and applications for registration thereof, (d) confidential and proprietary information, including trade secrets, know-how and invention rights (whether or not patentable), research and development, financial, marketing and business data, pricing and cost information, business and marketing plans, methods, processes, techniques, technical data, designs, drawings, specifications, data, databases and documentation thereof, and customer and supplier lists, ideas, trade secrets, computer software, including source code, know-how, works-in-progress, concepts, methods, processes, inventions, product engineering, invention disclosures, formulae, reports, data, customer and supplier lists, business plans or other proprietary information, and (e) the right to sue and collect damages for past infringement or dilution with respect to any of the foregoing.

**"Intended Tax Treatment"** has the meaning set forth in Section 8.01.

**"Interests"** has the meaning set forth in the recitals.

**"IRS"** means the Internal Revenue Service.

**"Laws"** means all United States and non-U.S. (including Mexican) federal, state and local laws, statutes, rules, regulations, standards, requirements, rules and principles of common law, ordinances and codes, now or hereafter in effect, including any judicial and administrative interpretations thereof, and all Orders, including, but not limited to, any Anti-Corruption Laws and any Anti-Money Laundering Laws.

**"Leased Real Property"** has the meaning set forth in Section 4.15(b).

**"Leasehold Title Policy"** means, with respect to the SD Lease and the SD Property, a standard ALTA owner's policy of title insurance, insuring leasehold title to the SD Property in the applicable Target Company in the amount of \$35,000,000, subject only to the Permitted Exceptions, and with such endorsements as may be reasonably required by Buyer.

**"Liability"** and **"Liabilities"** means any liability, loss or obligation of whatever kind or nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether



accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liability for Taxes.

**“Listed Persons”** means the Persons with names listed on Governmental Lists.

**“Lookback Date”** means the date that is five (5) years prior to the Closing Date.

**“Management”** means generation, production, handling, distribution, processing, use, storage, treatment, operation, transportation, recycling, reuse and/or disposal, as those terms are defined, construed or otherwise used in Environmental Laws.

**“Material Adverse Effect”** means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Target Companies, or (b) the ability of Sellers to consummate the transactions contemplated hereby on a timely basis; provided, however, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) any action required or permitted by this Agreement, except pursuant to failure to obtain the Required Consents; or (ii) the public announcement, pendency or completion of the transactions contemplated by this Agreement.

**“Material Contracts”** has the meaning set forth in Section 4.16(a).

**“Material Customer”** has the meaning set forth in Section 4.20.

**“Material Lease Term(s)”** has the meaning set forth in Section 7.01(f).

**“MG Cabo”** has the meaning set forth in the preamble.

**“MGBW”** has the meaning set forth in the preamble.

**“Order”** means any order, injunction, judgment, decree, ruling, writ, arbitration decision or award, Permit or assessment of a Governmental Authority.

**“Outside Date”** has the meaning set forth in Section 7.04(a)(ii).

**“Overall Share”** means each Seller’s overall share of the Interests, as set forth opposite such Seller’s name on the Overall Share Table set forth on Exhibit A hereto.

**“Permit”** means any permit, license, review, certification, approval, registration, consent, order, franchise, accreditation or other authorization issued pursuant to any Law.

**“Permitted Encumbrances”** means: (a) with respect to any real property (i) zoning, building code and similar restrictions and land use Laws affecting such real property, and (ii) easements, covenants, conditions and restrictions of record affecting such real property (but excluding, for purposes of the SD Property, any such matters that are not disclosed in the applicable Title Commitment); (b) Encumbrances for Taxes and assessments not yet due and payable or being contested in good faith by appropriate procedures and for which adequate reserves (as determined in accordance with GAAP) have been established on the Closing Date Balance Sheet with respect thereto; and (c) worker’s, carrier’s, mechanic’s, materialman’s and similar Encumbrances for amounts that are not yet past due and owing and which were incurred in the ordinary course of business of the Target Companies.

**“Person”** means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a Governmental Authority.

**“Post-Closing Tax Period”** means any taxable period beginning after the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period beginning after the Closing Date.

**“PPP Loan”** means any and all Paycheck Protection Program loans under the Small Business Administration 7(a) loan program received by a Target Company in connection with the CARES Act, as supplemented by the Paycheck Protection Program and Health Care Enhancement (PPHCE) Act.

**“Pre-Closing Straddle Period”** has the meaning set forth in Section 8.04.

**“Pre-Closing Tax Period”** means any taxable period ending on or before the Closing Date.

**“Pro Rata Share”** means each Seller’s percentage of the issued and outstanding membership interests of each Company set forth opposite such Seller’s name with respect to each Company (as applicable) as set forth on Exhibit A hereto.

**“Prohibited Transaction”** has the meaning set forth in section 406 of ERISA and section 4975 of the Code.

**“Purchase Price”** has the meaning set forth in Section 2.02(a).

**“Purchased Interests”** means the Interests *less* the Contributed Interests.

**“R&W Insurance Policy”** has the meaning set forth in Section 6.06.

**“RCRA”** means the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), as amended, and all rules, regulations and standards issued thereunder.

**“Real Property Leases”** has the meaning set forth in Section 4.15(b).

**“Registered Intellectual Property”** means all Intellectual Property registered to or filed in the name of the Target Companies.

**“Related Party”** means (a) A. Engel, (b) any Affiliate of A. Engel, (c) any Excluded Entity, (d) any Seller, and (e) any manager or officer of the Target Companies.

**“Related Party Agreements”** means any Contract between a Related Party and the Target Companies.

**“Release”** and **“Released”** means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, placing, discarding, abandonment, presence requiring removal or abatement, or disposing into the environment (including the placing, discarding or abandonment of any barrel, container or other receptacle containing any Hazardous Material).

**“Removal,” “Remedial”** and **“Response”** actions include the types of activities covered by CERCLA, RCRA, and other comparable Environmental Laws, including those adopted by the State of Texas, and whether the activities are (a) those that might be taken by a Governmental Authority or (b) those

that a Governmental Authority or any other Person might seek to be taken by a third party who is or has been engaged in the Management of Hazardous Materials.

**“Representative”** means, with respect to any particular Person, any and all directors, managers, officers, employees, consultants, advisors, counsel, accountants and other agents of such Person, including legal counsel, accountants, investment bankers and financial advisors.

**“Required Consents”** has the meaning set forth in Section 4.03.

**“Restricted Country”** means any Person that is the subject or target of a comprehensive embargo under Law, including Cuba, Iran, North Korea, Syria, Venezuela, the Crimea region of Ukraine, the so-called “Donetsk People’s Republic,” and the so-called “Luhansk People’s Republic”.

**“Restrictive Covenant Agreement”** means a Restrictive Covenant Agreement in the form attached hereto as Exhibit E.

**“Roberts”** means Todd Roberts, an individual.

**“Roberts Trust”** means the Todd and Andrea Roberts Family Trust dated August 1, 2006.

**“Rollover Securities”** means equity interests in Buyer (or in a direct or indirect owner of Buyer) equivalent in value to the Rollover Securities Consideration Value.

**“Rollover Securities Consideration Value”** means \$ [REDACTED]

**“SD Lease”** means that certain Amended, Restated and Combined Lease, dated as of February 3, 2009, by and between San Diego Unified Port District, as Lessor, and (as successor by assignment) Marine Group Boat Works, LLC, as Lessee, as amended by that certain Amendment No. 1, dated July 10, 2012, and that certain Amendment No. 2, dated November 6, 2015. For the avoidance of doubt, the SD Lease is a Real Property Lease.

**“SD Property”** means that certain real property which is more particularly described in and leased by the applicable Target Company pursuant to the SD Lease. For the avoidance of doubt, the SD Property is Leased Real Property.

**“Securities Act”** has the meaning set forth in Section 3.07.

**“Sellers”** has the meaning set forth in the preamble.

**“Seller CapEx Obligations”** means the remaining amounts required to be paid by any of the Target Companies, as of the Closing Date, to complete the construction and installation of the fence on the SD Property in accordance with San Diego Unified Port District Document No. 76748.

**“Seller Expenses”** means the Transaction Expenses incurred on or prior to the Closing Date by the Sellers or any Target Company in connection with this Agreement and the transactions contemplated hereby, to the extent and only to the extent such fees, costs, and expenses are unpaid as of the Closing, including (a) amounts owed to attorneys, accountants and investment banks, (b) any transaction bonuses, retention payments, incentive amounts, change of control payments or other similar payments (including the employer portion of employment Taxes in connection therewith) payable in connection with the consummation of the transactions contemplated by this Agreement or any Transaction Document, (c) all costs, fees of all Representatives of the Sellers or the Target Companies, including attorneys, accountants

and financial advisors, (d) fifty percent (50%) of the costs and expenses associated with obtaining the R&W Insurance Policy (provided, that such Seller Expense amount related to the R&W Insurance Policy shall not exceed \$150,000), and (e) fifty percent (50%) of the fees, costs, and expenses of the Escrow Agent pursuant to the Escrow Agreement.

“**Seller Indemnified Parties**” has the meaning set forth in Section 9.03(c).

“**Seller Released Claims**” has the meaning set forth in Section 6.03.

“**Seller Released Parties**” has the meaning set forth in Section 6.04.

“**Seller Releasors**” has the meaning set forth in Section 6.03.

“**Seller Tax Returns**” has the meaning set forth in Section 8.02(a).

“**Seller’s Knowledge**” means the knowledge of each of Arthur E. Engel and Todd Roberts. For purposes of this Agreement, any individual shall be deemed to have knowledge of a particular fact or other matter if, on the date on which the representation or warranty with respect to such knowledge is made or required by the terms of this Agreement to be true and correct, (a) such individual is actually aware of such fact or other matter or (b) would reasonably be expected to discover or become aware of such fact or other matter after due inquiry.

“**Sellers’ Representative**” has the meaning set forth in the preamble.

“**Several Claim**” has the meaning set forth in Section 10.14(c).

“**Straddle Period**” has the meaning set forth in Section 8.04.

“**Subsidiaries**” means the direct and indirect subsidiaries of the Companies, including, Marine Group Boat Works, LLC, Marine Group Los Cabos II LLC, Marine Group Boat Works de Los Cabos S. de R.L. de C.V., Marine Group Boat Works de Mexico S. de R.L. de C.V., and Marine Group Global Services, LLC.

“**Tail Policy**” has the meaning set forth in Section 6.07.

“**Target Companies**” means, collectively, the Companies and the Subsidiaries, and each of them individually, is a “**Target Company**.” For the avoidance of doubt, the Target Companies shall not include the Excluded Entities.

“**Tax**” or “**Taxes**” means (a) any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code Section 59A), customs, duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, and including obligations under applicable escheat or unclaimed property Laws, in each instance including any interest, penalty, or addition thereto, whether disputed or not, and (b) any obligations to indemnify or otherwise assume or succeed to the Liability for Taxes described in clause (a) with respect to any other Person, including any obligations under any Tax sharing, Tax allocation, or Tax indemnity agreements and any obligations by Contract, as successor or otherwise.

“**Tax Authority**” means any Governmental Authority responsible for the imposition or collection of any Tax.

“**Tax Proceeding**” has the meaning set forth in Section 8.05.

“**Tax Return**” means any return, declaration, report, claim for refund, or information return or statement (including any related or supporting schedules, statements or information) relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Termination Fee**” means \$ [REDACTED]

“**Third-Party Claim**” means notice of the assertion, threat or commencement of any Action made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing.

“**Title Commitment(s)**” means, with respect to the SD Property, that certain ALTA Commitment for Title Insurance issued by Stewart Title Guaranty Company, Commitment No. 24000310553-CA with an effective date of December 27, 2024.

“**Total Consideration**” has the meaning set forth in Section 2.02(b).

“**Transaction Documents**” means this Agreement, the Restrictive Covenant Agreements, and each other agreement, certificate, instrument or other document to be executed and delivered by the parties pursuant to Section 7.03 in connection with the Closing.

“**Transaction Expense**” means, with respect to any Person, all fees, costs and expenses (including all legal fees and expenses, all fees and expenses payable to any broker, advisor or finder, and all fees and expenses of any audit firm or accountants) that have been incurred in connection with the transactions contemplated by this Agreement.

“**Transfer Taxes**” has the meaning set forth in Section 8.07.

“**WARN Act**” means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign Laws related to plant closings, relocations, mass layoffs and employment losses.

“**Working Capital Allowance**” means \$ [REDACTED].

## ARTICLE II PURCHASE, SALE AND CONTRIBUTION; CLOSING

2.01 Purchase, Sale and Contribution. Subject to the terms and conditions set forth herein, at the Closing, each Seller shall (a) sell to Buyer, and Buyer shall purchase from Seller, the Purchased Interests, free and clear of all Encumbrances, in exchange for the Purchase Price, and (b) Roberts Trust shall contribute the Contributed Interests, free and clear of all Encumbrances, and Buyer shall accept as a contribution from Roberts Trust, all of Robert Trusts’ right, title and interest in and to the Contributed Interests, in exchange for the Rollover Securities.

2.02 Purchase Price. Subject to the adjustments in this Section 2.02 and in Section 2.03 and Section 2.04 below:

(a) the aggregate consideration for the Purchased Interests shall consist of the following (the “**Purchase Price**”):

(i) an amount payable in cash equal to \$[REDACTED], minus the amount of Indebtedness of the Target Companies paid by Buyer on behalf of the Target Companies pursuant to Section 7.03(b)(iii) (“**Closing Indebtedness**”), minus the Seller Expenses that are paid pursuant to Section 7.03(b)(iv) on or prior to the Closing (“**Closing Seller Expenses**”), minus the Rollover Securities Consideration Value, minus the Accrued Employee Obligations, and minus the Seller CapEx Obligations (the resulting total cash amount, the “**Cash Consideration**”);

(ii) the aggregate amount of Closing Indebtedness paid by Buyer on behalf of Seller pursuant to Section 7.03(b)(iii); and

(iii) the aggregate amount of Closing Seller Expenses paid by Buyer pursuant to Section 7.03(b)(iv).

(b) the aggregate consideration for the Contributed Interests shall consist of the issuance of the Rollover Securities (together with the Purchase Price, the “**Total Consideration**”).

2.03 Closing Date Certificate. At least five (5) Business Days prior to the Closing Date, Sellers’ Representative shall deliver to Buyer a certificate (the “**Closing Date Certificate**”), certified and executed by Sellers’ Representative, setting forth the good faith estimates of (i) the Closing Indebtedness, (ii) the Closing Seller Expenses, (iii) the Accrued Employee Obligations, (iv) the Seller CapEx Obligations, and (v) the Cash Consideration to be paid to Sellers at Closing, along with a copy of Sellers’ Representative’s good faith estimated unaudited balance sheets of the Target Companies as of the Closing Date (the “**Closing Date Balance Sheet**”) upon which such calculations are based. The Cash Consideration payable at Closing shall be the amount set forth in such Closing Date Certificate.

2.04 Withholding. Buyer shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement all amounts required under applicable Law to be deducted and withheld. Any amounts so deducted or withheld by Buyer shall be treated for all purposes of this Agreement as having been paid to the Person from whom such amount was deducted and withheld.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Except as provided below, each Seller and Fidelity Charitable (where applicable), severally and not jointly, represents and warrants to Buyer that the statements set forth in this ARTICLE III about such Seller are true and correct as of the Effective Date and will be true and correct as of the Closing Date (except to the extent such representations and warranties expressly relate to a specific date, in which case the representations and warranties shall be true as of such specific date); provided that the representations and warranties made in Section 3.07 are made solely by Roberts Trust. For the purposes of this ARTICLE III, the terms “Seller” and “Sellers” shall not include Fidelity Charitable unless expressly stated otherwise.

3.01 Organization and Good Standing. Each Seller (other than Fidelity Charitable) is a trust established and validly existing under the Laws of the jurisdiction of its organization. Fidelity Charitable was duly formed, established and/or organized (as applicable), validly existing and in good standing under the Laws of the jurisdiction of its organization.

3.02 Authority. Each Seller (including Fidelity Charitable) has full power, authority and capacity to execute and deliver this Agreement and each other Transaction Document to which such Seller is a party

and to perform its respective obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the other Transaction Documents to which such Seller is a party and the consummation of the transactions contemplated by this Agreement and the other Transaction Documents have been duly authorized by all necessary action on the part of such Seller.

**3.03 Enforceability.** This Agreement and each other Transaction Document to which each Seller (including Fidelity Charitable) is a party has been duly and validly executed and delivered by such Seller and constitutes a valid and legally binding obligation of such Seller, enforceable against such Seller in accordance with their terms, except as such enforcement may be limited by: (a) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, receivership or other Laws of general application relating to or affecting the enforcement of creditors' rights and remedies, as from time to time in effect; (b) the application of equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law); and (c) the terms of this Agreement.

**3.04 No Conflict.** The execution, delivery and performance of this Agreement and the other Transaction Documents by each Seller (including Fidelity Charitable) do not, and such Seller's consummation of the transactions contemplated by this Agreement will not: (a) result in a breach of or conflict with (i) any of the provisions of such Seller's Governing Documents, or (ii) any resolution adopted by the board of directors or shareholders (or equivalent Persons) of such Seller; (b) give any Governmental Authority or other Person the right to challenge the transactions contemplated by this Agreement or any Transaction Document; (c) result in (with or without notice or lapse of time or both) a material breach of, constitute a material default under or result in the termination, modification or acceleration under any Material Contract or Permits that are material to the business of the Target Companies; (d) violate any Law or Order applicable to the any Seller or any of their respective material properties or assets; or (e) require such Seller to obtain the approval, consent or authorization of, or to make any declaration, filing or registration with, any Governmental Authority or other Person.

**3.05 Ownership of the Interests.** Each Seller (including Fidelity Charitable): (a) owns (legally, beneficially and of record) the equity securities of such Company (including the Interests) listed adjacent to their respective names on Exhibit A, free and clear of any and all Encumbrances (other than restrictions imposed by applicable securities Laws); and (b) has the right, power and authority to sell, transfer and assign such equity securities to Buyer as contemplated by this Agreement. No Person, other than Buyer, has any right or obligation to purchase or acquire any of the Interests listed adjacent to such Seller's name on Exhibit A; and such Seller has no right or obligation to purchase or acquire any equity securities of the Target Companies or any securities of the Target Companies convertible or exercisable into or for equity securities of the Target Companies.

**3.06 No Brokers or Finders.** No Seller (including Fidelity Charitable) has incurred and will not incur, directly or indirectly, as a result of any action taken or permitted to be taken by or on behalf of such Seller, any liability for brokerage or finders' fees or agents' commissions or similar charges in connection with the execution and performance of the transactions contemplated by this Agreement or the Transaction Documents.

**3.07 Investment Representations.**

(a) Roberts Trust (i) is an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, as amended (the "**Securities Act**"), and (ii) has, by itself or through a "purchaser representative" within the meaning of Rule 501(h) under Regulation D of the Securities Act, sufficient knowledge and experience in financial and business matters that Roberts Trust is capable of evaluating the merits and risks of its investment in the Rollover Securities, and Roberts Trust understands and is able to

bear any economic risks associated with such investment (including the inherent risk of losing all or part of Roberts Trust's investment in the Rollover Securities).

(b) Roberts Trust has been provided with the opportunity to ask questions of and receive answers from Buyer concerning (i) the terms and conditions of the issuance of the Rollover Securities in connection with the transactions contemplated in connection with this Agreement, and (ii) the financial condition, operation and prospects of Buyer both before and after giving effect to the transactions contemplated hereby.

(c) Roberts Trust represents and warrants that it is acquiring or purchasing the Rollover Securities pursuant to this Agreement in good faith solely for Roberts Trust's own account, for investment and not with a view toward resale or other distribution in violation of the Securities Act. Roberts Trust acknowledges that it is able to bear the economic risk of investment in the Rollover Securities.

(d) Roberts Trust's investment in Rollover Securities is speculative and risky. There is no public or other market for the Rollover Securities nor is any likely to develop. Roberts Trust may and can afford to lose its entire investment in the Rollover Securities and such Roberts Trust understands that it may have to hold such investment indefinitely. Roberts Trust, in consummating the transactions contemplated hereby, if relying on any advice, is relying solely on the advice of its personal Tax advisor, personal legal advisor or other personal Representative with respect to Tax, including the intended Tax-deferred contribution contemplated by this Agreement and other aspects of Roberts Trust's investment in Buyer and the consummation of the transactions contemplated hereby.

(e) Roberts Trust acknowledges that Buyer will be relying on the representations and warranties of such Roberts Trust made above for purposes of compliance with the Securities Act, any applicable state securities Laws and all other applicable securities Laws and any applicable exemption from registration requirements thereunder and otherwise, and consents to Buyer's reliance on such representations and warranties.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANIES**

The Sellers, jointly and severally, hereby represent and warrant to Buyer that the statements set forth in this ARTICLE IV are true and correct as of the Effective Date and will be true and correct as of the Closing Date (except to the extent such representations and warranties expressly relate to a specific date, in which case the representations and warranties shall be true as of such specific date). For the purposes of this ARTICLE IV, the terms "Seller" and "Sellers" shall not include Fidelity Charitable unless expressly stated otherwise.

##### **4.01 Organization and Good Standing.**

(a) Each Target Company (i) is duly organized, validly existing and (where such concept is meaningful) in good standing under the Laws of the jurisdiction of its organization, (ii) has all requisite power and authority to own, lease and operate its properties and assets and to conduct its business as presently conducted and previously conducted, and (iii) is not subject to any legal challenge regarding its incorporation or continued existence.

(b) Schedule 4.01(b) lists each state or other jurisdiction in which each Target Company is qualified to conduct business as a foreign entity. Each Target Company is duly qualified to do business as a foreign entity in each jurisdiction in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification, except where its failure to



be so qualified could not reasonably be expected to have a material adverse impact on such Target Company.

(c) Correct and complete copies of the organizational documents (including Governing Documents) of each Target Company as in effect as of the date of this Agreement have been made available to Buyer.

(d) Any name or names under which any Target Company or any of its respective predecessors have invoiced account debtors, maintained records concerning its assets or otherwise conducted business in the last three (3) years are set forth on Schedule 4.01(d).

4.02 Authority; Enforceability. The Companies have full power and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and each other Transaction Document to which such Company is a party and the consummation of the transactions contemplated by this Agreement and each other Transaction Document have been duly authorized by all necessary corporate action on the part of such Company. This Agreement and each other Transaction Document to which a Company is a party have been duly and validly executed and delivered by such Company and constitutes a valid and legally binding obligation of such Company, enforceable against such Company in accordance with their terms, except as such enforcement may be limited by: (a) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, receivership or other Laws of general application relating to or affecting the enforcement of creditors' rights and remedies, as from time to time in effect; or (b) application of equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law.

4.03 No Conflicts. Except as set forth on Schedule 4.03, the execution, delivery and performance by each Target Company of this Agreement and each of the Transaction Documents to which it is a party does not, and the performance and consummation of the transactions contemplated hereby or thereby do not and will not: (a) result in a breach of or conflict with (i) any of the provisions of a Target Company's Governing Documents, or (ii) any resolution adopted by the managers or members (or equivalent Persons) of a Target Company; (b) give any Governmental Authority or other Person the right to challenge the transactions contemplated by this Agreement; (c) result in (with or without notice or lapse of time or both) a material breach of, constitute a material default under or result in the termination, modification or acceleration under any Material Contract or Permits that are material to the business of the Target Companies; (d) violate any Law or Order applicable to the any Target Company or any of their respective material properties or assets; or (e) require a Target Company to obtain the approval, consent or authorization of, or to make any declaration, filing or registration with, any Governmental Authority or other Person. Schedule 4.03 sets forth each notice, consent, approval, waiver, filing or similar requirement that is required by any applicable Law, Order, Governmental Authority or Contract in order to consummate the transactions contemplated by this Agreement and the Transaction Documents (the "**Required Consents**").

4.04 Compliance with Laws.

(a) Each Target Company is now, and at all times during the last five (5) years, has been, in material compliance with each Law that is applicable to it. No event has occurred or circumstance exists that could reasonably be expected to constitute or result in a material violation by any Target Company of any applicable Law. No Target Company has received any written or, to Seller's Knowledge, oral notice from any Governmental Authority regarding any material failure to comply with any applicable Law that remains uncured.

(b) Other than normal and customary contributions in compliance with the California Political Reform Act, no Target Company, nor any Seller acting on the direction of the Target Companies, nor, to Seller's Knowledge, any of the Target Companies' Representatives, has offered or given, money or anything of value to (i) any Governmental Official, any political party or official thereof or any candidate for political office or (ii) any other Person, in any such case while knowing or having reason to know that all or a portion of such money or thing of value may be offered, given or promised, directly or indirectly, for the purpose of the following: (A) influencing any action or decision of such Person, in such Person's official capacity, including a decision to fail to perform such Person's official function; (B) inducing such Person to use such Person's influence with any Governmental Authority to affect or influence any act or decision of such Governmental Authority to assist any Target Company in obtaining or retaining business for, with, or directing business to, any Person; or (C) where such payment would constitute a bribe, kickback or illegal or improper payment to assist any Target Company in obtaining or retaining business for, with, or directing business to, any Person, in each case in material contravention of any applicable Laws.

(c) No Target Company nor to the Seller's Knowledge, any of their respective Representatives (i) has been or is designated on any Governmental List, (ii) has participated in any transaction involving the Listed Persons or any country that is subject to U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department, (iii) is located, organized or resident in, or directly or indirectly fifty percent (50%) or more owned by, or otherwise controlled by or acting for any Listed Person or any Restricted Country, (iv) has directly or indirectly provided any financing to or for the benefit of any Listed Person or any Restricted Country or has directly or indirectly conducted any transaction or engaged in any dealings with or for the benefit of any Listed Person or any Restricted Country, (v) has imported, exported (including deemed exportation) or re-exported, directly or indirectly, any goods, technology or services from Russia or in violation of any applicable Laws or (vi) has participated in any export, re-export or transaction connected with any purpose prohibited by Law with respect to export control and economic sanctions, including support for international terrorism and nuclear, chemical or biological weapons proliferation.

4.05 Licenses, Authorizations and Permits. Schedule 4.05 lists each Permit that is held by each Target Company (other than Environmental Permits). Each Permit listed on Schedule 4.05 is valid and in full force and effect, in all material respects and all fees and charges which have become due and payable relating to each such Permit have been paid in full. With respect to each Permit listed on Schedule 4.05: (a) the applicable Target Company is in material compliance with all of the terms and requirements thereof; (b) to Seller's Knowledge, no event has occurred or circumstance exists that could reasonably be expected to constitute or result in a material violation of or a material failure of the applicable Target Company to comply with any term or requirement thereof; and (c) the applicable Target Company has not received any written or, to the Seller's Knowledge, oral notice from any Governmental Authority regarding any failure to comply with any term or requirement thereof that remains uncured. Each Target Company has, where applicable, timely applied for renewal of all the Permits required for the Target Companies to conduct their business. To Seller's Knowledge, no Target Company is aware of any event or circumstance that would cause a material expense or delay for any Target Company to renew any Permits required for the Target Companies to conduct their business as currently operated. The Permits listed on Schedule 4.05, along with the Company Environmental Permits, collectively constitute all of the Permits necessary for the Target Companies to lawfully conduct their business in the manner currently conducted, except where non-compliance could not reasonably be expected to have a material adverse impact on any Target Company. Subject to obtaining the applicable Required Consents, the Permits identified in Schedule 4.05 shall remain in full force and effect, and shall be free and clear of all Encumbrances, other than the Permitted Encumbrances, in all cases, following the consummation of the transactions contemplated by this Agreement and the Transaction Documents.

#### 4.06 Capitalization and Subsidiaries.

(a) *Capitalization of the Target Companies.* All of the equity securities of each Target Company that are authorized and issued as of the date hereof are described on Schedule 4.06(a). All of the issued and outstanding equity securities of each Target Company: (i) were duly issued in accordance with all applicable Laws and the Governing Documents of such Target Company and represent the entire equity capital of such Target Company; (ii) where such concept is applicable, are fully paid and non-assessable; and (iii) are free and clear of all Encumbrances.

(b) *No Other Purchase Rights.* No Person, other than Buyer pursuant to this Agreement, has any right or privilege, whether in the form of a written or oral Contract, option, warrant or otherwise, for the purchase, redemption or acquisition of any of the equity securities of any Target Company or any securities convertible into or exercisable or exchangeable for equity securities of any Target Company.

(c) *Other Contractual Rights.* No Target Company has authorized, granted or issued (or agreed to authorize, grant or issue) any equity appreciation rights, phantom equity rights or similar rights to any Person and no such rights are currently outstanding. There are no voting trusts, proxies or any other agreements or understandings (written or oral) with respect to the voting of the capital stock or other equity securities of any Target Company. There are no Contracts respecting, preventing or limiting the issuance, redemption, sale, transfer, pledge or redemption of any of the equity securities of any Target Company or any securities convertible into or exercisable or exchangeable for equity securities of any Target Company. No Person has any pre-emptive, option, or similar rights with respect to any of the equity securities of any Target Company.

(d) *Ownership of Subsidiaries.* No Target Company owns (directly or indirectly), and no Target Company has any right or obligation to acquire (directly or indirectly), any equity securities of any Person or any direct or indirect equity ownership interest in any other business, in each case other than another Target Company.

4.07 Litigation; Orders. Except as set forth on Schedule 4.07, there are no Actions pending or threatened in writing against or by the Target Companies or, to Seller's Knowledge, any officer, manager, director, or employee of a Target Company in their respective capacities. Schedule 4.07 sets forth a true and complete list of all Actions involving the Target Companies, or their respective properties or asset, or, to Seller's Knowledge, any officer, manager, director, key employee or key consultant of a Target Company in their respective capacities as such occurring, arising or existing since the Lookback Date. The Target Companies are not subject to any Order (a) that is unsatisfied, (b) that affects the business, operations, assets, liabilities, condition (financial or other) or results of operation of the Target Companies, or (c) that could prevent, delay, or otherwise interfere with the consummation of the transactions contemplated by this Agreement or any Transaction Document.

#### 4.08 Intellectual Property Rights.

(a) To Seller's Knowledge, Schedule 4.08(a) sets forth a correct and complete list of (i) all Registered Intellectual Property; (ii) all licenses or other agreements pursuant to which any Person has the right to use any Company Intellectual Property (other than licenses that arise as a matter of law by implication as a result of sales of products and services by the Target Companies); and (iii) all licenses or other agreements pursuant to which a Target Company has the right to use any material Intellectual Property owned by others (excluding "off-the-shelf" software applications that are generally available to the public). No Target Company is infringing or misappropriating the Intellectual Property of any other Person in any material respect. To Seller's Knowledge, no Person is using any Company Intellectual Property in a manner which infringes upon the lawful rights of the Target Companies. All registrations and filings, and all

payments of annuities, maintenance fees, or other costs, necessary to preserve the rights of the Target Companies to the Registered Intellectual Property and all formal legal requirements necessary to record and perfect the applicable Target Company's interest therein and the chain of title thereof have been made.

(b) The Target Companies own all right, title and interest in and to the Company Intellectual Property and is licensed or otherwise has the valid right to use the Company Intellectual Property and all other Intellectual Property used in or necessary for the conduct of the Target Companies' business, in each case, free and clear of all Encumbrances. The Company Intellectual Property constitutes all of the Intellectual Property used in and necessary for the conduct and operation of the Target Companies' business.

(c) To Seller's Knowledge, the Target Companies have taken all necessary and appropriate steps to maintain the secrecy of all trade secrets and other confidential information of the Target Companies and all confidential information obtained for third parties, including by entering into written non-disclosure agreements with all third parties to whom disclosure of confidential information and trade secrets is made, prior to that disclosure. All such non-disclosure agreements are in full force and effect and in good standing and to Seller's Knowledge, no breach of any such non-disclosure agreement has occurred.

(d) All Company IT Systems are in good working condition and are sufficient for the operation of the Target Companies' business as currently conducted. In the past three (3) years, there has been no malfunction, failure, continued substandard performance, denial-of-service, or other cyber incident, including any cyberattack, or other impairment of the Company IT Systems that resulted or is reasonably likely to result in disruption or damage to the business of the Target Companies and that has not been remedied. The Target Companies have taken all commercially reasonable steps to safeguard the confidentiality, availability, security, and integrity of the Company IT Systems, including implementing and maintaining appropriate backup, disaster recovery, and software and hardware support arrangements.

(e) There are no Actions by the Target Companies pending or which a Target Company intends to initiate involving the prior employment of any of a Target Company's employees or officers, their services provided in connection with the Target Companies' business, any information or techniques allegedly proprietary to any of their former employers or their obligations under any agreements with prior employers.

(f) Except as set forth in Schedule 4.08(f), the Target Companies have complied with all applicable Laws and all publicly posted policies, notices, and statements concerning the collection, use, processing, storage, transfer, and security of personal information in the conduct of the Target Companies' business. In the past three (3) years, no Target Company has (i) experienced any actual, alleged, or suspected data breach or other security incident involving personal information in its possession or control or (ii) been subject to or received any written notice of any audit, investigation, complaint, or other Action by any Governmental Authority or other Person concerning its collection, use, processing, storage, transfer, or protection of personal information or actual, alleged, or suspected violation of any applicable Law concerning privacy, data security, or data breach notification, and to Seller's Knowledge, there are no facts or circumstances that could reasonably be expected to give rise to any such Action.

#### 4.09 Financial Statements; Accounts Receivable/Payable; Indebtedness.

(a) Attached to Schedule 4.09(a) are copies of: (i) the audited balance sheets of the Marine Group Boat Works, LLC and the unaudited Balance Sheets of Marine Group Los Cabos LLC and Marine Group Global Services, LLC (if applicable) as of December 31, 2021, December 31, 2022, and December 31, 2023 (the "**Year-End Balance Sheets**") and the related statements of operations and income, equity, and cash flow for the fiscal years then ended (collectively, the "**Year-End Financial Statements**"); and

(ii) the unaudited balance sheets of Marine Group Boat Works, LLC, Marine Group Los Cabos LLC and Marine Group Global Services, LLC as of September 30, 2024 (the “**Interim Balance Sheet**”) and the related statements of operations and income, equity, and cash flow for the nine (9) months then ended (collectively, the “**Interim Financial Statements**”) (the Year-End Financial Statements and the Interim Financial Statements, collectively, the “**Financial Statements**”). The Financial Statements fairly present, in all material respects, the operating results and the financial condition of the Target Companies on the dates and for the periods indicated, subject, in the case of the Interim Financial Statements, to normal year-end adjustments that are not material to the Target Companies and the absence of notes and other presentation items. To Seller's Knowledge, the Financial Statements were prepared in accordance with GAAP.

(b) As of the dates of the Year-End Balance Sheets and the date of the Interim Balance Sheet, (i) all revenue and expenses, as well as billings in excess of costs, costs in excess of billings, and related vendor payables and accruals of each Target Company were (A) calculated based on management’s reasonable estimate of work actually completed and costs incurred in the ordinary course of business and (B) properly accounted for in the Year- End Balance Sheets or Interim Balance Sheet and (ii) except as set forth on Schedule 4.09(b)(ii), no revenues are subject to any refund, warranty claim, guaranty reserve, discount, or offset that has not been reflected in the recorded amounts and all billings are fully collectible. To Seller's Knowledge, the Year-End Balance Sheets and the Interim Balance Sheet were prepared in accordance with GAAP.

(c) Schedule 4.09(c) contains a true and correct list of all accounts receivable of each Target Company as of the date hereof, which list sets forth the aging of such accounts receivable. All accounts receivable of the Target Companies that are reflected on the Year-End Balance Sheets or the Interim Balance Sheet, to the extent still remaining unpaid, represent valid obligations arising from sales actually made or services actually performed in the ordinary course of business. To Seller's Knowledge, all reserves for the collection of such accounts receivable shown on the Year-End Balance Sheets or the Interim Balance Sheet were calculated in accordance with GAAP. There is no contest, claim or right of set-off, other than returns in the ordinary course of business, relating to the amount or validity of any such account receivable.

(d) Schedule 4.09(d)(i) contains a true and correct list of all accounts payable of each Target Company as of the date hereof, which list sets forth the aging of such accounts payable. The accounts payable of the Target Companies represent valid obligations of the respective account debtors arising from services actually performed for any Target Company and, except as set forth on Schedule 4.09(d)(ii), no such account payable or note payable is delinquent in its payment.

(e) Since the date of the 2023 Year-End Balance Sheets, each Target Company has continued all pricing, sales, receivables and payables production practices in accordance with the ordinary course of business and have not engaged in (i) any trade loading practices or any other promotional sales or discount activity with any customers with the intent to accelerate to pre- Closing periods sales or trades that would otherwise be expected (based on past practice) to occur in post-Closing periods, (ii) any practice intended to have the effect of accelerating to pre-Closing periods collections of receivables that would otherwise be expected (based on past practice) to be made in post-Closing periods or (iii) any practice intended to have the effect of postponing to post-Closing periods payments by any Target Company that would otherwise be expected (based on past practice) to be made in pre-Closing periods.

(f) Except as set forth on Schedule 4.09(f), no Target Company has any Indebtedness outstanding.

4.10 Absence of Changes. Since the date of the Interim Balance Sheet, except as described on Schedule 4.10:

(a) the Target Companies have conducted their businesses only in the ordinary course of business;

(b) the Target Companies have not engaged in any trade loading practices or any other promotional sales or discount activity with any customers with the intent to accelerate to pre- Closing periods sales or trades that would otherwise be expected (based on past practice) to occur in post-Closing periods; and

(c) there has not been any:

(i) amendment to the Governing Documents of any Target Company;

(ii) split, combination or reclassification of any of a Target Company's membership interests or other equity securities;

(iii) issuance, sale or other disposition of any of a Target Company's membership interests or other equity securities, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of a Target Company's membership interests or other equity securities;

(iv) except as disclosed to Buyer in writing, any declaration or payment of any dividends or distributions on or in respect of any of a Target Company's membership interests or other equity securities or redemption, purchase or acquisition of a Target Company's membership interests or other equity securities;

(v) change in any method of accounting or accounting practice of the Target Companies, except as required by GAAP or applicable Law or as disclosed in the notes to the Financial Statements;

(vi) action by a Target Company to make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax Liability or reducing any Tax asset of Buyer in respect of any Post-Closing Tax period;

(vii) transfer, assignment, sale or other disposition of any of the assets shown or reflected in the Interim Balance Sheet or cancellation by a Target Company of any debts or entitlements, other than in the ordinary course of business;

(viii) incurrence, assumption or guarantee by a Target Company of any Indebtedness for borrowed money in an aggregate amount exceeding \$250,000, except unsecured current obligations and liabilities incurred in the ordinary course of business of such Target Company;

(ix) damage, destruction or loss (whether or not covered by insurance) to a Target Company's property or assets in amount in excess of \$100,000, individually or \$250,000 in the aggregate;

(x) capital investment in, or any loan to, any other Person by a Target Company;

(xi) acceleration, termination, material modification to or cancellation of any Material Contract to which a Target Company is a party or by which a Target Company is bound;

(xii) material capital expenditures by a Target Company in excess of \$100,000, individually or \$250,000 in the aggregate, excluding budgeted capital expenditures incurred by a Target Company pursuant to a pre-existing capital improvements plan as disclosed in Schedule 4.15(b);

(xiii) imposition of any Encumbrance upon any of the properties, membership interests or other equity securities or assets, tangible or intangible, of a Target Company;

(xiv) (A) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of a Target Company's current or former employees, officers, directors, independent contractors or consultants, other than as provided for in any written agreements, in the ordinary course of business of the Target Companies, or required by applicable Law or (B) action by a Target Company to accelerate the vesting or payment of any compensation or benefit for any current or former employee, officer, director, independent contractor or consultant;

(xv) adoption, amendment, modification or termination by a Target Company of any (A) employment, severance, retention or other agreement with any current or former employee, officer, director, independent contractor or consultant or (B) Benefit Plan, the effect of which in the aggregate would increase the obligations of a Target Company by more than five percent (5%) of its existing annual obligations to such plans;

(xvi) except as disclosed to Buyer in writing, entry into a new line of business by a Target Company or abandonment or discontinuance of existing lines of business of the Target Companies;

(xvii) acquisition by a Target Company by merger or consolidation with, or by purchase of a substantial portion of the assets or equity securities of, or by any other manner, any business or any Person or any division thereof;

(xviii) purchase, lease or other acquisition by a Target Company of the right to own, use or lease any property or assets for an amount in excess of \$100,000, individually (in the case of a lease, per annum) or \$250,000 in the aggregate (in the case of a lease, for the entire term of the lease, not including any option term), except for purchases of inventory or supplies in the ordinary course of business of the Target Companies, and excluding budgeted amounts incurred by a Target Company pursuant to a pre-existing capital improvements plan as disclosed in Schedule 4.15(b);

(xix) transfer or assignment of or grant of any license or sublicense by a Target Company under or with respect to any material Company Intellectual Property or Company IP Agreements except non-exclusive licenses or sublicenses granted in the ordinary course of business of the Target Companies consistent with past practice;

(xx) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy by a Target Company under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against a Target Company under any similar Law;

(xxi) transfers of any property or assets between a Target Company and a Related Party (excluding payments made to or by a Related Party from or to a Target Company for services performed in the ordinary course);

(xxii) changes to the Target Companies' historical practice, with respect to the payment of accounts payable or accrued expenses or the collection of the accounts receivable or other receivables,

including any acceleration of the collection of any accounts receivable or deferral of the payment of accounts payable; or

(xxiii) any agreement to do any of the foregoing by a Target Company, or any action or omission by a Target Company that would result in any of the foregoing.

4.11 No Undisclosed Liabilities. Except (a) as specifically and expressly disclosed on the Year-End Balance Sheets or the Interim Balance Sheet (b) as incurred since the dates thereof in the ordinary course of business and in amounts that are immaterial to the Target Companies, or (c) as set forth on Schedule 4.11, the Target Companies do not have any Liabilities that would be required to be disclosed on a balance sheet prepared in accordance with GAAP.

4.12 Taxes.

(a) Each Target Company has timely filed all required Tax Returns. All such Tax Returns were correct and complete in all respects and were prepared in compliance with all applicable Laws. All Taxes due and owing by or with respect to the Target Companies (whether or not shown on any Tax Return) have been timely paid in full. No Tax dispute, inquiry or investigation is pending with respect to a Target Company, and to Seller's Knowledge, there is no threatened Tax matter, dispute, inquiry or investigation that could result in any Liability of a Target Company or Buyer after the Closing. The Target Companies have withheld and timely paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, member, stockholder, or other third party. All Forms W-2 and Forms 1099 required with respect to such withholding and payment have been properly and timely filed, and the Target Companies have maintained all documentation, as required by Law, relating to the withholding and remittance of such Taxes.

(b) Except as disclosed to Buyer in writing, the Target Companies have not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency. The Target Companies are not a party to or bound by any Tax allocation or Tax sharing agreement. The Target Companies have no Liability for the Taxes of any other Person (i) as a transferee or successor, or (ii) by Contract, applicable Law (including pursuant to Treasury Regulations Section 1.1502-6) or otherwise. There are no Encumbrances for Taxes upon the assets of the Target Companies other than Permitted Encumbrances.

(c) No claim has ever been made by a Tax Authority in a jurisdiction where the Target Companies do not file Tax Returns that the Target Companies are or may be subject to taxation by that jurisdiction, and to Seller's Knowledge, there is no basis for any such claim to be made. There is no Action concerning any Tax Liability of the Target Companies pending, or to Seller's Knowledge, threatened in writing by any Tax Authority. The Target Companies have not executed any power of attorney with respect to any Tax, other than powers of attorney that are no longer in force.

(d) The Target Companies have not distributed the stock of any corporation or had its stock or equity interests distributed by another Person in a transaction satisfying or intending to satisfy the requirements of Section 355 or Section 361 of the Code.

(e) The Target Companies will not be required to include any item of income or gain in taxable income or exclude any item of deduction or loss from taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of: (i) any "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law) executed on or prior to the Closing Date, (ii) the long-term contract method of accounting, (iii) any installment sale or the open transaction method of accounting or the cash method of accounting, in each case, with respect



to a transaction that occurred on or prior to the Closing Date, (iv) application of Section 108(i) of the Code, (v) any intercompany transactions or any excess loss account described in Section 1.1502-19 of the Treasury Regulations (or any similar provision of state, local or foreign Law), (vi) use of an improper method of accounting for a taxable period ending on or prior to the Closing Date, (vii) any change in method of accounting (including adjustments pursuant to Section 481 of the Code) for a taxable period ending on or before the Closing Date, (viii) any deferred revenue or prepaid amount received or accrued on or prior to the Closing Date, (ix) any debt instrument held prior to the Closing that was acquired with “**original issue discount**” as defined in Section 1273(a) of the Code or subject to the rules set forth in Section 1276 of the Code, or (x) any inclusion under Section 951 or Section 951A of the Code to the extent attributable to any Pre-Closing Tax Period or Pre-Closing Straddle Period.

(f) The Target Companies are not a party to any understanding or arrangement described as a “**reportable transaction**” for purposes of Section 6707A of the Code and Treasury Regulations Section 1.6011-4. No closing agreements, private letter rulings, technical advice memoranda or similar agreements or rulings relating to Taxes have been entered into or issued by any Governmental Authority with or with respect to the Target Companies.

(g) No activity of the Target Companies gives rise, or may give rise, to the creation of a permanent establishment in any foreign country for Tax purposes (other than in Mexico). None of the assets of the Target Companies constitute Tax-exempt bond financed property or Tax-exempt use property within the meaning of Section 168 of the Code, and none of the assets of the Target Companies are subject to a lease, safe harbor lease or other arrangement as a result of which a Target Company is not treated as the owner of such assets for federal Income Tax purposes. The Target Companies are not the beneficiary of any Tax holiday, Tax abatement or other similar Tax benefit. The Target Companies have disclosed on their federal Tax Returns all positions taken therein that would give rise to a substantial understatement of federal Income Tax within the meaning of Section 6662 of the Code.

(h) None of the assets of the Target Companies are subject to the limitations on “amortizable section 197 intangibles” described in Section 197(f)(9) of the Code or any similar or comparable limitation under state, local, or foreign Law. Commencing with the taxable periods or portions thereof immediately following the Closing Date, none of the assets of the Target Companies will be subject to (and the depreciation and amortization deductions otherwise available to Buyer or its Affiliates (as applicable) with respect to such assets will not be limited by) the “anti-churning” restrictions or limitations set forth in Section 197(f)(9) of the Code.

(i) The Target Companies have complied in all material respects with all Laws with respect to escheat and unclaimed property and has no Liability to pay over any material amount to any Governmental Authority any cash or other property under escheat or unclaimed property Laws.

(j) For all periods from the date of its formation, each Company has been, for federal and applicable state and local Income Tax purposes, properly treated as a “partnership” within the meaning of Sections 7701 of the Code and Treasury Regulations Section 301.7701-3(b)(1)(i). Each of the other Target Companies have each been properly treated as “disregarded as an entity separate from its owner” within the meaning of Treasury Regulation Section 301.7701-3(b)(1)(ii) since the Lookback Date through and including the Closing Date for US federal and applicable state and local Income Tax purposes.

(k) All Taxes required to have been paid on the sale of products or taxable services by the Target Companies (whether or not denominated as sales or use Taxes) have been properly and timely paid, or all sales Tax exemption certificates or other proof of the exempt nature of sales of all products or services have been, if required, submitted to the appropriate Governmental Authority.

(l) The Target Companies have not deferred the payment of any payroll Taxes pursuant to Section 2302 of the CARES Act or IRS Notice 2020-65. Any “**employment retention credit**” within the meaning of Section 2301 of the CARES Act or any other Tax credit applicable to employment Taxes under the Families First Coronavirus Response Act of 2020 (Pub. L. No. 116-127) claimed by any of the Target Companies were claimed properly and in accordance with applicable Laws.

(m) All Related Party transactions involving any Target Company have been conducted in compliance with Code Section 482 and the Treasury Regulations promulgated thereunder and any comparable provisions of any other state, local and non-U.S. Tax Law. Each Target Company has maintained any documentation (including any applicable transfer pricing studies) in connection with such Related Party transactions that is required by Code Sections 482 and 6662 and the Treasury Regulations promulgated thereunder and any comparable provisions of any other state, local and non-U.S. Tax Law.

#### 4.13 Benefit Plans; ERISA.

(a) Schedule 4.13(a) sets forth a complete and accurate list of all Benefit Plans. Sellers have made available to Buyer or to Buyer’s counsel true and complete copies of the following documents, including all amendments thereto, relating to each Benefit Plan, to the extent applicable: (i) the plan document or for any unwritten Benefit Plan, a summary of the material terms thereof; (ii) copies of the most recent IRS determination letter or advisory or opinion letter with respect to each such Benefit Plan intended to qualify under Section 401(a) of the Code; (iii) copies of the most recent summary plan descriptions and any summaries of material modifications thereto; (iv) all trust agreements, insurance Contracts, administrative services agreements, and other documents relating to the funding or payment of benefits under any Benefit Plan including agreements concluded on behalf of those covered by the Benefit Plan with any financial institution managing the Benefit Plan; (v) copies of the three (3) most recent Form 5500 annual reports and accompanying schedules, as well as the actuarial report, (vi) the non-discrimination testing results for the past three (3) plan years; (vii) any material correspondence with any Governmental Authority with respect to any Benefit Plan; and (viii) the Forms 1094 and 1095 for the past three (3) years.

(b) Except as set forth on Schedule 4.13(b), and as applicable:

(i) *Multiemployer Plans.* Neither any Target Company nor any current or former ERISA Affiliate of such Target Company has ever made or had an obligation to make any contributions to or had any current or contingent liability or obligation under or with respect to (i) any multiemployer plan (as defined in ERISA Section 3(37) or 4001(a)(3)), (ii) to any pension plan subject to the minimum funding standards of ERISA or Title IV of ERISA, (iii) any “multiple employer plan” (as defined in Section 210 of ERISA or Section 413(c) of the Code), (iv) any “multiple employer welfare arrangement” (as defined in Section 3(40) of ERISA), (v) any “voluntary employees’ beneficiary association” (as defined in Section 501(c)(9) of the Code), or (vi) a “defined benefit plan” (as defined in Section 3(35) of ERISA).

(ii) *Terminated Plans.* Neither any Target Company nor any current or former ERISA Affiliate of such Target Company has terminated or taken action to terminate (in part or in whole) any “employee benefit plan” as defined in ERISA Section 3(3).

(iii) *Administration of Plans.* Each Benefit Plan has been established, administered, operated and maintained in material compliance with its terms and any Laws applicable to such Benefit Plan, including (to the extent applicable) ERISA, COBRA, the Health Insurance Portability and Accountability Act of 1996, and the Code. With respect to each Benefit Plan that is intended to qualify under Section 401(a) or Section 501(c)(9) of the Code: (A) such Benefit Plan has received a favorable determination letter from the IRS or, with respect to a prototype or volume submitter plan, can rely on an opinion letter from the IRS to the prototype or volume submitter plan sponsor, to the effect that such plan

is so qualified; (B) any related trusts have been determined to be exempt from taxation; and (C) nothing has occurred since the date of such opinion or determination letter that would reasonably be expected to adversely affect such qualification or exemption. No “prohibited transactions” within the meaning of Section 406 or 407 of ERISA or Section 4975 of the Code for which a statutory or administrative exemption does not exist have occurred with respect to any Benefit Plan. No Target Company or, to Seller’s Knowledge, any third party has breached any of the duties imposed on “fiduciaries” (within the meaning of Section 3(21) of ERISA) by ERISA with respect to any Benefit Plan.

(iv) *Section 409A Compliance.* Each plan, agreement, or arrangement currently or previously sponsored by any Target Company for the benefit of its employees that provides for the deferral of compensation subject to Code Section 409A is, and has been since January 1, 2009, administered in accordance with its terms and in compliance in all material respects with the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings, and proposed and final regulations) thereunder; and Sellers and the Target Companies do not have any obligation to “gross up” any Person for any Taxes under Section 409A of the Code.

(v) *Benefit Plan Contributions.* With respect to the Benefit Plans, (A) all required contributions to, and premiums or other payments on account of, each Benefit Plan have been made in all material respects in full on a timely basis, or properly accrued, and (B) all reports, returns and similar documents required to be filed with any Governmental Authority or distributed to any Benefit Plan participant have been timely filed or distributed in all material respects.

(vi) *Actions or Claims.* There do not exist any pending or, to Seller’s Knowledge, threatened Actions (other than routine claims for benefits), audits, or investigations with respect to any of the Benefit Plans or any fiduciary or assets thereof. No Target Company has participated in any voluntary compliance or self-correction program established by the IRS under the Employee Plans Compliance Resolution System, or entered into a closing agreement with the IRS with respect to the form or operation of any Benefit Plan.

(vii) *Post-Termination Benefits.* No Target Company has any obligation to provide health, welfare, or death benefits to any employee following termination of employment, except to the extent that such obligation arises from applicable Laws, including continuation coverage required under Section 4980B of the Code (or equivalent state Law) with costs for such coverage paid solely by such employee.

(viii) *Group Health Plans.* Each Benefit Plan that is a “group health plan” within the meaning of Section 5000(b)(1) of the Code and Section 607(l) of ERISA has been administered in material compliance with, and the Target Companies have otherwise materially complied with the requirements of (A) the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder; (B) the Consolidated Omnibus Budget Reconciliation Act and the regulations promulgated thereunder; (C) the Patient Protection and Affordable Care Act of 2010 and the regulations promulgated thereunder; and (D) the Medicare Secondary Payor Provisions of Section 1862 of the Social Security Act and the regulations promulgated thereunder. The Target Companies have (x) offered minimum essential health coverage, satisfying affordability and minimum value requirements, to its full-time employees sufficient to avoid liability for assessable payments under Sections 4980H(a) and 4980H(b) of the Code and (y) complied in all material respects with the applicable reporting requirements under Sections 6055 and 6056 of the Code.

(ix) *Change in Control Benefits.* Neither the execution of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or upon the occurrence of any other event: (A) entitle any current or former employee, officer, manager, director, consultant or

contractor of any Target Company to any bonus, change in control or similar payment, severance pay, unemployment compensation or any other payment or benefit; (B) accelerate the time, payment, funding or vesting of any benefit or right (including equity-based compensation), or increase the amount of compensation due to any such individual; (C) give rise to the payment of any amount that could subject any Person to liability for Tax under Section 4999 of the Code; (D) limit or restrict the right of any Target Company to merge, amend, or terminate any Benefit Plan; (E) increase the amount payable under or result in any other material obligation pursuant to any Benefit Plan; or (F) directly or indirectly result in any payment made to or on behalf of any Person constituting a “parachute payment” within the meaning of Section 280G(b) of the Code. Sellers and the Target Companies do not have any obligation to “gross up” any Person for any Taxes under Section 4999 of the Code.

#### 4.14 Assets.

(a) Each Target Company has good and valid title (or valid leasehold or licensed interest with respect to leased or licensed assets and properties) to the properties and assets that it purports to own, except for properties and assets sold since the date of the Interim Balance Sheet in the ordinary course of business, free and clear of any and all Encumbrances, other than Permitted Encumbrances and any Encumbrances listed on Schedule 4.14(a).

(b) The buildings, plants, structures, fixtures, equipment and other tangible personal property of each Target Company are in good operating condition and repair, ordinary wear and tear excepted. The properties and assets owned and leased by the Target Companies are sufficient, in all material respects, for the continued conduct of their business immediately after the Closing in substantially the same manner as conducted immediately prior to the Effective Date.

(c) Schedule 4.14(c) sets forth all properties and assets that have been sold or transferred to a Related Party by the Target Companies since the Lookback Date, including, the value of such properties or assets at the time of such sale or transfer.

(d) Seller has provided Buyer with a copy of a fixed asset list of the Company, a copy of which is attached as Schedule 4.14(d), and which lists all of the material tangible personal property owned by the Target Companies as of the Interim Balance Sheet Date. Since the Interim Balance Sheet Date, the Company has not disposed of any of the assets listed thereon, except for tangible personal property disposed of in the ordinary course of business that has been replaced as required for the conduct of the Business in the ordinary course consistent with past practices.

#### 4.15 Real Property.

(a) *Owned Real Property.* No Target Company has any fee simple ownership or perpetual interest in any parcel of real property.

(b) *Leased Real Property.* Schedule 4.15(b) lists all parcels of real property leased, subleased or licensed to any Target Company, or that any Target Company otherwise uses, operates or occupies and which is not owned by a Target Company (the “**Leased Real Property**”) and lists the following: (i) the street address of each parcel of Leased Real Property; (ii) the landlord under the lease, the rental amount currently being paid, and the expiration of the term of such lease or sublease for each leased or subleased property; (iii) the current general use of such property, and (iv) the identity of the lessee, and the current occupant (if different from lessee) (collectively, the “**Real Property Leases**” and each a “**Real Property Lease**”). Each Target Company has a valid and subsisting easement, leasehold, subleasehold, license or other occupancy interest in the Leased Real Property. With respect to each Real Property Lease: (i) other than previously exercised or expired options, no Target Company has exercised or given any notice of

exercise by such party of, nor has any lessor or landlord exercised or given any notice of exercise by such party of, any option, right of first offer or right of first refusal contained in any such Real Property Lease; (ii) each Real Property Lease is binding and in full force and effect; (iii) there exists no default of a Target Company under any Real Property Lease, or any event, occurrence, condition or act which, with the giving of notice or the lapse of time, has or would become a default of such Target Company under any Real Property Lease; (iv) to Seller's Knowledge, all of the covenants to be performed by any other party under each such Real Property Lease have been performed in all material respects; and (v) no Target Company is in financial arrears under any Real Property Lease. After Closing, no brokerage commissions or finder's fees will be due with respect to any Leased Real Property. Except as set forth on Schedule 4.15(b), no material capital expenditures for the maintenance and/or repair of the Leased Real Property are required to be performed by a Target Company or, to Seller's Knowledge, reasonably likely to be required within twelve (12) months after Closing, except with respect to any capital expenditures made necessary by the actions or omissions of Buyer after the Closing. All commenced or ongoing material capital expenditures for the maintenance and/or repair of the Leased Real Property are listed on Schedule 4.15(b), such projects are on budget, in all material respects, as set forth on Schedule 4.15(b), and to Seller's Knowledge, the Target Companies are not aware of any material cost overruns. The Leased Real Property constitutes all such property used in or necessary to conduct the business of the Target Companies as presently conducted.

(c) *Matters Affecting Real Property.*

(i) The Target Companies' use of all Leased Real Property for the various purposes for which it is presently being used is permitted as of right under all applicable zoning Laws and is not subject to "permitted nonconforming" use or structure classifications. All Leased Real Property is, to Seller's Knowledge, adequately maintained and suitable for the purpose of conducting the business of the Target Companies as currently conducted.

(ii) To Seller's Knowledge, all buildings, structures, fixtures and other improvements including the roof, foundation, floors, and heating, ventilation, air conditioning, mechanical, electrical and other building systems, on all Leased Real Property are in all material respects in good operating condition and repair, ordinary wear and tear excepted; provided, however, Seller makes no representation or warranty regarding the condition and repair of the bulkhead protecting the SD Property or the potential cost of its restoration or repair pursuant to this Section 4.15(c)(ii).

(iii) To Seller's Knowledge, except for matters disclosed on the Title Commitments, (A) no part of any building, structure, fixture or other improvement set forth on any Leased Real Property encroaches on, or otherwise conflicts with the property rights of, any other real property; and (B) there are no buildings, structures, fixtures primarily situated on any adjoining property which encroach on any Leased Real Property or otherwise conflict with the property rights of any Target Company.

(iv) To Seller's Knowledge, except for matters disclosed on the Title Commitments, there is no existing or proposed plan to modify or realign any street or highway or any existing or proposed eminent domain proceeding that could reasonably be expected to result in the taking of all or any material part of any Leased Real Property.

(v) Each Target Company is in peaceful and undisturbed possession of the Leased Real Property, and, except for matters disclosed on the Title Commitments, there are no contractual or legal restrictions that preclude or restrict the ability of the applicable Target Company to use such Leased Real Property for the purposes for which it is currently being used.

(vi) Except as set forth in Schedule 4.15(c)(vi) and except for matters disclosed on the Title Commitments, no Target Company has leased, subleased, licensed or otherwise granted to any Person

the right to use or occupy any portion of the Leased Real Property, and to Seller's Knowledge there is no claim of any Person to the contrary, other than boat or ship storage licenses granted by Target Companies in the ordinary course of their business.

(vii) There are no Contracts outstanding for the sale, exchange, encumbrance, lease or transfer of any Target Company's interest in the Leased Real Property.

(viii) There is no Action pending or, to Seller's Knowledge, threatened against or affecting the Leased Real Property or any portion thereof or interest therein in the nature of or in lieu of condemnation or eminent domain proceedings.

(ix) The Cabo Concession is in full force and effect. There exists no default under the Cabo Concession, or any event, occurrence, condition or act which, with the giving of notice or the lapse of time, has or would become a default of under the Cabo Concession. To Seller's Knowledge, all of the covenants to be performed by any party under the Cabo Concession (including any obligations of the Target Companies required to be performed with respect to the Cabo Concession pursuant to the Cabo Lease) have been performed in all material respects. No party is in financial arrears under the Cabo Concession.

#### 4.16 Contracts.

(a) Schedule 4.16(a) sets forth all of the Material Contracts (as hereafter defined) as of the date of this Agreement, arranged in accordance with the applicable subsections set forth in the following sentence. "**Material Contracts**" shall mean each of the following agreements, leases, licenses, grants, contracts or other commitments of any nature, whether written or oral ("**Contracts**") to which a Target Company is a party or by which the Target Companies or their business is bound:

(i) that (A) expressly limits or restricts the ability of a Target Company to compete or otherwise to conduct its business as formerly or presently conducted or engage in any line of business in the future, in any material manner or geographic place world, or providing for exclusivity in any business line, geographic area, or otherwise or (B) that provides any third parties with "most favored nation", "most favored pricing" or rights of first offer or rights of first refusal with respect to any products or services provided or received by a Target Company under such Contract;

(ii) under which a Target Company has created in favor of a third-party, incurred, assumed or guaranteed any Indebtedness or granted an Encumbrance (other than a Permitted Encumbrance) on any asset owned or used by a Target Company or its business;

(iii) that creates a joint venture, strategic partnership or other similar agreement;

(iv) that involve (A) payments on the part of a Target Company to third parties in excess of \$150,000 in any twelve (12)-month period or (B) obligations of a Target Company to purchase goods or services in excess of \$150,000 in any twelve (12)-month period, and, in each case, is not terminable by such Target Company on forty-five (45) days' notice or less without premium or penalty (excluding sales orders and purchase orders issued in the ordinary course of business);

(v) that relates to (A) the disposition or acquisition by a Target Company of any Person or other business enterprise (whether by merger, sale of stock, sale of assets or otherwise) occurring during the Lookback Period, or (B) any Contract that provides for the sale of any asset owned or used by a Target Company or the grant of any preferential rights to purchase any asset owned or used by a Target Company other than those entered into in the ordinary course of business;

(vi) that provides for warranty terms or the indemnification or guarantee of obligations of any other Person that would be material to a Target Company, taken as a whole, other than Contracts entered into in the ordinary course of business;

(vii) that contains a put, call or similar right pursuant to which a Target Company could be required to purchase or sell, as applicable, any equity interests of any Person or assets;

(viii) that provides for the employment or engagement, with an annual compensation in excess of \$100,000, of any officer or individual employee or other natural person on a full-time, part-time, seasonal, temporary or consulting basis;

(ix) under which a Target Company licenses any Intellectual Property to any Person or receives any license or sublicense of, or right to use, Intellectual Property from any Person (excluding any license or services agreement for commercially-available, off-the-shelf software licensed or procured for aggregate license, maintenance, and service fees of less than \$50,000 per year);

(x) with any broker, distributor or dealer;

(xi) with any Governmental Authority, including any settlement, conciliation, or similar agreement with any Governmental Authority;

(xii) that is a lease, sublease, license or similar agreement entered into in connection with the Leased Real Property, other than matters disclosed on the Title Commitments and boat or ship storage licenses granted by Target Companies in the ordinary course of their business;

(xiii) any Contract under which a Target Company has made advances or loans to any other Person;

(xiv) any Related Party Agreement;

(xv) any sales, service, or distribution contract with a Material Customer and any contract with a Material Customer relating to the promotion, advertising, and marketing of the services provided by a Target Company;

(xvi) all personal property leases that should be categorized as capital leases under GAAP;

(xvii) any pension, profit sharing, retirement, bonus, incentive, unit option, phantom unit, employee unit purchase, or other plan or arrangement providing for deferred or other compensation to employees or any other Benefit Plan, whether formal or informal;

(xviii) any collective bargaining agreement or any other contract with any labor union or other labor organization or any severance agreements, programs, policies, or arrangements;

(xix) any non-disclosure or non-compete agreements or agreements regarding ownership and rights with regard to work produced by employees, contractors, or consultants; and/or

(xx) any power of attorney or other similar agreement or grant of agency.

(b) Each of the Material Contracts is a legal, valid, binding and enforceable obligation of the applicable Target Company and is in full force and effect, unamended, and there exists no default or event

of default or event, occurrence, condition or act, with respect to such Target Company or with respect to the other contracting party or otherwise, that, with or without the giving of notice, the lapse of time or the happening of any other event or condition, constitutes a default or breach by such Person thereunder or would reasonably be expected to (i) become a default or event of default under or breach or violation of any of the Material Contracts or (ii) result in the loss or expiration of any right or option by such Target Company (or the gain thereof by any third party) under any Material Contract. Since the date of the Interim Balance Sheet: (A) there has been no termination of a Target Company's business relationship under any Material Contract; (B) there has been no material adverse change in the business relationship of a Target Company's business relationship under any Material Contract outside of the ordinary course of business; and (C) no Material Contract is currently subject to, or is expected to be subject to, cancellation, termination or any other material modification by the other party thereto, including stopping or decreasing the rate of its transactions or otherwise adversely changing its business relationship with the applicable Target Company, or is subject to or is expected to be subject to any penalty, right of set off, or other charge by the other party thereto for late performance or delivery. No Target Company is involved in any dispute or Action concerning a Material Contract. True, correct and complete copies of all of the Material Contracts (including any amendments thereto) have been delivered to Buyer.

4.17 No Material Adverse Effect. Since the date of the Interim Balance Sheet, there has not been any Material Adverse Effect and, to Seller's Knowledge, no event has occurred or circumstance exists that would reasonably be expected to result in a Material Adverse Effect, excluding, for purposes of this Section 4.17 only, any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to (i) general economic or political conditions; (ii) conditions generally affecting the industries in which a Target Company operates; (iii) any changes in financial or securities markets in general; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; and (v) any changes in applicable Laws or accounting rules, including GAAP, except to the extent any such event, occurrence, fact, condition or change described in the foregoing clauses (i) through (iv) impacts the business of a Target Company disproportionately to the rest of the industry in which it operates.

4.18 Labor Matters.

(a) Each Target Company is in material compliance with, and since the Lookback Date has complied in all material respects with, all Laws relating to labor, employment, employment practices, and terms and conditions of employment, including all Laws relating to equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, occupational safety and health, collective bargaining, required trainings, and labor relations.

(b) Schedule 4.18(b)(i) sets forth a correct and complete list of all employees of each Target Company as of the date of this Agreement, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) employer of record; (iii) title or position (including whether full- or part-time or temporary); (iv) hire date; (v) whether paid hourly, salary, or another compensation method; (vi) current annual base salary or hourly rate; (vii) commission, bonus or other incentive-based compensation; (viii) classification as exempt or non-exempt under applicable wage and hour Laws; (ix) a description of the fringe benefits provided to each such individual; (x) work location (by city, county, and state); and (xi) furlough, layoff or leave status (and anticipated return to work date if known). Schedule 4.18(b)(ii) sets forth a correct and complete list of all independent contractors and consultants of each Target Company as of the date of this Agreement, along with each such Person's name, description of services provided, date of engagement, work location, and compensation arrangement. All employees of each Target Company are employed on an "at will" basis, and no Target Company employs or retains the services of any employee, independent contractor or consultant who cannot be dismissed immediately, whether currently or immediately after the transactions contemplated hereby, without notice and without further liability to any Target Company. To



Seller's Knowledge, no employee, group of employees, independent contractor or consultant of any Target Company has given notice of termination of employment or engagement or otherwise intends to terminate his or her employment or service relationship with any Target Company.

(c) No Target Company is a party to, bound by or currently negotiating any neutrality agreement, card-check agreement, or collective bargaining agreement or other labor Contract with any labor union, trade union, works council, labor organization or other employee representative body. There is no, and since the Lookback Date there has not been, any labor organizational activity or labor dispute affecting any Target Company.

(d) There is not presently pending or existing, and to Seller's Knowledge there is not threatened, any strike, slowdown, picketing, walkout, lockout, work stoppage, unfair labor practice charge or employee grievance process involving any Target Company, nor have there been any strikes, slowdowns, pickets, walkouts, lockouts, work stoppages, unfair labor practice charges or employee grievance processes since the Lookback Date. To Seller's Knowledge, no event has occurred or circumstance exists that could reasonably be expected to provide the basis for any strike, slowdown, picketing, walkout, lockout work stoppage, unfair labor practice charge, employee grievance process or other labor dispute involving any Target Company. There is not pending or, to Seller's Knowledge, threatened against or affecting any Target Company any Action relating to the alleged violation of (i) any employment, consulting, independent contractor or other similar agreement, or (ii) any Law pertaining to labor relations or employment matters, including any charge or complaint filed with the National Labor Relations Board, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, the Department of Labor or any comparable Governmental Authority. No application or petition for an election of or for certification of a collective bargaining agent is pending with respect to any Target Company. There is no lockout of any employees by any Target Company, and no such action is contemplated by any Target Company.

(e) All compensation, including wages, salary, commissions, overtime, premium payments, waiting time penalties, bonuses, accrued paid time off, and other compensation, payable to all employees, or independent contractors of the Target Companies for work or services performed on or prior to the Effective Date or Closing Date (as applicable) have been paid in full, and no Target Company is liable for any amounts, fines, taxes, interest or other penalties for any failure to pay or delinquency in paying such compensation.

(f) The Target Companies have (i) properly classified and treated all of their respective workers or other Persons performing services for any Target Company as independent contractors or employees, (ii) no independent contractor or individual that is not an employee of a Target Company is treated or provides work in the manner characteristic for an employee and, in particular, the degree of control of any Target Company over the work performed (as to how, where and when that work was performed) was not in the manner characteristic of an employment relationship, and (iii) properly classified and treated all of their respective employees as "exempt" or "non-exempt" from overtime or other wage and hour requirements under all Laws. Except as set forth in Schedule 4.18(f), no Target Company is a joint employer, single employer or co- employer with or an alter ego of any other Person, and no Target Company has liability as a joint employer with respect to any temporary employees leased or staffed through a third-party entity.

(g) Since the Lookback Date, each Target Company has promptly, thoroughly and impartially investigated all discrimination and harassment allegations which have been reported in accordance with such Target Company's reporting policies or to which the Target Company was made aware. With respect to each such allegation with potential merit, the Target Company has taken prompt corrective action that is reasonably calculated to prevent further improper action. To Seller's Knowledge, since the Lookback Date, no allegations of sexual or other harassment, discrimination, assault or material misconduct have been made

against any Seller or any officer, director, manager, executive or management-level employee of any Target Company.

(h) Each Target Company has verified the employment eligibility of all of such Target Company's employees in compliance with the Immigration Reform and Control Act and the Illegal Immigration Reform and Immigrant Responsibility Act and has retained a completed and executed Form I-9 for each of its employees. To Seller's Knowledge, each employee is legally entitled to work in the jurisdiction in which he or she is employed and in the position in which he or she is employed. Since the Lookback Date, no Target Company has received any written correspondence from any Person, including any Governmental Authority, questioning the validity of the social security number or work authorization status of any employee of any Target Company.

(i) To Seller's Knowledge, no employee or any independent contractor of the Target Companies is, or since the Lookback Date has been, in violation of any term, provision or covenant of any employment agreement, consulting agreement, independent contractor agreement, non-disclosure agreement, common law non-disclosure obligation, fiduciary duty, non-competition agreement, non-solicitation agreement, non-disparagement obligation, or other material restrictive covenant obligation (i) with or owed to any Target Company or any former employer or other Person or (ii) relating to (x) the right of any such employee or independent contractor to be employed or engaged by any Target Company or to perform his or her duties or services to any Target Company; or (y) misappropriation or use of trade secrets or confidential or proprietary information of any Target Company or any former employer or other Person.

(j) Since the Lookback Date, there has been no employee layoffs, plant closings, employee relocations, or other employment actions involving any Target Company that would have implicated, or otherwise triggered notice requirements or liability under, the WARN Act or any similar state or local Law. No Target Company is currently contemplating any employee layoffs, plant closings, employee relocations, or other employment actions that would implicate, or otherwise trigger notice requirements or liability under, the WARN Act or any similar state or local Law.

#### 4.19 Environmental Matters.

(a) Each Target Company is currently, and since the Lookback Date has been, in material compliance with all Environmental Laws and have not, and no Target Company has, received from any Person any: (i) Environmental Notice or Environmental Claims; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Effective Date or Closing Date (as applicable).

(b) To Seller's Knowledge, there are no Hazardous Materials present on any Leased Real Property, except for Hazardous Materials (i) stored thereon in material compliance with applicable Environmental Laws, or (ii) the presence of which does not violate any applicable Environmental Law in any material respect. To Seller's Knowledge, Schedule 4.19(b) lists: (y) all active or abandoned current or former aboveground or underground storage tanks owned, used or operated by any Target Company within the last three (3) years; and (z) all off-site Hazardous Materials treatment, storage, or disposal facilities or locations used by any Target Company the last three (3) years.

(c) To Seller's Knowledge and except as disclosed to Buyer in writing, there has been no Release of any Hazardous Materials on, at, under or from any real property currently or formerly owned or leased by any of the Target Companies in contravention of applicable Environmental Laws.

(d) Each Target Company has obtained and currently maintains the Environmental Permits listed on Schedule 4.19(d) adjacent to its name (collectively, the “**Company Environmental Permits**”). The Company Environmental Permits: (i) constitute all the Environmental Permits necessary for the ownership, lease, operation and use of the business and assets of the Target Companies as currently conducted; and (ii) are in full force and effect in accordance with their respective terms and all applicable Environmental Laws. The Target Companies are, and at all times have been, in material compliance with all their respective Company Environmental Permits. To Seller’s Knowledge and except as set forth in the Due Diligence Materials, there is no form of soil or groundwater contamination with Hazardous Materials or waste deposited or abandoned waste on any Leased Real Property. Marine Group Boat Works, LLC has applied for one or more Environmental Permits (including pursuant to the California Environmental Quality Act) in connection with the planned capital improvement project on the SD Property as more particularly described in Schedule 4.15(b) and, to Seller’s Knowledge and except as to any matters related to the exercise of discretion by the lessor under the SD Lease as required by Law, there are no material impediments to the grant or issuance of such Environmental Permits.

(e) To Seller’s Knowledge and except in the ordinary course of the Target Companies’ business and in compliance with Laws, no Target Company has permitted nor conducted any Hazardous Activity at or from any Leased Real Property, or any property formerly owned, leased, operated, or used by the Target Companies, during the ownership, lease, operation, or use of such property by the Target Companies, except in material compliance with, or to the extent the same does not materially violate, applicable Environmental Laws.

(f) To Seller’s Knowledge and except as disclosed to Buyer in writing, no Target Company has given any warranties or indemnities, or entered into any other agreement, with respect to any material liabilities, duties, or obligations under applicable Environmental Law.

(g) The Target Companies have made available to Buyer: (i) all material environmental reports related to the Leased Real Property, including but not limited to any Phase I and Phase II environmental site assessments, final environmental regulatory compliance audits, investigation reports, and corrective action reports that are in their possession, custody, or under their reasonable control; and (ii) all material correspondence and documents relating to communications to or from any Governmental Authority or any third party regarding actual or alleged violations of any Environmental Laws occurring on or about the Leased Real Property or any other property formerly owned or operated by any of the Target Companies.

4.20 Customers and Suppliers. Schedule 4.20 lists the names and addresses of each Target Company’s fifteen (15) largest customers (each, a “**Material Customer**”) and fifteen (15) largest suppliers of such Target Company (measured in each case by dollar volume of purchases or sales during the three (3) preceding calendar years ended December 31, 2021, December 31, 2022, December 31, 2023, and the nine (9) months ended September 30, 2024, respectively), and the dollar amount of purchases or sales which each listed customer or supplier represented during such fiscal year or portion thereof. No customer or supplier so listed has terminated or decreased, or otherwise materially adversely changed its business or activity with a Target Company and no such customer or supplier has provided written, or to Seller’s Knowledge oral, notice to a Target Company within the past twelve (12) months of that it will do so, and, to Seller’s Knowledge, no such customer or supplier intends to do so. No Target Company has received written notice that a Material Supplier is delaying deliveries, declaring any force majeure, declaring a default, renegotiating the pricing or other material terms of its Contract.

4.21 Paycheck Protection Program. Except as set forth on Schedule 4.21, no Target Company has (a) received any loan or grant under the CARES Act and Coronavirus Relief Programs, (b) deferred any payroll Taxes or (c) availed itself of any of the Tax deferral, credits or benefits pursuant to the CARES Act and Coronavirus Relief Programs. Each Target Company has complied, and is in compliance in all respects

with, the CARES Act and Coronavirus Relief Programs and any documentation related thereto. All applications and certifications made by any Target Company pursuant to the CARES Act are true and accurate (and were true and accurate when made or submitted). Sellers have made available to Buyer true, complete and correct copies of all documentation related to (A) the eligibility of any Target Company for relief pursuant to the CARES Act and Coronavirus Relief Programs and (B) any funds or grants committed or disbursed to any Target Company under the CARES Act and Coronavirus Relief Programs. All amounts received by any Target Company under the CARES Act and Coronavirus Relief Programs have been used in compliance with the CARES Act and Coronavirus Relief Programs and expended in such a way that all amounts received are eligible for forgiveness. Each loan or grant under the CARES Act or any other Coronavirus Relief Program received by any Target Company has been forgiven in full in accordance with all applicable Laws.

4.22 Insurance. Schedule 4.22 lists all policies of insurance providing coverage to each Target Company. All such policies of insurance are valid and enforceable, and are, in all material respects, commercially reasonable, of the type and in the amounts customarily carried by Persons conducting a business similar to the business of the Target Companies, and sufficient in all material respects for compliance with all applicable Laws and Contracts to which the Target Companies are a party. All premiums due and payable under such policies have been paid. No Target Company has received (and no insurer of any Target Company has threatened in writing or, to Seller's Knowledge, orally) any refusal of coverage or any notice that a defense will be afforded with reservation of rights or any notice of termination, cancellation, exclusion, premium increase (other than notices of annual premium increases), or alteration of coverage or any other indication that any policy of insurance listed on Schedule 4.22 is no longer in full force or effect or that the issuer of any policy of insurance listed on Schedule 4.22 is not willing or able to perform its obligations thereunder. No Target Company is in default under such insurance policies. No Target Company has any self-insurance or co-insurance programs. All such insurance policies will continue in full force and effect for the sole benefit of the Target Companies immediately following the consummation of the transactions contemplated hereby.

4.23 Transactions with Related Parties. Except as set forth on Schedule 4.23, (a) no supplier or customer of the Target Companies is a Related Party, (b) none of the Target Companies' assets are owned, used by, or leased to, directly or indirectly, any Related Party, (c) no Related Party is a party to any Material Contract, (d) no Related Party has any claim against or owes any amount to, or is owed any amount by, any Target Company, and (e) no Related Party is engaged in competition with any Target Company.

4.24 No Brokers or Finders. No Target Company has incurred or will incur, directly or indirectly, as a result of any action taken or permitted to be taken by or on behalf of any Target Party, any liability for brokerage or finders' fees or agents' commissions or similar charges in connection with the execution and performance of the transactions contemplated by this Agreement or the Transaction Documents.

4.25 Due Diligence Materials. To Sellers' knowledge, the documents listed on Schedule 4.25 (collectively, "**Due Diligence Materials**") include all of the material documents within Target Companies' or Sellers' possession or control that affect the operations, Liability or any other aspect of the Target Companies. To Sellers' knowledge, the Due Diligence Materials are true and complete copies thereof. Buyer acknowledges receipt of the Due Diligence Materials and further acknowledges and agrees that the Due Diligence Materials were obtained from a variety of sources, and that Seller makes no representations as to the accuracy or completeness of the information therein except as may otherwise be provided in this Agreement or in the instruments delivered to Buyer at Closing.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to each Seller that the statements contained in this ARTICLE V are true and correct as of the date of this Agreement and will be true and correct as of the Closing Date (except to the extent such representations and warranties expressly relate to a specific date, in which case the representations and warranties shall be true as of such specific date).

5.01 Organization; Standing and Power. Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, operate and lease its properties and to carry on its business as now being conducted.

5.02 Authority; Enforceability. Buyer has all requisite power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby, and all action required on the part of Buyer for such execution, delivery and performance of this Agreement and the Transaction Documents to which it is a party have been duly and validly taken. This Agreement and the Transaction Documents to which Buyer is a party have been or will be, as applicable, duly and validly executed and delivered by Buyer and, assuming due execution and delivery by the Companies, Sellers and Sellers' Representative, as applicable, this Agreement and each of the Transaction Documents to which Buyer is a party constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as enforceability thereof may be limited by bankruptcy, insolvency, moratorium and other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

5.03 No Conflicts. The execution and delivery by Buyer of this Agreement and each of the Transaction Documents to which it is a party does not, the performance and consummation by Buyer of the transactions contemplated hereby or thereby do not and will not (a) conflict with or result in a violation or breach of any Laws or Orders applicable to Buyer or any of Buyer's assets and properties or require any consent or approval of or any notice or filing with any Governmental Authority, regulatory body or other third party; or (b) conflict with or result in a violation or breach of, or default under, or give rise to any right of acceleration or termination of, any of the terms, conditions or provisions of any Contract to which Buyer is a party or by which Buyer's assets or properties are bound, which would adversely affect its ability to consummate the transactions contemplated hereby.

5.04 Legal Proceedings. There is no action, suit, claim, proceeding or investigation pending against or involving Buyer or its assets or properties in a matter that would adversely affect its ability to perform its obligations under this Agreement or any Transaction Documents to which it is a party.

5.05 No Brokers or Finders. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer.

## ARTICLE VI COVENANTS

For the purposes of this ARTICLE VI, the terms "Seller" and "Sellers" shall not include Fidelity Charitable unless expressly stated otherwise.

## 6.01 Pre-Closing Covenants.

(a) *General.* Between the Effective Date and the Closing Date, each party (including Fidelity Charitable) shall use commercially reasonable efforts to cause the conditions applicable to it as set forth in ARTICLE VII to be satisfied and the transactions contemplated by this Agreement to be consummated in accordance with their terms. Without limiting the foregoing, Sellers, the Target Companies and Buyer shall each use diligent and commercially reasonable efforts to satisfy the conditions precedent in Sections 7.01(e), 7.01(f) and 7.01(h) prior to the Outside Date, including by promptly providing any information reasonably requested by the applicable Persons providing the Required Consents or the lessors under the SD Lease and the Cabo Lease.

(b) *Access to Buyer.* From the Effective Date until the Closing, Sellers shall cause each Target Company to, (a) afford Buyer and its Representatives full and free access to and the right to inspect all of the Leased Real Property, properties, assets, premises, books and records, Contracts and other documents and data related to a Target Company during normal business hours upon forty eight (48) hours' advance written notice to Roberts; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to a Target Company as Buyer or any of its Representatives may reasonably request, including, without limitation, documents referenced in the disclosure schedules but not provided to Buyer prior to the Effective Date; and (c) instruct the Representatives of the Target Companies to cooperate with Buyer with respect to the foregoing, provided that any such access shall be granted during normal business hours upon forty eight (48) hours' advance notice to Roberts and in such a manner as not to interfere with the normal operations of the Target Companies. Buyer and any of its Representatives shall exercise due care and ordinary prudence in performing any investigations hereunder and shall not cause or permit any damage or injury to be done to the Leased Real Property and shall promptly restore the Leased Real Property to such condition as existed prior to such investigations (to the extent Buyer's investigations caused damage or injury to the Leased Real Property). Buyer shall indemnify, defend and hold Sellers and the Target Companies harmless from and against any and all third-party Liabilities (exclusive of consequential, special, indirect or punitive damages except to the extent incurred by Sellers or the Target Companies as a result of claims by third parties), arising out of or resulting from any entry by Buyer and its Representative upon the Leased Real Property; provided, however, that Buyer shall not have any liability pursuant to this Section for (i) the mere discovery of any pre-existing conditions on, in or at the Leased Real Property (including any diminution in the Leased Real Property's market value on account thereof) except to the extent such pre-existing condition is exacerbated by such entry, discovery or inspection, or (ii) any liability due to the negligence or misconduct of Sellers or the Target Companies. The indemnity provisions of this Section shall survive the termination of this Agreement.

(c) *Operation of Business.* Except (i) as required by applicable Law or any Governmental Authority, (ii) as consented to in advance by Buyer in writing (which consent shall not be unreasonably conditioned, withheld, delayed or denied) or (iii) as otherwise expressly required by this Agreement or the Transaction Documents, from the Effective to the earlier of the Closing Date and the termination of this Agreement in accordance with Section 7.04, the Companies shall not, and shall cause any Target Company not to, undertake any of the following actions (other than transactions solely between the Target Companies):

(i) issue, sell, transfer, grant, encumber or pledge, or authorize or propose the issuance, sale, transfer, grant, pledge of or subject to any Encumbrance (in each case, other than Permitted Encumbrances) (A) equity securities of the Target Companies, or debt or equity securities convertible into or exchangeable for any such equity securities, or any subscriptions, rights, calls, phantom interests, warrants or options to acquire any such equity securities or other convertible securities of the Target Companies or (B) any other securities in respect of, in lieu of, or in substitution for equity securities of the Target Securities outstanding on the date hereof;

(ii) redeem, purchase, restructure or otherwise acquire or cancel any outstanding equity securities of the Target Companies;

(iii) (A) adopt any material amendment to the Governing Documents of the Target Companies or (B) split, reclassify or combine any of the equity securities of the Target Companies;

(iv) incur or assume any Liabilities or Indebtedness for borrowed money or guarantee any such Liabilities or Indebtedness in excess of \$100,000 for each occurrence or \$250,000 in the aggregate;

(v) except as required under the terms in existence as of the date hereof of any Benefit Plan in effect as of the Effective Date or as required by applicable Law, (A) increase or decrease, grant, or take any action to accelerate the payment, vesting or funding of, any compensation or benefits of any employee of a Target Company (except for immaterial annual base salary increases in the ordinary course of business for employees with annual compensation below \$100,000 both before and after any such increase), (B) pay or agree to pay any severance or termination pay, or change of control payment or benefit to any director, officer or employee of the Target Companies or (C) enter into, establish, adopt, terminate, amend, or modify any Benefit Plan (including any plan, program, agreement, policy or other arrangement that would be a Benefit Plan if it were in existence as of the date hereof), in each case of the foregoing clauses (A) through (C), other than ordinary course amendments or modifications to any Benefit Plan that is a health or welfare plan in connection with annual renewals;

(vi) except in the ordinary course of business, sell, lease, transfer, license, allow to lapse (other than upon the expiration of the term thereof, if applicable), assign, mortgage, pledge, subject to any Encumbrance (other than Permitted Encumbrances) or otherwise dispose of, any of its tangible property (including inventory), Leased Real Property, rights or assets that are material to a Target Company's business other than (A) inventory that is not material to the operation of a Target Company's business, (B) sales of obsolete assets or assets with de minimis value, and (C) distribution or transfer of the Excluded Assets to the Sellers or their Affiliates;

(vii) fail to maintain any Leased Real Property, including all of the improvements, in substantially the same condition as of the Effective Date, other than ordinary wear and tear, casualty and condemnations;

(viii) (other than among Target Companies) make any loans, advances or capital contributions or make any investment in or capital contribution to any other Person in excess of \$50,000 in the aggregate, except advances for travel and other reasonable business expenses to officers and employees in the ordinary course of business consistent with past practice;

(ix) (A) materially amend or terminate any Material Contract or any Real Property Leases or (B) enter into any new Contract which would have been a Material Contract or Real Property Lease had it been entered into prior to the Effective Date (in each case of clauses (A) and (B), other than bidding for, entering into or renewing Contracts with customers, distributors or suppliers in the ordinary course of business, (y) terminations of Contracts and Real Property Leases as a result of the expiration of the term of such Contracts or Real Property Leases and (z) renewals of Real Property Leases in the ordinary course of business);

(x) (A) acquire any business or Person or all or substantially all of the assets of any Person, by merger or consolidation, purchase of substantial assets or equity securities, or by any other manner, in a single transaction or a series of related transactions, or (B) enter into any joint venture;

(xi) (A) make any new capital commitments or capital expenditures greater than \$100,000 individually or \$200,000 in the aggregate; (B) acquire any ownership interest in any real property with an aggregate value that is greater than \$250,000 or (C) fail to make capital expenditures contemplated by a Target Company's current capital expenditure plan;

(xii) make any material change in any method of accounting or auditing practice other than those required by GAAP;

(xiii) make any changes to the Target Companies' historical practice, with respect to the payment of accounts payable or accrued expenses or the collection of the accounts receivable or other receivables, including any acceleration of the collection of any accounts receivable or deferral of the payment of accounts payable;

(xiv) engage in any trade loading practices or any other promotional sales or discount activity with any customers with the intent to accelerate to pre-Closing periods sales or trades that would otherwise be expected (based on past practice) to occur in post-Closing periods;

(xv) enter into, modify or amend any transaction or Contract with any Related Party or Affiliates of the Target Companies, other than terminating such arrangements at no cost to the Target Companies;

(xvi) make or change any material Tax election, file any material amended Tax Return, change any Tax accounting period, or settle any material Tax claim relating to the Target Companies, in each case, outside of the ordinary course of business;

(xvii) compromise or settle any claim or Action (including any settlement or consent to settlement of any material Tax claim) with an aggregate value that is greater than \$100,000, other than the payment or satisfaction of such claims or obligations disclosed in the Financial Statements in amounts no greater than the amount reserved with respect to the relevant Liability therein, or where the full amount of such claim (other than a commercially reasonable deductible no greater than \$100,000) is covered by insurance;

(xviii) adopt or effect a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, exchange or readjustment of stock or units, stock or unit dividend or distribution or like change in the capitalization of the Target Companies (excluding distributions of the Excluded Assets, dividends or distributions of cash to the Sellers in the ordinary course of the business of the Target Companies, and/or dividends or distributions of cash in advance of Closing made for the purpose of reducing cash balances in the bank accounts of the Target Companies prior to Closing, subject to Sellers' compliance with the requirements of Section 6.01(g), in each case with written notice thereof provided to Buyer);

(xix) cancel or terminate any of its current material insurance policies;

(xx) recognize or certify any labor union, works council, labor organization, or other employee representative body as the representative of any employee of the any Target Company;

(xxi) implement or announce any employment site or facility closing, furlough, temporary layoff, or reductions in work force that would require delivery of notices under the WARN Act or state equivalent;



(xxii) hire, engage, or terminate (without cause), any employee whose annual compensation exceeds \$150,000;

(xxiii) waive or release any noncompetition, nonsolicitation, nondisclosure, noninterference, nondisparagement, or other restrictive covenant obligation of any current or former employee or independent contractor;

(xxiv) sell, assign, transfer, lease, license, abandon, permit to lapse, or otherwise encumber any Company Intellectual Property, except for non-exclusive licenses granted in the ordinary course of business; or

(xxv) authorize, commit or agree to take any of the foregoing actions.

(d) *Notice of Developments.* If Sellers, Sellers' Representative or a Company becomes aware prior to Closing of any event, fact or condition or nonoccurrence of any event, fact or condition that may constitute a breach of any representation, warranty, covenant or agreement contained in ARTICLE III or ARTICLE IV or may constitute a breach of any representation or warranty contained in ARTICLE III or ARTICLE IV if such representation or warranty were made on the date of the occurrence or discovery of such event, fact or condition or on the Closing Date, then Sellers' Representative shall promptly provide Buyer with a written description of such fact or condition. From the Effective Date until the Closing, Sellers, Sellers' Representative and each Company shall have the continuing obligation to promptly supplement the information contained in the Schedules with respect to any matter hereafter arising or discovered, which, if in existence on the date hereof and known at the Effective Date, would have been required to be set forth or described in the Schedules. Neither the supplementation of the Schedules pursuant to the obligation in this Section 6.01(d) nor any disclosure after the date hereof of the untruth of any representation or warranty made in this Agreement shall operate as a cure of the failure to disclose the information, or a cure of the breach of any representation or warranty made herein; and determination of any liability for breach of representations or warranties either at signing or at Closing shall be made without reference to any supplements and with reference only to the Schedules as it stands on the date of this Agreement. If any such event, condition, fact, or circumstance that is disclosed pursuant to this Section 6.01(d) (either individually or collectively with all other matters, events, conditions, facts, circumstances, or developments disclosed by such party after the Effective Date pursuant to this Section 6.01(d)) would result in a Material Adverse Effect, then within twenty (20) Business Days of the receipt of such written disclosure notice, this Agreement may be terminated by Buyer pursuant to Section 7.04(a)(v).

(e) *Exclusivity.* The Companies and Sellers agree that they will not, and will cause each of their respective directors, officers, managers, members, partners, employees, agents, consultants, lenders, financing sources, advisors or other Affiliates (including Subsidiaries) or Representatives, including legal counsel, accountants and financial advisors, not to, directly or indirectly (i) solicit, initiate or encourage any inquiry, proposal, offer or contact from any Person (other than Buyer and its Affiliates and Representatives) relating to any transaction involving (A) the sale of any equity or other ownership interest or any assets (other than the sale of goods and services in the ordinary course of business) or Indebtedness of any Target Company, (B) any acquisition, divestiture, merger, share or unit exchange, consolidation, redemption, financing or similar transaction involving a Target Company, (C) any sale or divestiture of any portion of the assets of a Target Company (other than sales of goods and services in the ordinary course of business consistent with past practice), or (D) any similar transaction or business combination involving a Target Company (in each case, an "**Acquisition Proposal**"), or (ii) participate in any discussion or negotiation regarding, or furnish any information with respect to, or assist or facilitate in any manner, any Acquisition Proposal or any attempt to make an Acquisition Proposal. The Companies and Sellers shall immediately cease, and cause to be terminated, any and all contacts, discussions and negotiations with third parties

regarding any of the foregoing, and the Target Companies and Sellers will notify Buyer immediately if any Person makes any proposal, offer, inquiry or contact related to an Acquisition Proposal and provide Buyer with the details thereof (including the Person making such offer, inquiry or contact and a copy of all written communication in connection therewith) and their response thereto.

(f) *Confidentiality.* Prior to the Closing, Buyer agrees not to, and shall cause its Affiliates not to, disclose or use any Confidential Information other than as required to close the transactions contemplated in this Agreement. In the event that Buyer or any Affiliate of Buyer is requested or required pursuant to written or oral question or request for information or documents in any legal Proceeding, interrogatory, subpoena, civil investigation demand, compliance with regulatory rules of a stock exchange or similar process to disclose any Confidential Information, Buyer will notify Sellers' Representative promptly of the request or requirement so that Sellers' Representative may seek an appropriate protective order or waive compliance with the provisions of this Section 6.01(f). If, in the absence of a protective order or the receipt of a waiver hereunder, Buyer is compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, Buyer may disclose the Confidential Information to the tribunal; provided, however, that Buyer shall use its commercially reasonable efforts to obtain, at the request of Sellers' Representative, an order or other assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed as Sellers' Representative shall designate. The foregoing provisions shall not apply to any Confidential Information that is generally available to the public immediately prior to the time of disclosure unless such Confidential Information is so available due to the breach of this Agreement by Buyer or any Affiliate or Representative of Buyer.

(g) *Working Capital Allowance.* Sellers shall cause Marine Group Boat Works, LLC to ensure that the operating bank account of Marine Group Boat Works, LLC has cash in an amount equal to the Working Capital Allowance on deposit at the time of Closing. Conditioned upon and subject Sellers' compliance with the preceding sentence, Sellers shall have the right to cause the Target Companies and their respective Subsidiaries to distribute cash or pay dividends to the Sellers at any time prior to the Closing.

6.02 Expenses. Whether or not the Closing takes place, except as otherwise specifically provided herein, all Transaction Expenses shall be paid by the party incurring such expense.

6.03 Release by Sellers. If and only if the Closing occurs, Sellers, for each of themselves, and any of their respective Affiliates or subsidiaries, and each of their respective predecessors, successors, assigns, and past and present stockholders, members, partners, managers, directors, officers, employees, agents, and other Representatives (collectively, the "**Seller Releasors**"), hereby forever fully and irrevocably release and discharge Buyer, each Target Company, and each of their respective predecessors, successors, direct or indirect subsidiaries and past and present stockholders, members, partners, managers, directors, officers, employees, agents, Affiliates and other Representatives (collectively, the "**Buyer Released Parties**") from any and all actions, suits, claims, demands, Indebtedness, agreements, obligations, promises, judgments, or Liabilities of any kind whatsoever in law or equity and causes of action of every kind and nature, or otherwise (including, claims for damages, costs, expense, and attorneys', brokers' and accountants fees and expenses) arising out of or related to events, facts, conditions or circumstances existing or arising prior to the Closing Date, which the Seller Releasors can, shall or may have against the Buyer Released Parties, whether known or unknown, suspected or unsuspected, unanticipated as well as anticipated (collectively, the "**Seller Released Claims**"), and hereby irrevocably agree to refrain from directly or indirectly asserting any claim or demand or commencing (or causing to be commenced) any suit, action, or Action of any kind, in any court or before any tribunal, against any Released Party based upon any Seller Released Claim. Notwithstanding the preceding sentence of this Section 6.03, "**Seller Released Claims**" does not include, and the provisions of this Section 6.03 shall not release or otherwise diminish, the obligations of any party set forth in or arising under any provisions of this Agreement or the Transaction Documents (including for

the avoidance of ambiguity, any claim for indemnity under ARTICLE IX), or for any claims arising out of or related to any Buyer Released Party's Fraud.

6.04 Release by Buyer. and only if the Closing occurs, Buyer, for itself, and any of its respective Affiliates or subsidiaries, and each of their respective predecessors, successors, assigns, and past and present stockholders, members, partners, managers, directors, officers, employees, agents, the Target Companies and other Representatives (collectively, the "**Buyer Releasers**"), hereby forever fully and irrevocably release and discharge Sellers, and each of their respective predecessors, successors, direct or indirect subsidiaries and past and present stockholders, members, partners, managers, directors, officers, employees, agents, Affiliates and other Representatives (collectively, the "**Seller Released Parties**") from any and all actions, suits, claims, demands, Indebtedness, agreements, obligations, promises, judgments, or Liabilities of any kind whatsoever in law or equity and causes of action of every kind and nature, or otherwise (including, claims for damages, costs, expense, and attorneys', brokers' and accountants fees and expenses) arising out of or related to events, facts, conditions or circumstances existing or arising prior to the Closing Date, which the Buyer Releasers can, shall or may have against the Seller Released Parties, whether known or unknown, suspected or unsuspected, unanticipated as well as anticipated (collectively, the "**Buyer Released Claims**"), and hereby irrevocably agree to refrain from directly or indirectly asserting any claim or demand or commencing (or causing to be commenced) any suit, action, or Action of any kind, in any court or before any tribunal, against any Seller Released Party based upon any Buyer Released Claim. Notwithstanding the preceding sentence of this Section 6.04, "Buyer Released Claims" does not include, and the provisions of this Section 6.04 shall not release or otherwise diminish, the obligations of any party set forth in or arising under any provisions of this Agreement or the Transaction Documents (including for the avoidance of ambiguity, any claim for indemnity under ARTICLE IX), or arising out of or related to any Seller Released Party's Fraud.

6.05 Press Releases and Public Announcements. No party shall issue any press release or make any public announcement relating to the subject matter of this Agreement without the prior written approval of Buyer and Sellers' Representative, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, without the consent or participation of any Seller or Sellers' Representative, after the Closing, Buyer shall be permitted to issue press releases, make public announcements and communicate with employees, customers and suppliers and engage in capital raising efforts.

#### 6.06 R&W Insurance Policy.

(a) Concurrently herewith, Buyer has conditionally bound coverage under a representation and warranty insurance policy in respect of the representations and warranties contained in this Agreement or any certificate delivered in connection with this Agreement (an "**R&W Insurance Policy**"), as set forth on Exhibit D. Subject to Section 6.06(c) and clause (d) of the definition of Seller Expenses, Buyer will use commercially reasonable efforts, at its sole cost and expense, to fully bind the R&W Insurance Policy on or before the Closing. Sellers agree to reasonably cooperate with Buyer's efforts to obtain the R&W Insurance Policy. Buyer shall provide Seller with a reasonable opportunity to review and provide reasonable comments to the proposed R&W Insurance Policy prior to binding coverage.

(b) Subject to Section 6.06(c) and clause (d) of the definition of Seller Expenses, (i) Buyer shall timely pay all premiums and other amounts required to cause the R&W Insurance Policy to become effective in accordance with its terms, and (ii) Buyer shall not (and shall not permit any of its Affiliates (including, after the Closing, the Target Companies) to) take any action with the intention of causing the R&W Insurance Policy or the rights of any party thereunder to be terminated, cancelled or waived in a manner that would have an adverse impact on the Sellers or any of their Affiliates. If issued, the R&W Insurance Policy shall include a provision whereby the Insurer expressly irrevocably waives, and agrees not to pursue, directly or indirectly, any subrogation rights against any Seller or any of their respective

Affiliates with respect to any claim made by any insured thereunder, other than in connection with breach of Fundamental Representations or Fraud by such Seller or its Affiliate. Further, following its issuance, the Buyer shall not amend the subrogation or third-party beneficiary provisions (if any) contained in the R&W Insurance Policy benefiting the Sellers or their Affiliates or otherwise amend or modify the R&W Insurance Policy in a manner adverse to the Sellers or any of their Affiliates.

(c) In the event the aggregate cost to obtain the R&W Insurance (including any deposits and other costs previously paid by Buyer) exceeds \$[REDACTED], the retention or deductible under the R&W Insurance Policy increases, or the R&W Insurance Policy cannot be obtained despite Buyer's commercially reasonable efforts, or the R&W Insurance Policy cannot be obtained absent material requirements or limitations unacceptable to Buyer (acting reasonably), Buyer shall have the right (in its sole discretion) to elect by written notice to Sellers' Representative delivered on or before the Closing, not to proceed with obtaining the R&W Insurance Policy and, in such event, the Escrow Amount shall increase to [REDACTED], and the Buyer Indemnified Parties will have no obligation to seek Indemnifiable Losses from the R&W Insurance Policy.

(d) Notwithstanding anything to the contrary contained in this Agreement, no limitations (including any survival limitations and other limitations set forth in this ARTICLE IX), qualifications or procedures in this Agreement shall be deemed to limit or modify the ability of Buyer to make claims under or recover under the R&W Insurance Policy; it being understood that any matter for which there is coverage available under the R&W Insurance Policy shall be subject to the terms, conditions and limitations, if any, set forth in the R&W Insurance Policy.

6.07 Tail Insurance Policies. Effective immediately prior to the Closing, Sellers, at their own expense, shall cause the Target Companies to purchase tail policies (collectively, the "**Tail Policy**") for directors' and officers', employment practices, and fiduciary liability insurance. The Tail Policy will: (i) be effective for a period of six (6) years from and after the Closing with respect to claims arising from any facts, events, or wrongful act that occurred on or before the Closing; (ii) be in an amount and cover against such risks as is prudent and commercially standard to the transactions contemplated hereby, as mutually agreed by the parties; and (iii) provide coverage for each Target Company.

6.08 Benefit Plans and Insurance. Effective immediately prior to the Closing, Sellers, at their own expense, shall cause the Excluded Companies and the Target Companies to terminate any and all Benefit Plans and insurance policies (of any kind or nature) that are interrelated or otherwise jointly held or administered as between one or more Excluded Company, on the one hand, and one or more Target Companies, on the other hand, or in which their respective employees participate, or which constitute a "multiemployer plan", "multiple employer plan", "multiple employer welfare arrangement" or a "voluntary employees' beneficiary association". Sellers shall cooperate (and shall cause the Target Companies to cooperate) with Buyer's efforts to ensure that adequate replacement Benefit Plans and insurance policies are put into place for the Target Companies immediately following the Closing.

6.09 Employees. Effective immediately prior to the Closing, Sellers, at their own expense, shall cause the Excluded Companies to terminate the employment of the individuals listed on Schedule 6.09 and shall cause one of the Subsidiaries to immediately hire and employ such individuals on substantially the same monetary terms and benefits.

6.10 Free Trade Zone Agreement Site Removal. Effective immediately prior to Closing, Sellers, at their own expense, shall cause 600 Convention Way, San Diego, CA 92101 (Fifth Avenue Landings) to be removed as a FTZ area site under that certain San Diego Foreign-Trade Zone Operating Agreement, dated effective as of October 21, 2024, between the City of San Diego, a California municipal corporation, and Marine Group Boat Works, LLC, a California limited liability company.

6.11 Marine Group Boat Works los Cabos S de RL de CV Restructuring. Prior to Closing, Sellers, at their own expense, shall cause Marine Group Boat Works los Cabos S de RL de CV to be owned ninety-nine percent (99%) by Marine Group Los Cabos LLC and one percent (1%) by Marine Group Los Cabos II LLC. Sellers shall provide such documentation as reasonably requested by Buyer to evidence the restructuring and ownership of Marine Group Boat Works los Cabos S de RL de CV prior to Closing.

6.12 Further Assurances. If before or after the Closing any further action is necessary to carry out the purposes of this Agreement, each of the parties will take such further action (including the execution and delivery of such further instruments and documents) as any other party reasonably may request, all at the sole cost and expense of the requesting party (unless the requesting party is entitled to indemnification therefor under ARTICLE IX), including promptly executing and delivering all instruments and documents that may be necessary to remove or add signatories on any Target Company bank accounts or other accounts with financial institutions. Additionally, without limiting the foregoing, following Closing, Sellers agree to promptly deliver or pay over to Buyer (or the applicable Target Companies) (a) any monies or payments Sellers or their Affiliates receive from customers of the Target Companies, and (b) any other monies or payments received by Sellers or their Affiliates after the Closing in respect of the Interests or the Target Companies. Sellers acknowledge and agree that from and after the Closing, Buyer will be entitled to possession of all documents, books, records (including Tax records), agreements, and financial data of any sort relating to the Target Companies and the other assets of the Target Companies used in the operation of their respective businesses.

## **ARTICLE VII CONDITIONS TO OBLIGATION TO CLOSE; CLOSING; TERMINATION**

7.01 Conditions to Obligation of Buyer. The obligation of Buyer to consummate the transactions that are to be consummated at the Closing is subject to the satisfaction, as of the Closing Date, of the following further conditions (any of which may be waived by Buyer in whole or in part):

(a) All of the representations and warranties (other than the Fundamental Representations) set forth in ARTICLE III and ARTICLE IV or in any other Transaction Document must have been accurate in all material respects as of the Effective Date and must be accurate in all material respects as if made on the Closing Date, and all of the Fundamental Representations must have been accurate in all respects as of the date hereof and must be accurate in all respects as if made on the Closing Date (except to the extent in either case that such representations and warranties speak as of another date);

(b) The Sellers and the Target Companies, as applicable, shall, and shall have caused the Target Companies to, have performed or complied in all material respects with all covenants required by this Agreement to be performed or complied with by such parties at or prior to the Closing Date;

(c) Since the Effective Date, no Material Adverse Effect shall have occurred;

(d) There shall not be any Order in effect or Law enacted preventing consummation of any of the transactions contemplated by this Agreement or any Action seeking to restrain, prevent, change or delay the consummation of any of the transactions contemplated by this Agreement or the Transaction Documents;

(e) All of the Required Consents shall have been obtained and no such Required Consent shall have been revoked, expired or otherwise be ineffective or invalid;

(f) The Board of Port Commissioners of the lessor under the SD Lease shall have approved in open session entering into an amended and restated lease for the SD Property incorporating the material

terms set forth in Exhibit F attached hereto (“**Material Lease Term(s)**”) (and no additional terms that could reasonably be interpreted to be inconsistent with any Material Lease Term) which shall replace and supersede the SD Lease in all respects at or shortly following the Closing;

(g) The title company is unconditionally committed to issue the Leasehold Title Policy;

(h) (i) The lessor under the SD Lease shall have delivered a duly executed estoppel certificate duly in substantially the form attached hereto as Exhibit G, and (ii) the lessor under the Cabo Lease shall have delivered a duly executed estoppel certificate duly in substantially the form attached hereto as Exhibit H, each dated within thirty (30) days of Closing;

(i) The Companies shall have delivered to Buyer a Certificado de Situacion Fiscal from the Mexican Tax Authority (Certificate of Good Tax Standing) for each applicable Target Company (i.e., each Target Company domiciled in Mexico or for which such certificate may be issued) stating in each instance that there are no outstanding Tax liabilities of such Target Company.

**7.02 Conditions to Obligations Sellers.** The obligation of Sellers to consummate the transactions that are to be consummated at the Closing is subject to the satisfaction, as of the Closing Date, of the following further conditions (any of which may be waived by Sellers’ Representative in whole or in part):

(a) All of the representations and warranties (other than the Fundamental Representations) set forth in ARTICLE V or in any other Transaction Document must have been accurate in all material respects as of the Effective Date and must be accurate in all material respects as if made on the Closing Date, and all of the Fundamental Representations must have been accurate in all respects as of the date hereof and must be accurate in all respects as if made on the Closing Date (except to the extent in either case that such representations and warranties speak as of another date);

(b) Buyer shall have performed or complied in all material respects with all covenants required by this Agreement to be performed or complied with by it at or prior to the Closing Date; and

(c) There shall not be any Order in effect or Law enacted preventing consummation of any of the transactions contemplated by this Agreement or any Action seeking to restrain, prevent, change or delay the consummation of any of the transactions contemplated by this Agreement or the Transaction Documents.

**7.03 Closing.** Subject to the terms and conditions of this Agreement, including those set forth set forth in Sections 7.01 and 7.02, the closing (the “**Closing**”) shall take place remotely by means of facsimile, email or other electronic transmission on the Outside Date or on such other date or at such other location as the Buyer and Sellers’ Representative shall mutually agree (such date and time being herein referred to as the “**Closing Date**”). The Closing shall be deemed to occur at 11:59 p.m. Mountain Time on the Closing Date.

(a) At the Closing, Sellers shall deliver or cause to be delivered to Buyer the following:

(i) the Escrow Agreement, duly executed by Sellers and/or Seller’s Representative and the Escrow Agent; and

(ii) a certificate, in form and substance reasonably satisfactory to Buyer, confirming that each of the conditions specified above in Sections 7.01(a) through 7.01(f) are satisfied;

(iii) evidence reasonably acceptable to Buyer of each Seller's authority to enter into this Agreement and the Transaction Documents and to consummate the transactions contemplated pursuant hereto;

(iv) payoff letters relating to all Closing Indebtedness;

(v) one or more Restrictive Covenant Agreements executed by each of the Persons listed on Schedule 7.03(a)(v);

(vi) the resignations of each of the Persons listed on Schedule 7.03(a)(vi) as an employee, officer, director, management board member, and/or manager of all of the Target Companies, in such form as required by applicable Laws,

(vii) one or more assignments of the Interests, substantially in the form attached hereto as Exhibit J, duly endorsed for transfer by each Seller;

(viii) for each Seller, a non-foreign affidavit in form and substance required under Section 1.1445-2(b) of the IRS Treasury Regulations stating that such Seller is not a "foreign person" as defined in Section 1445 of the Code;

(ix) an IRS Form W-9 completed and duly executed by each Seller;

(x) evidence reasonably satisfactory to Buyer that all Related Party Agreements have been terminated as of the Closing Date or have been entered into on arms-length terms reasonably satisfactory to Buyer;

(xi) such documents as Buyer may reasonably request with respect to Roberts Trust admittance as a member of Buyer and the contribution of the Contributed Interests to Buyer (including an assignment of the Contributed Interests and the execution of the Buyer Operating Agreement), duly executed by Roberts Trust; and

(xii) such other customary instruments of transfer or assumption, filings or documents, as may be required to give effect to the transactions contemplated by this Agreement.

(b) At the Closing, Buyer shall:

(i) Cash in an amount equal to the Cash Consideration and allocated among the Sellers in accordance with each Seller's Overall Share (provided that Robert Trust's Overall Share of the Cash Consideration shall be calculated to exclude the portion of Robert Trust's Overall Share allocable to the Contributed Interest) minus the Escrow Amount;

(ii) pay to the Escrow Agent, in cash, an amount equal to the Escrow Amount;

(iii) pay to the holders of the Closing Indebtedness, the Closing Indebtedness set forth in the pay-off letters delivered pursuant to Section 7.03(a)(iv);

(iv) pay the Closing Seller Expenses in accordance with the instructions received from such Persons prior to the Closing; and

(v) issue to the Roberts Trust the Rollover Securities;

(vi) deliver a counterpart to the Escrow Agreement, duly executed by Buyer;

(vii) deliver such other customary instruments of transfer or assumption, filings or documents, as may be required to give effect to the transactions contemplated by this Agreement.

#### 7.04 Termination.

(a) *Termination.* This Agreement may be terminated at any time prior to the Closing Date:

(i) by mutual written consent of Sellers' Representative and Buyer;

(ii) by either Buyer or Sellers' Representative (on behalf of Sellers) if the conditions to closing of such party or parties as set forth in Sections 7.01 and 7.02, respectively, shall not have been satisfied or waived by it prior to April 30, 2025 (the "**Outside Date**"). The right to terminate this Agreement under this Section 7.04(a)(ii) shall not be available to any party if its breach under this Agreement has been the principal cause of or resulted in the failure of the Closing to occur on or before the Outside Date.

(iii) by Buyer, if Sellers or any Target Company, as applicable, shall have breached or failed to perform any of its representations, warranties, covenants, or other agreements contained in this Agreement, which breach or failure to perform would cause the conditions set forth in Section 7.01 at the Closing to not be satisfied by the Outside Date and which breach or failure, if capable of being cured, shall not have been cured prior to the earlier of (A) the Outside Date and (B) ten (10) calendar days following receipt by the Sellers' Representative of written notice of such breach or failure from Buyer, with specific reference to the alleged facts underlying such breach or failure and the conclusion it would lead to such conditions not being met;

(iv) by Sellers' Representative, if Buyer shall have breached or failed to perform any of its representations, warranties, covenants, or other agreements contained in this Agreement, which breach or failure to perform would cause the conditions set forth in Section 7.02 at the Closing to not be satisfied by the Outside Date and which breach or failure, if capable of being cured, shall not have been cured prior to the earlier of (i) the Outside Date or (ii) 10 calendar days following receipt by Buyer of written notice of such breach or failure from the Sellers' Representative, with specific reference to the alleged facts underlying such breach or failure and the conclusion it would lead to such conditions not being met; or

(v) by Buyer, if there is a Material Adverse Effect or as set forth in Section 6.01(d).

(b) *Termination Procedures.* If Sellers' Representative or Buyer exercise their right to terminate this Agreement pursuant to Section 7.04(a), it shall deliver to the other party a written notice specifying a reasonably detailed basis for termination.

(c) *Effect of Termination.*

(i) If this Agreement is terminated and the transactions contemplated hereunder are abandoned as described in Section 7.04(a), this Agreement shall become null and void and of no further force and effect and there shall be no liability on the part of any party or any of its Affiliates, directors, officers, shareholders, partners, members or Representatives, except (i) that the provisions of Section 3.06 (Brokers), Section 4.24 (No Brokers or Finders), Section 5.05 (No Brokers or Finders), Section 6.01(b) (Pre-Closing Indemnity), Section 6.01(f) (Confidentiality), Section 6.02 (Expenses), Section 6.05 (Press Releases and Public Announcements), this Section 7.04(c) (Effect of Termination) and Section 10.14 (Sellers' Representative) shall survive termination, and (ii) following the termination of this Agreement, nothing herein shall relieve any party from liability for any Fraud or intentional and material breach of this Agreement.



(ii) In the event of a termination of this Agreement by Buyer pursuant to Section 7.04(a)(iii); as Buyer's sole and exclusive remedy for such termination, the Sellers and the Target Companies, jointly and severally, shall pay to Buyer the Termination Fee within ten (10) Business Days of such termination.

(iii) In the event of termination of this Agreement by Sellers' Representative pursuant to Section 7.04(a)(iv), as Seller's sole and exclusive remedy for such termination, Buyer shall pay to Sellers the Termination Fee within ten (10) Business Days of such termination. For the avoidance of doubt, if a Termination Fee is paid to the Sellers, the Termination Fee shall be paid to each Seller in proportion to such Seller's Overall Share.

(iv) In the event of termination of this Agreement for any reason other than pursuant to Section 7.04(a)(iii) or Section 7.04(a)(iv), this Agreement shall become null and void and of no further force and effect and there shall be no liability on the part of any party or any of its Affiliates, directors, officers, shareholders, partners, members or Representatives.

## ARTICLE VIII TAX MATTERS

8.01 Intended Tax Treatment; Allocation of Purchase Price Among Companies. The parties hereto agree and acknowledge that, for U.S. federal (and applicable state and local) Income Tax purposes, Sellers' sale of the Purchased Interests to Buyer in exchange for the Purchase Price (together with any adjustments to the Cash Consideration in accordance with this Agreement and any assumed Liabilities and any other amounts treated as taxable consideration for Income Tax purposes) is intended to be treated from the Seller's perspective as a sale of membership interests in the Companies (collectively, the "**Intended Tax Treatment**"). The parties hereto agree and acknowledge that the Purchase Price shall be allocated among the Companies as set forth on Exhibit B.

### 8.02 Tax Returns.

(a) Sellers' Representative shall, at its own expense, prepare or cause to be prepared all Tax Returns required to be filed by the Target Companies for all Pre-Closing Tax Periods ("**Seller Tax Returns**"). Sellers' Representative shall timely file or cause to be timely filed (taking into consideration applicable extensions) all Tax Returns required to be filed by the Target Companies prior to the Closing Date and, with respect to "flow-through" income Tax Returns, all Seller Tax Returns for all Pre-Closing Tax Periods. Seller Tax Returns shall be prepared in a manner consistent with the past practices of the Target Companies except to the extent necessary to reflect the transactions described in this Agreement and as required by applicable Law. Buyer shall provide Sellers' Representative with access to the books and records of the Target Companies as reasonably necessary to allow Sellers' Representative to prepare or cause to be prepared Seller Tax Returns. Sellers' Representative shall deliver or cause to be delivered a copy of each Seller Tax Return to Buyer at least thirty (30) days prior to the date on which such Tax Return is required to be filed (taking into consideration applicable extensions) for Buyer's review, comment and approval provided, however, if such thirty (30) day period is not practical for such Tax Return, Sellers' Representative shall provide a copy of such Tax Return to Buyer as soon as commercially reasonable. Buyer shall review such Tax Returns within fifteen (15) days after the delivery of such Tax Returns. In connection with Buyer's review, Sellers' Representative shall provide or cause to be provided promptly to Buyer information reasonably requested by Buyer, its Affiliates or its Representatives. If Buyer submits comments to Sellers' Representative within such review period, Buyer and Sellers' Representative shall negotiate in good faith to resolve any such items disputed in such comments. If Buyer and Sellers' Representative are unable to resolve any such dispute within ten (10) days after Buyer provides its comments, the parties shall resolve the dispute in accordance with Section 8.02(c). Buyer shall timely file

or cause to be timely filed all Seller Tax Returns (as finalized pursuant to this Section 8.02(a)) required to be filed by a Target Company and due after the Closing Date.

(b) Buyer, at Buyer's expense, shall prepare or cause to be prepared and timely file or cause to be timely filed any and all Tax Returns required to be filed for the Target Companies for a Straddle Period. Buyer shall deliver a copy of such Tax Returns to Sellers' Representative at least thirty (30) days prior to the date on which such Tax Return is required to be filed (taking into consideration applicable extensions) for Sellers' Representative's review and comment; provided, however, if such thirty (30) day period is not practical for such Tax Return, Buyer shall provide a copy of such Tax Return to Seller as soon as commercially reasonable. Sellers' Representative shall review such Tax Returns within fifteen (15) days after the delivery of such Tax Returns. In connection with the Sellers' Representative's review, Buyer shall provide or cause to be provided promptly to Sellers' Representative information reasonably requested by Sellers' Representative or its Representatives. If Sellers' Representative does not submit comments within such review period, Sellers' Representative (and Sellers) will be deemed to have approved such Tax Returns as prepared by Buyer. If Sellers' Representative submits comments to Buyer within such review period, Buyer and Sellers' Representative shall negotiate in good faith to resolve any such items disputed in such comments. If Buyer and Sellers' Representative are unable to resolve any such dispute within ten (10) days after Seller provides its comments, the parties shall resolve the dispute in accordance with Section 8.02(c). Sellers shall bear and pay (A) the amount of Taxes due and owing on the Tax Returns for any Pre-Closing Tax Period, and (B) the amount of Taxes attributable to any Pre-Closing Straddle Period (as hereafter defined) due and owing on the Tax Returns for a Straddle Period of the Target Companies as determined in accordance with Section 8.04.

(c) In the event that Buyer and Sellers' Representative are unable to agree on any timely-raised issue raised by the other party pursuant to Section 8.02 or Section 8.02(b), Buyer and Sellers' Representative shall engage the Designated Accounting Firm to resolve the matter, and the Designated Accounting Firm's determination shall be final and binding on the parties. The Designated Accounting Firm shall resolve the dispute within twenty (20) days after the item has been referred to it. Notwithstanding anything to the contrary in this Section 8.02, the party responsible pursuant to Section 8.02 or Section 8.02(b) for preparing the disputed Tax Return shall be entitled to file on behalf of the Target Companies, or cause to be filed, the applicable Tax Return without having incorporated the disagreed upon changes to avoid a late filing of such Tax Return. If the Designated Accounting Firm's resolution of the dispute necessitates that a Tax Return filed in accordance with the previous sentence be amended, then the party responsible pursuant to Section 8.02 or Section 8.02(b) for preparing the disputed Tax Return shall cause an amended Tax Return to be filed that reflects such resolution (or, in the case of a federal income Tax Return with respect to an entity taxed as a partnership where an amended return is not allowed, an Administrative Adjustment Request, with a corresponding push-out election pursuant to Section 6226(a) of the Code). The fees and expenses of the Designated Accounting Firm shall be borne by each party in the percentage inversely proportionate to the percentage of the total amount submitted for dispute resolution that is resolved in such party's favor.

8.03 Cooperation. The parties shall cooperate, as and to the extent reasonably requested by any other party, in connection with any matter with respect to Taxes. Sellers' Representative agrees to retain all material books and records with respect to Tax matters pertinent to the Target Companies relating to any Pre-Closing Tax Period or Pre-Closing Straddle Period until the expiration of the statute of limitations (and, to the extent notified by Buyer, any extensions thereof) applicable thereto and to abide by all record retention agreements entered into with any Governmental Authority. Further, Sellers' Representative agrees to (i) provide to Buyer such records and information in Sellers' Representatives' possession or control that are reasonably relevant to any Tax Return required to be filed by Buyer with respect to the Target Companies, and (ii) give Buyer reasonable written notice prior to transferring, destroying, or discarding any such books and records and, upon the reasonable request of Buyer, shall allow Buyer to

make copies of such books and records. Straddle Period. To the extent permitted or required by Law or administrative practice, the taxable year of each Target Company shall be treated as closing on (and including) the Closing Date. In the case of any taxable period that includes (but does not end on) the Closing Date (a “**Straddle Period**”), the amount of any Tax based on or measured by income, profits, payroll, or receipts imposed upon or payable by or with respect to a Target Company for the portion of a Straddle Period that ends on the Closing Date (“**Pre-Closing Straddle Period**”) shall be determined based on an interim closing of the books as of the end of the Closing Date, and the amount of any other Taxes for a Pre-Closing Straddle Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period ending on and including the Closing Date and the denominator of which is the number of days in the Straddle Period. Tax Proceeding. Each of Buyer, on one hand, and Sellers’ Representative, on the other hand, shall promptly notify the other in writing upon receipt (including receipt by Affiliates of Buyer or Sellers’ Representative,) of any written notice of any pending or threatened federal, state, local or foreign Proceeding that might reasonably be expected to affect the Tax Liabilities of the Target Companies, Sellers, or Buyer (a “**Tax Proceeding**”) with respect to any Pre-Closing Tax Period or any Straddle Period. With respect to a Tax Proceeding that pertains to a Tax Return other than a federal income Tax Return for a Target Company for a Pre-Closing Tax Period, Sellers’ Representative shall have the right to control any such Tax Proceeding and to employ counsel of its choice at its expense; provided, however, Buyer and its representatives shall be permitted, at Buyer’s expense, to be present at, and participate in, any such Tax Proceeding. With respect to any Tax Proceeding that pertains to a federal income Tax Return for a Target Company for a Pre-Closing Tax Period, (i) Sellers’ Representative shall make (or cause to be made by the Partnership Representative of the applicable Target Company) an election for the Target Company under Section 6226(a) of the Code and Treasury Regulation Section 301.6227-2(c) (or any similar provisions of U.S. federal, state, local or non-U.S. Laws) or, at the determination of Buyer, an election under Section 6225(c), in each case with respect to the alternative to payment of any “imputed underpayment” (within the meaning of Section 6225 of the Code and any similar provisions of U.S. federal, state or local or non-U.S. Laws) for such Pass-Through Tax Return; provided that if such an election is not made, Buyer shall control such Tax Proceeding at Sellers’ cost and expense; (ii) Buyer (or its advisors) may fully participate at Buyer’s sole expense in any Tax Proceeding; and (iii) Sellers’ Representative shall not settle any Tax Proceeding in a manner that would adversely affect Buyer or a Target Company without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed). Buyer shall, and shall cause the applicable Target Company to, provide duly completed powers of attorney to permit the foregoing. If Sellers’ Representative does not timely elect to control a Tax Proceeding that pertains to a Pre-Closing Tax Period, Buyer shall have the right to assume control of such Tax Proceeding and Sellers’ Representative shall cooperate to provide Buyer with all applicable rights to enable such control. With respect to any other Tax Proceeding that pertains to a Pre-Closing Tax Period or Straddle Period, Buyer shall have the sole right to control any such Tax Proceeding, and to employ counsel of its choice; provided, however, Sellers’ Representative and its Representatives shall be permitted, at Sellers’ expense, to be present at, and participate in, any such Tax Proceeding. Neither Sellers’ Representative nor any of its Affiliates (with respect to a Tax Proceeding involving a Tax Return for a Pre-Closing Tax Period), and neither Buyer nor any of its Affiliates (with respect to any other Tax Proceeding involving a Pre-Closing Tax Period or Straddle Period) shall be entitled to settle, either administratively or after the commencement of litigation, any claim for Taxes that could reasonably be expected to adversely affect the Liability for Taxes for which the other party may be liable under this Agreement without the prior written consent of the other party (which shall not be unreasonably delayed, conditioned or withheld). Notwithstanding any provision of this Agreement to the contrary, to the extent that a provision of this Section 8.05 directly conflicts with any provision of Section 9.05, this Section 8.05 shall govern.

8.06 Tax Sharing Agreements. Any Tax-sharing agreements or similar agreements (whether written or not) with respect to or involving any Target Company shall be terminated as of the Closing Date. After the Closing Date, no Target Company shall be bound thereby or have any Liability thereunder.

8.07 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) (collectively, “**Transfer Taxes**”) incurred in connection with this Agreement shall be paid by the Sellers when due. The Sellers will, at their own expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, Buyer will join in the execution of any such Tax Returns and other documentation.

8.08 Tax Refunds. Any refund of Taxes of the Target Companies for any Pre-Closing Tax Period shall be for the account of Sellers, less any cost or expense reasonably incurred by the Target Companies in obtaining such return or credit including, without limitation, the filing of amended returns, costs of contest, interest or penalties (as allocated to the period on or prior to the Closing Date), and shall be paid by the applicable Target Company to Sellers within thirty (30) days after Buyer or a Target Company receives such refund. Sellers agree to repay to Buyer any amount paid pursuant to this Section 8.08 (plus any interest, penalties or other charges imposed by the relevant Governmental Authority) in the event that Buyer or its Affiliates (including the Target Companies) is required to repay such refund to such Governmental Authority.

8.09 Amendments. Without the prior written consent of Buyer (not to be unreasonably withheld), Sellers shall not, to the extent it may affect, or relate to, a Target Company, make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax Liability or reducing any Tax asset of Buyer or a Target Company in respect of any Post-Closing Tax Period.

## ARTICLE IX INDEMNIFICATION

9.01 Survival of Representations, Warranties and Covenants. Except as to (a) the Fundamental Representations which shall survive the Closing and remain in effect for six (6) years, and (b) claims for indemnification related to Fraud, which shall survive the Closing and remain in effect for the applicable statute of limitations, the representations and warranties contained in ARTICLE III, ARTICLE IV, and ARTICLE V shall survive the Closing until the date that is one (1) year following the Closing Date. All covenants and agreements that contemplate performance after the Closing Date will survive the Closing for the period contemplated in accordance with their express terms, and if no time periods are specified therein, then such covenants and agreements shall survive indefinitely or until the latest date permitted by Law. Notwithstanding anything in this Section 9.01 to the contrary, (i) if written notice of a claim for indemnification shall have been given in accordance with the terms of this Agreement on or prior to the expiration of the applicable survival period specified herein, then the representations, warranties, covenants, and agreements that are the subject of such claim will survive (with respect to such claim) until such time as such claim has been fully and finally resolved; and (ii) any claim for indemnification based on Fraud will survive the Closing indefinitely.

### 9.02 Limitations on Liability.

(a) Subject to the limitations and procedures of this Agreement, any indemnification claim under Section 9.03(a) shall be payable by the applicable Seller.

(b) No Seller will have any liability under Section 9.03(a)(ii) with respect to any breach of any covenant or agreement made by any other Seller.

(c) Except with respect to a claim based on Fraud or a breach of a Fundamental Representation, the Buyer Indemnified Parties shall be entitled to indemnification under Section 9.03(b)(i) only if the aggregate amount of all Indemnifiable Losses incurred exceeds an amount equal to one-half of the retention

amount listed under the R&W Insurance Policy (the “**Deductible**”), in which case the Buyer Indemnified Parties shall be entitled to indemnification for the aggregate amount of all such Indemnifiable Losses in excess of the Deductible up to an aggregate amount equal to \$ [REDACTED] (the “**Cap**”), provided that Indemnifiable Losses satisfied by the R&W Insurance Policy shall not count toward the Cap (i.e., only amounts paid from the Deductible, from the Escrow Amount or which are otherwise paid by Sellers shall count toward the Cap), subject to the other limitations in this ARTICLE IX.

(d) Notwithstanding anything in this Agreement to the contrary and for the avoidance of doubt, none of the limitations on indemnification set forth in this Section 9.02 shall apply to any indemnification claims arising out of, relating to, or resulting from Fraud.

(e) Sellers shall not be liable under this ARTICLE IX for any Indemnifiable Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller or the Target Companies contained in this Agreement (including without limitation, Sellers’ failure to disclose any matter required to be disclosed pursuant to this Agreement), if the Buyer Indemnified Party is deemed to have actual knowledge of the inaccuracy or breach prior to the Closing. For the purpose of determining actual knowledge in accordance with the preceding sentence, a party shall be deemed to have actual knowledge of an inaccuracy or breach of a representation or warranty if such breach or inaccuracy is reasonably apparent from the Due Diligence Materials provided to Buyer with respect to the transactions contemplated by this Agreement.

(f) From and after the Closing, the Sellers shall not and shall cause their Affiliates not to seek indemnification or contribution from the Buyer or any of the Target Companies (including by reason of the fact that such Seller or Affiliate thereof was a director, manager, member, officer, employee, or agent of any of the Target Companies) for any breaches or in respect of any other payments required to be made by the Sellers pursuant to this Agreement or any other transaction document contemplated hereby.

(g) All Indemnity Payments made under this Agreement shall be treated by the parties as an adjustment to the Cash Consideration for Tax purposes, unless otherwise required by Law.

(h) Notwithstanding Seller’s limited and qualified representations and warranties set forth in Section 4.19, Buyer understands and acknowledges that Buyer shall have sole and exclusive liability for all Environmental Claims that arise in whole or in part, directly or indirectly, from or in connection with, the presence or Release of Hazardous Material in, on, under or about the Leased Real Property from and after the Closing Date, except that Seller acknowledges and agrees that this Section does not absolve Seller from any claim of fraud or intentional misrepresentation, or from its breach of the representations and warranties set forth in Section 4.19 as Buyer is materially relying on Seller’s representations and warranties therein.

(i) Notwithstanding anything to the contrary in this Agreement or any Transaction Document, each party hereto acknowledges that Fidelity Charitable is a public charity and agrees that the Fidelity Charitable is not (a) making any of the representations and warranties set forth in this Agreement other than those set forth in Sections 3.01, 3.02, 3.03, 3.04, 3.05 and 3.06, and, in each such case, solely as to Fidelity Charitable and not as to any of the other Sellers, (b) agreeing to any covenants other than its covenant to convey to Buyer at Closing the Interests held by Fidelity Charitable and such other covenants expressly set forth as being an obligation of Fidelity Charitable in this Agreement, or (c) agreeing to any indemnification obligations, including, without limitation, those set forth in ARTICLE IX of this Agreement, except to the extent relating to a breach of Fidelity Charitable’s representations and warranties set forth in this Agreement in Sections 3.01, 3.02, 3.03, 3.04, 3.05 and 3.06. The aggregate amount of all obligations of Fidelity Charitable hereunder shall not exceed Fidelity Charitable’s Overall Share of the Purchase Price and such obligations shall be satisfied solely and exclusively from the Purchase Price or the Escrow Amount. Except as expressly set forth herein, in no event shall Buyer or any Buyer Indemnified Party be entitled to bring

any claims for indemnification or pursue any other recourse, at law or in equity, from or against the Fidelity Charitable arising from or relating to the Agreement or any Transaction Document or through state, federal or local laws. Notwithstanding the foregoing, all Sellers (other than Fidelity Charitable) shall remain jointly and severally liable for any breaches by Fidelity Charitable of its representations, warranties, covenants or other obligations under this Agreement.

### 9.03 Indemnification.

(a) *Sellers' Several Indemnification.* From and after the Closing and subject to the limitations set forth herein, each Seller, severally and not jointly, shall indemnify the Buyer Indemnified Parties for all Indemnifiable Losses resulting from, arising out of, or in connection with: any inaccuracy in or breach of any representation or warranty made by such Seller in ARTICLE III.

(b) *Sellers' Joint and Several Indemnification.* Each Seller agrees to jointly and severally indemnify, defend and hold harmless Buyer, its Affiliates, members, stockholders, Representatives and each person who controls any of them (collectively, the “**Buyer Indemnified Parties**”) from and against any and all Indemnifiable Losses to the extent relating to, resulting from or arising out of:

(i) any inaccuracy in or breach of a representation or warranty under ARTICLE IV, the Transaction Documents or under any schedule, certificate or exhibit related hereto or thereto;

(ii) any breach or nonfulfillment of any agreement, obligation or covenant made (x) by a Target Company in this Agreement that is to be performed prior to the Closing or (y) the Sellers that is to be performed at or following the Closing;

(iii) any Third-Party Claim or Liability (but only to the extent such Liability was not fully accrued as a current liability in the calculation of Working Capital) based upon, resulting from or arising out of the business, operations, properties, assets, or obligations of Sellers, the Target Companies, or any of their respective Affiliates conducted, existing or arising prior to the Closing (regardless of whether or not such Third-Party Claim or Liability relates to or results from the breach of any representation or warranty under ARTICLE III or ARTICLE IV);

(iv) any Transaction Expenses (including, without limitation, Seller Expenses) arising out of or related to this Agreement or the Transaction Documents that are an obligation of any Seller;

(v) any claim with respect to Fraud;

(vi) any matters specified on Schedule 9.03(b)(vi);

(vii) any Indebtedness of the Target Companies existing or arising out of or associated with any period prior to the Closing, solely to the extent such Indebtedness was not paid at or prior to the Closing, or otherwise included in the calculation of Closing Indebtedness; and

(viii) any and all (A) Taxes of (1) any Target Company for any Pre-Closing Tax Period, including for the avoidance of doubt, state and local gross receipts Taxes of any Target Company for any Pre-Closing Tax Period; (2) any Seller, regardless of the taxable period to which such Taxes relate, including the portion of any Transfer Taxes that is payable by any Seller pursuant to Section 8.07; (3) any member of an affiliated, consolidated, combined or unitary group of which a Target Company (or any of its predecessors, whether by merger, amalgamation, conversion or otherwise) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulations Section 1.1502-6 or any analogous or similar Law, and (4) any Person (other than the Target Companies) imposed on or payable by a Target

Company as a transferee or successor, by Contract or pursuant to any Law which Taxes relate to an event or transaction occurring before the Closing Date, but only if such transferee or successor relationship, contract or other condition imposing liability existed prior to the Closing Date; (B) Taxes imposed upon the Buyer or its Affiliates pursuant to Section 951 or Section 951A of the Code with respect to any interest held in any Target Company treated as a “controlled foreign corporation” (as that term is defined in Section 957 of the Code) with respect to earnings and profits from a Pre-Closing Tax Period; and (C) reasonable out-of-pocket costs or expenses incurred in defending any proceeding with respect to any Tax or Tax Return of any Target Company relating to any Pre-Closing Tax Period or any other Tax that if paid would be referenced in clauses (A) (whether or not such proceeding results in any indemnification obligation for Taxes pursuant to this Section 9.03(b)(viii)).

(c) *Buyer’s Indemnification.* Buyer agrees to indemnify, defend and hold harmless the Sellers and their respective Representatives (collectively, the “**Seller Indemnified Parties**”) from and against any and all Indemnifiable Losses to the extent relating to, resulting from or arising out of:

(i) any inaccuracy in or breach of by Buyer of a representation or warranty in ARTICLE V, the Transaction Documents or under any schedule, certificate or exhibit related hereto or thereto;

(ii) any Transaction Expenses arising out of or related to this Agreement or the Transaction Documents that are an obligation of Buyer;

(iii) any breach or nonfulfillment of any agreement, obligation or covenant to be performed by of Buyer under the terms of this Agreement, the Transaction Documents or any schedule, certificate, or exhibit related hereto or thereto; and

(iv) other than Indemnifiable Losses described in Section 9.03(a) or Section 9.03(b), the executory obligations of the Target Companies accruing or arising after the Closing under the Real Property Leases or under other Contracts transferred to Buyer at Closing, or arising from or related to the operations of the Target Companies after the Closing including, without limitation any Environmental Claim arising from or related to the Target Companies’ or their predecessor’s possession or control of the premises described in the Real Property Leases and, with respect to Environmental Claims only, without regard to whether the facts and circumstances giving rise to such Environmental Claim occurred before or after the Closing. For the avoidance of doubt, in the absence of Sellers’ obligation to indemnify Buyer Indemnified Parties pursuant to Section 9.03(a) or Section 9.03(b), all Liabilities arising from or related to the operations of the Target Companies after Closing (and, with respect to Environmental Claims only, without regard to whether the facts and circumstances giving rise to such Environmental Claim occurred before or after the Closing) shall be borne by Buyer.

**9.04 Payment of Indemnifiable Losses.** Subject to the applicable limitations set forth in this ARTICLE IX, any amounts due by Sellers pursuant to Sections 9.03(a) or 9.03(b) will be paid as follows:

(a) if any amounts are payable in connection with Indemnifiable Losses under Section 9.03(a) or Section 9.03(b) (other than claims with respect to any breach of a Fundamental Representation, claims involving Fraud, or in connection with Indemnifiable Losses under Section 9.03(b)(vi)), (A) first, such amounts shall be applied by Buyer toward the Deductible until Indemnifiable Losses have been incurred in the amount of the Deductible, (B) second, to the extent any such amounts remain unsatisfied after application of the Deductible, such amounts shall be satisfied by Seller from the Escrow Fund, until such Indemnifiable Losses have been paid in full or the Escrow Fund then available and not subject to any prior claim for Indemnifiable Losses has been reduced to zero, (C) third, to the extent Indemnifiable Losses are covered by the R&W Insurance Policy, by making and pursuing a claim against the R&W Insurance Policy

until denied by the Insurer (it being understood that to the extent there is any remaining deductible or retention amount under the R&W Insurance Policy, such amount shall be satisfied by Buyer, in immediately available cash), and (D) fourth, from the Sellers, jointly and severally, in immediately available cash;

(b) if any amounts are payable in connection with Indemnifiable Losses (i) under Section 9.03(b)(vi), or (ii) under Section 9.03(b)(i) with respect to any breach of a Fundamental Representation, or (iii) which involve Fraud, at Buyer's election, such amounts may be satisfied in any one or more of following ways (A) from the Escrow Fund, (B) to the extent any such Indemnifiable Losses are covered by the R&W Insurance Policy, by making and pursuing a claim against the R&W Insurance Policy until denied by the Insurer (it being understood that to the extent there is any remaining deductible or retention amount under the R&W Insurance Policy, such amount shall be satisfied by Sellers, jointly and severally, in immediately available cash); and/or (C) from the Sellers, jointly and severally, in immediately available cash; and

(c) If any amounts claimed by Buyer Indemnified Parties to be Indemnifiable Losses under this ARTICLE IX are not covered by the R&W Insurance Policy as a direct result of Buyer's failure to comply in all material respects with Section 6.06(b), including without limitation, Buyer's obligation to pay all premiums and other amounts required to be paid to cause the R&W Insurance Policy to remain in effect for a period of 6 years from the Closing Date, that portion of such claimed Indemnifiable Losses that would have otherwise been satisfied by the R&W Insurance Policy shall be deemed satisfied for all purposes under this ARTICLE IX.

Any amounts remaining in the Escrow Fund as of the twelve (12) month anniversary of the Closing Date that are not subject to any prior claim for Indemnifiable Losses, shall be returned to Sellers in accordance with the Escrow Agreement. Notwithstanding anything to the contrary in this Agreement, Seller expressly agrees that the denial of any claim made by any Buyer Indemnified Party under the R&W Insurance Policy shall not be construed as, used as evidence that, or be res judicata that, such Buyer Indemnified Party is not entitled to indemnification from Sellers under ARTICLE IX.

#### 9.05 Indemnification Procedures.

(a) If any Indemnitee receives notice of a Third-Party Claim against such Indemnitee with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnitee shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnitee shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnitee, to assume the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnitee shall cooperate in good faith in such defense; provided, that if the Indemnifying Party is a Seller, such Indemnifying Party shall not have the right to defend or direct the defense of any such Third-Party Claim that (x) is asserted directly by or on behalf of a Person that is a supplier, customer, current or former employee, or independent contractor of a Target Company (other than the Gradilla Action, the defense of which shall be assumed by Sellers subject to the provisions of this Section 9.05) or (y) seeks an injunction or other equitable relief against the Indemnitee. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 9.05(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnitee. The Indemnitee shall have the right, at its own cost and expense, to participate in the defense of any Third-Party Claim with counsel selected by it subject



to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third-Party Claim or does not have the right to do so or fails to promptly notify the Indemnitee in writing of its election to defend as provided in this Agreement, the Indemnitee may, subject to Section 9.05(b), pay, compromise, defend such Third-Party Claim and seek indemnification for any and all Indemnifiable Losses based upon, arising from or relating to such Third-Party Claim. Seller's Representative and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third-Party Claim, including making available records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(b) Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed), except as provided in this Section 9.05(b). If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnitee and provides, in customary form, for the unconditional release of each Indemnitee from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnitee. If the Indemnitee fails to consent to such firm offer within ten (10) days after its receipt of such notice, the Indemnitee may continue to contest or defend such Third-Party Claim and, in such event, the maximum liability of the Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnitee fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnitee has assumed the defense pursuant to Section 9.05(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) Any claim by an Indemnitee on account of an Indemnifiable Loss which does not result from a Third-Party Claim (a "**Direct Claim**") shall be asserted by the Indemnitee giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnitee shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty (30) day period, the Indemnitee shall allow the Indemnifying Party and its Representatives to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnitee shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Company's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty (30) day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnitee shall be free to pursue such remedies as may be available to the Indemnitee on the terms and subject to the provisions of this Agreement.

(d) Notwithstanding anything to the contrary in this Section 9.05, the Indemnifying Person's rights to defend any Third-Party Claim, and any notice, consent and approval rights with respect to a Third-Party Claim, shall in all respects be subject to the terms of the R&W Insurance Policy, including the Insurer's right under the R&W Insurance Policy to control the defense of such Third-Party Claim.

(e) Notwithstanding any other provision of this Agreement, the control of any Tax Proceeding shall be governed exclusively by Section 8.05.

9.06 No Duplication of Recovery. Any liability for indemnification under this Agreement shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement; provided, however, that the foregoing limitation shall not prevent an Indemnified Person from recovering all Losses to which it is entitled hereunder arising out of the same set of facts, events, conditions or circumstances (but not more than once) notwithstanding the fact that an indemnification claim for such Losses is based upon more than one representation or warranty or covenant. Additionally, in no event may a Buyer Indemnified Party recover amounts from the Sellers and pursuant to the R&W Insurance Policy, aggregating an amount in excess of its Losses with respect to such claim, and any such excess amounts received by any such Buyer Indemnified Party shall promptly be paid over to the applicable Sellers.

## ARTICLE X GENERAL PROVISIONS

10.01 Expenses. Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement, the Transaction Documents and the transactions contemplated hereby and thereby shall be paid by the party incurring such expenses.

10.02 Amendment; Waiver. Subject to Section 10.14(c), this Agreement may be amended or modified in whole or in part at any time by an agreement in writing among Buyer, Companies and Seller's Representative. Any term or provision of this Agreement may be waived in writing at any time by Buyer or Sellers' Representative, as applicable, as such waiver relates to a benefit of such party under this Agreement. Any waiver effected pursuant to this Section 10.02 shall be binding on the parties. No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude the exercise of any other right, power or privilege. No waiver of any breach of any covenant or agreement hereunder shall be deemed a waiver of a preceding or subsequent breach of the same or any other covenant or agreement.

10.03 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third (3<sup>rd</sup>) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.03):

If to Buyer:

c/o 1111 Companies LLC  
7076 Indian Peaks Trail  
Boulder, CO 80301  
Attention: Chip Besse  
E-mail: Chipbesse1@gmail.com

and

c/o Vigeo Investments

P.O. Box 80206  
Denver, CO 80206  
Attention: Steven Folse  
E-mail: stevenf@vigeoinvestments.com

with a copy to (which shall not constitute notice):

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.  
950 17th Street, Suite 1600  
Denver, CO 80202  
Attention: Howard Pollack & Dimitri Adloff  
E-mail: hpollack@ottenjohnson.com & dadloff@ottenjohnson.com

If to Sellers or Sellers' Representative:

Arthur E. Engel  
1311 First Street  
Coronado, CA 92118  
Email: aeengel8@gmail.com

with a copy to (which shall not constitute notice):

Charles E. Black, Esq.  
4556 NW Paddock Lane  
Camas, WA 98607  
E-mail: cblack@cburbandevelopment.com

10.04 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, email (including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered is deemed to have been duly and validly delivered and is valid and effective for all purposes.

10.05 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the Laws of the State of Colorado, without regard to conflicts of law principles.

10.06 Entire Agreement. The terms of this Agreement (including the Exhibits and Schedules hereto) and other documents and instruments referenced herein or executed by the parties concurrently herewith are intended by the parties as a final expression of their agreement with respect to the subject matter hereof and thereof and may not be contradicted by evidence of any prior agreement, and the same constitute the complete and exclusive statement of terms, and the parties agree that no extrinsic evidence whatsoever may be introduced in any judicial proceeding, if any, involving the same.

10.07 No Third-Party Rights. Except as provided in ARTICLE IX, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.08 Titles and Headings. Titles and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

10.09 Assignment. This Agreement and the rights, duties and obligations hereunder may not be assigned by any of the parties without the prior written consent of the other parties, and any attempted assignment without consent shall be void. Notwithstanding the foregoing, Buyer may assign any or all of its rights and obligations under this Agreement to (a) any Person acquiring a material portion of the assets, business or securities of Buyer, its Affiliates or the Company, whether by merger, consolidation, sale of assets or securities or otherwise, (b) any lender to Buyer or any of its Affiliates as security for indebtedness to any such lender, and (c) any Affiliate of Buyer.

10.10 Successors and Assigns. Subject to Section 10.09, this Agreement and the provisions hereof shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and permitted assigns.

10.11 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable Law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

10.12 Binding Arbitration. The parties agree to submit to binding arbitration, in accordance with, and subject to, the provisions of Exhibit C attached hereto and incorporated herein by this reference, to resolve any dispute relating to or arising out of this Agreement or the Transaction Documents.

10.13 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity; provided, however, nothing in this Agreement shall permit Seller to seek specific performance against Buyer for a pre-Closing breach of this Agreement (except as necessary to enforce Buyer's obligations under Section 6.01(f) and Seller's sole remedy in such event is to terminate the Agreement in accordance with Section 7.04(a)(iv) and seek the Termination Fee in accordance with Section 7.04(c)(iii).

10.14 Sellers' Representative.

(a) *Appointment of the Sellers' Representative*. The Sellers hereby designate A. Engel to serve as the Sellers' Representative of all the Sellers for all purposes in connection with this Agreement and any agreement ancillary hereto. By signing this Agreement in the capacity of Sellers' Representative, A. Engel hereby accepts the appointment as the Sellers' Representative for purposes of this Agreement and any agreement ancillary hereto.

(b) *Authority*. Each Seller hereby appoints the Sellers' Representative as such Seller's true and lawful attorney-in-fact and agent (with full power of substitution) with full and exclusive power and authority to represent and bind such Seller with respect to all matters related to, arising under or pursuant to the express duties of the Sellers' Representative under this Agreement and any agreements ancillary hereto (including the taking by the Sellers' Representative of any and all actions and the making of any decisions required or permitted to be taken on such Seller's behalf), including: (i) to act on behalf of such Member in connection with the matters contemplated by Sections 2.03 and 8.05; (ii) to use reasonable efforts to enforce and protect the rights and interests of the Sellers arising out of or under or in any manner relating to this Agreement and the transactions contemplated hereunder; (iii) to employ and obtain the advice of legal counsel, accountants and other professional advisors as the Sellers' Representative, in its sole discretion, deems necessary or advisable in the performance of its duties as the Sellers' Representative and to rely on their advice and counsel; and (iv) to take all actions necessary in the judgment of the Sellers' Representative for the accomplishment of the foregoing. A decision, act, consent or instruction of the

Sellers' Representative as to any of the foregoing matters shall constitute a decision of all the Sellers and shall be final, binding and conclusive on each Seller. Buyer may rely upon such decision, act, consent or instruction of the Sellers' Representative as being the decision, act, consent or instruction of every Seller. EACH SELLER AGREES THAT SUCH AGENCY AND PROXY ARE COUPLED WITH AN INTEREST, ARE THEREFORE IRREVOCABLE WITHOUT THE CONSENT OF THE SELLERS' REPRESENTATIVE AND SHALL SURVIVE THE DEATH, INCAPACITY, BANKRUPTCY, DISSOLUTION OR LIQUIDATION OF ANY SELLER.

(c) *Limitations on Authority.* Notwithstanding anything to the contrary in this Agreement, the Sellers' Representative shall have no authority to act as attorney-in-fact or otherwise for any Seller: (i) with respect to any indemnity claim solely against such Seller arising under Section 9.03(a) (a "**Several Claim**"), and each such Seller shall be entitled to resolve any and all Several Claims; or (b) without the consent of the applicable Seller, in connection with an amendment or modification of this Agreement that (A) results in any increase in liability to such Seller from the liabilities described in this Agreement, (B) results in any reduction in compensation to be provided to such Seller, (C) adversely and disproportionately affects such Seller as compared to any other Seller, or (D) subjects such Seller to any restrictive covenants (e.g., covenants regarding non-competition, non-solicitation, non-disparagement or confidentiality) beyond those restrictive covenants agreed to by such Seller in connection with the Closing, other than (in the case of clauses (A) and (B)) as contemplated by the authority expressly granted to the Sellers' Representative.

(d) *Limitations on Liability.*

(i) The Sellers' Representative is acting solely in an agency capacity in connection with this Agreement and will have no personal liability to any Person for any action taken, or inaction, in its capacity of the Sellers' Representative, except to the extent it is determined by a court of competent jurisdiction, in a final Order, to have resulted directly and solely from the gross negligence or willful misconduct of the Sellers' Representative. In no event shall the Sellers' Representative be deemed to have any fiduciary duty or obligation to any Person. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL THE SELLERS' REPRESENTATIVE, SOLELY IN ITS CAPACITY AS SUCH, BE LIABLE TO ANY SELLER FOR ANY SPECIAL, SPECULATIVE, REMOTE, EXEMPLARY, INDIRECT, INCIDENTAL, TREBLE, CONSEQUENTIAL OR PUNITIVE DAMAGES.

(ii) In connection with the exercise of its duties, the Sellers' Representative will be entitled to consult with and rely upon legal counsel (including Sellers' Counsel) and other professional advisors, with the costs thereof (and all other out-of-pocket costs reasonably incurred by the Sellers' Representative incident to discharging its duties under this Agreement) to be allocated among the Sellers (the amount of which may be withheld from any payment due to such Seller hereunder).

(iii) The Sellers' Representative shall be protected in acting upon any written notice, consent, receipt or other paper or document furnished to it, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information therein contained, without inquiry. The Sellers' Representative shall not be liable, in its capacity as such, to any Seller for any error of judgment or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or Law.

(iv) The Sellers' Representative shall have no duties except those which are expressly set forth herein.

(v) Each Seller shall indemnify, defend and hold the Sellers' Representative harmless from and against any and all claims, losses, Liabilities, damages and expenses (including reasonable

attorneys' fees and costs) which the Sellers' Representative may suffer or sustain as a result of any action taken, or not taken, in good faith hereunder.

(vi) Buyer agrees that: (A) the Sellers' Representative is serving in such capacity solely for purposes of administrative convenience; (B) the Sellers' Representative shall not be liable solely in such capacity for any of the obligations of any Seller hereunder; and (C) Buyer shall not look to the assets of the Sellers' Representative, in its capacity as such, for the satisfaction of any obligations to be performed (or payment to be made) by any Seller hereunder. Notwithstanding anything to the contrary, nothing in this Section 10.14 shall limit any recourse otherwise available by Buyer or any Buyer Indemnified Parties against any Seller in its capacity as such (even if a Seller is serving as the Sellers' Representative).

10.15 Certain Interpretive Matters and Definitions. Unless the context otherwise requires, (a) all references to Sections, Articles, Exhibits or Schedules are to Sections, Articles, Exhibits or Schedules of or to this Agreement, (b) each term defined in this Agreement has the meaning assigned to it, (iii) "or" is disjunctive but not necessarily exclusive, (c) words in the singular include the plural and vice versa, and (v) the word "including" and similar terms following any statement will not be construed to limit the statement to matters listed after such word or term, whether or not a phrase of nonlimitation such as "without limitation" is used. All references to "\$" or dollar amounts will be to lawful currency of the United States of America. No provision of this Agreement will be interpreted in favor of, or against, any of the parties hereto by reason of the extent to which any such party or its counsel participated in the drafting thereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof or thereof. Each representation, warranty, covenant and agreement contained herein shall have independent significance. Accordingly, if any representation, warranty, covenant or agreement contained herein is breached, the fact that there exists another representation, warranty, covenant or agreement relating to the same subject matter (regardless of the relative levels of specificity) shall not detract from or mitigate the breach of the first representation, warranty, covenant or agreement; provided, that in no event shall there be any duplicative recovery for a particular breach.

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed and delivered as of the Closing Date.

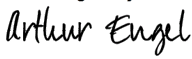
**BUYER:**

MARINE GROUP GLOBAL HOLDINGS, LLC,  
a Delaware limited liability company

DocuSigned by:  
  
By: 6D8B5C5CE15A450...  
Name: Steven Folse  
Title: Manager

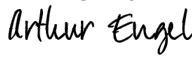
*Signatures continue on the next page.*

**SELLERS' REPRESENTATIVE:**

DocuSigned by:  
  
0BA8BDC884C0472...  
ARTHUR E. ENGEL, an individual

**COMPANIES:**

**MGBW, LLC,**  
a Delaware limited liability company

DocuSigned by:  
  
By: 0BA8BDC884C0472...  
Name: Arthur E. Engel  
Title: Authorized Signatory

**MARINE GROUP LOS CABOS LLC,**  
a Delaware limited liability company


DocuSigned by:  
  
By: 0BA8BDC884C0472...  
Name: Arthur E. Engel  
Title: Authorized Signatory

**MS SD, LLC,**  
a Delaware limited liability company

DocuSigned by:  
  
By: 0BA8BDC884C0472...  
Name: Arthur E. Engel  
Title: Authorized Signatory



**SELLERS:**

DocuSigned by:  


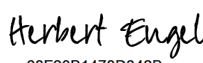
0BA8BDC884C0472...

ARTHUR E. ENGEL, as Trustee under The Arthur E.  
Engel Trust of 1988

*Signatures continue on the next page.*

**SELLERS (cont'd):**

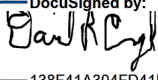
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HERBERT G. ENGEL, as Trustee under the Herbert G.  
Engel Trust dated May 28, 1996

*Signatures continue on the next page.*

**SELLERS (cont'd):**

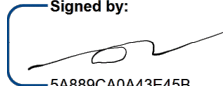
DocuSigned by:  
  
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DAVID R. ENGEL, as Trustee under the David R. Engel  
Trust of 1990

*Signatures continue on the next page.*

**SELLERS (cont'd):**

Signed by:

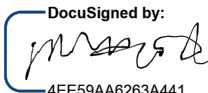


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TODD ROBERTS, as Trustee under the Todd and Andrea  
Roberts Family Trust dated August 1, 2006

*Signatures continue on the next page.*

**SELLERS (cont'd):**

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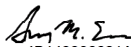
MATTHEW P. ENGEL, as Trustee of the Matthew P.  
Engel Irrevocable Trust dated December 20, 2011

*Signatures continue on the next page.*

**SELLERS (cont'd):**

**FIDELITY INVESTMENTS CHARITABLE GIFT  
FUND**

DocuSigned by:

  
4B149906681A49A...

Amy Grossman, Vice President, Complex Assets Group

*Signatures continue on the next page.*

**SELLERS (cont'd):**

DocuSigned by:

*Brad Engel*

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BRAD C. ENGEL, as Trustee of the Brad Engel 2016  
Trust

*Signatures continue on the next page.*

**SELLERS (cont'd):**

DocuSigned by:

*Brian Engel*

B7686EDEE18E4ED

BRIAN THOMAS ENGEL, an individual

*Signatures continue on the next page.*



**SELLERS (cont'd):**

Signed by:


A blue ink handwritten signature that reads "Ryan J Rahm".

28943B46C39A441...  
\_\_\_\_\_  
RYAN J. RAHM, an individual

*Signatures continue on the next page.*

**SELLERS (cont'd):**

Signed by:

  
84526C46F691491...

JASON ENGEL, as Trustee of the Jason Engel Living  
Trust, executed June 30, 2020

**Exhibit A**

<b>MGBW, LLC, a Delaware limited liability company</b>	
<b>Seller</b>	<b>Pro Rata Share of above listed Company</b>
Arthur E. Engel Trust of 1988	38.425%
Herbert G. Engel Trust dated May 28, 1996	23.744%
David R. Engel Trust of 1990	14.831%
Matthew P. Engel Irrevocable Trust dated December 20, 2011	15%
Todd and Andrea Roberts Family Trust dated August 1, 2006	5%
Fidelity Charitable	3%

<b>MS SD, LLC, a Delaware limited liability company</b>	
<b>Seller</b>	<b>Pro Rata Share of above listed Company</b>
Arthur E. Engel Trust of 1988	34.042%
Herbert G. Engel Trust dated May 28, 1996	10.837%
David R. Engel Trust of 1990	6.489%
Matthew P. Engel Irrevocable Trust dated December 20, 2011	12.632%
Todd and Andrea Roberts Family Trust dated August 1, 2006	20%
Brad Engel 2016 Trust	3%
Brian Thomas Engel	3%
Ryan J. Rahm	5%
Jason Engel Living Trust, executed June 30, 2020	5%

<b>Marine Group Los Cabos LLC, a Delaware limited liability company</b>	
<b>Seller</b>	<b>Pro Rata Share of above listed Company</b>
Arthur E. Engel Trust of 1988	40.425%
Herbert G. Engel Trust dated May 28, 1996	24.744%
David R. Engel Trust of 1990	14.831%
Matthew P. Engel Irrevocable Trust dated December 20, 2011	15%
Todd and Andrea Roberts Family Trust dated August 1, 2006	5%

<b>OVERALL SHARE TABLE</b>	
<b>Seller</b>	<b>Overall Share</b>
Arthur E. Engel Trust of 1988	39.923%
Herbert G. Engel Trust dated May 28, 1996	24.271%
David R. Engel Trust of 1990	14.919%
Matthew P. Engel Irrevocable Trust dated December 20, 2011	13.105%
Todd and Andrea Roberts Family Trust dated August 1, 2006	5.038%
Fidelity Charitable	2.562%
Brad Engel 2016 Trust	0.034%
Brian Thomas Engel	0.034%
Ryan J. Rahm	0.057%
Jason Engel Living Trust, executed June 30, 2020	0.057%

**Exhibit B**

**Allocation of Purchase Price Among Companies**

<b>Company</b>	<b>Purchase Price</b>	<b>Percentage of Aggregate Purchase Price</b>
MGBW	\$ [REDACTED]	89.40%
MG Cabo	\$ [REDACTED]	9.49%
MS SD	\$ [REDACTED]	1.11%
<b><u>Total</u></b>	[REDACTED]	<b><u>100%</u></b>

## **Exhibit C**

### **Binding Arbitration**

1) **Waiver of Court Action; Jury Waiver.** EXCEPT AS NECESSARY TO ENFORCE THE PROVISIONS OF THE AGREEMENT TO ARBITRATE, TO COLLECT ON OR TO ENFORCE AN ARBITRATION AWARD, AND/OR TO OBTAIN INJUNCTIVE RELIEF, EACH OF THE PARTIES SUBJECT HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO COMMENCE ANY LEGAL OR EQUITABLE ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT RELATING TO, OR ARISING UNDER, THE AGREEMENT TO WHICH THIS EXHIBIT IS ATTACHED (INCLUDING THE ANCILLARY AGREEMENTS) AND/OR ANY OTHER RELATED DISPUTE BETWEEN OR AMONG THE PARTIES SUBJECT HERETO OR THEIR RESPECTIVE AFFILIATES, AND SHALL PROCEED AS SET FORTH HEREIN. WITHOUT IN ANY WAY LIMITING THE FOREGOING WAIVERS, THE PARTIES SUBJECT HERETO HEREBY FURTHER IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT TO WHICH THIS EXHIBIT IS ATTACHED AND/OR ANY OTHER RELATED DISPUTE BETWEEN OR AMONG THE PARTIES SUBJECT HERETO OR THEIR RESPECTIVE AFFILIATES, WHETHER ARISING IN CONTRACT, IN TORT OR OTHERWISE.

2) **Consent to Arbitration.** All disputes or claims between or among the parties subject hereto related to or arising under the agreement to which this Exhibit is attached (including the Transaction Documents), or any other related dispute between or among such parties or their affiliates (all of which may be joined in a single arbitration action), shall be submitted to binding arbitration as set forth herein. Such binding arbitration shall proceed in the metropolitan area of Denver, Colorado or such other location as may be agreed to by the applicable parties, through an arbitration administered by the American Arbitration Association ("AAA"), JAMS ("JAMS") or any other arbitration provider agreed to by the applicable parties. The arbitration shall be governed by the Commercial Arbitration Rules of the AAA or the Arbitration Rules and Procedures of JAMS, as selected by the arbitration provider or arbitrator conducting the arbitration (as applicable, the "Rules"). The party initiating the arbitration may choose to initiate the arbitration with either the AAA or JAMS or any other provider or arbitrator agreed to by the other party(ies) to the dispute.

3) **Arbitrator Appointment; Qualifications.** Notwithstanding anything to the contrary in the Rules, arbitration hereunder shall be before a single neutral arbitrator who is an attorney or retired judge who has practiced in the area of business litigation for at least ten (10) years and who has substantial experience with merger and acquisition matters. The applicable arbitration provider shall submit a list of persons meeting the criteria outlined above, and the parties shall select one (1) individual in the manner established by such arbitration provider.

4) **Hearing.** The hearing on any arbitration to be conducted hereunder shall be commenced within ninety (90) consecutive, calendar days of the filing of any demand initiating the arbitration with the applicable arbitration provider and shall be completed within two hundred ten (210) consecutive, calendar days of such filing. The parties shall be entitled to reasonable discovery prior to the arbitration (not to exceed the discovery that would be permitted in a court proceeding in the State of Colorado), but such discovery shall not extend the time period for the arbitration unless the parties otherwise agree or manifest injustice would result.

5) **Efficiency.** The arbitrator shall use the Rules but is encouraged to adopt such rules as the arbitrator deems appropriate to accomplish the arbitration in the quickest and least expensive manner

possible, while preserving fairness in the process of the procedures, including adopting any streamlined or expedited procedures available under such Rules. Accordingly, the arbitrator may where the arbitrator judges reasonable and appropriate to achieving an efficient and fair administration of the dispute: (a) dispense with any formal rules of evidence and allow hearsay testimony so as to limit the number of witnesses required; (b) establish procedures for discovery as the arbitrator deems appropriate; (c) limit the time for presentation of any party's case as well as the amount of information or number of witnesses to be presented in connection with any hearing; and (d) impose any other rules which the arbitrator believes appropriate to effect a resolution of the dispute as fairly, quickly and inexpensively as possible.

6) Joinder of Related Disputes. In the event that any subsequent or further controversy, claim or dispute arising out of, or relating in any way to, the agreement to which this Exhibit is attached (including the Transaction Documents), or any other related dispute between or among such parties or their affiliates, arises while any arbitration demand hereunder is pending, but before the arbitrator appointed as a result thereof has rendered their final decision, such arbitrator shall have exclusive jurisdiction over the resolution of such subsequent or further controversies, claims or disputes and shall consolidate all such matters and, upon a good faith request of a party, may extend the time frames for the arbitration hearing of the initial as reasonably appropriate to accommodate such consolidation to the extent such new dispute could affect the outcome of the prior dispute.

7) Award. The arbitrator shall issue a reasoned award and may grant any remedy or relief that is just and equitable and within the scope of, and is subject to and consistent with any express provisions, limitations or exclusions contained within, the agreement to which this Exhibit is attached, including, but not limited to, specific performance of a contract or any other equitable or legal remedy. Notwithstanding anything to the contrary in the foregoing, the party substantially prevailing in the arbitration shall receive an award of the fees, costs and expenses incurred by the substantially prevailing party in connection with the dispute, including reasonable attorneys', expert fees and the fees of the arbitrator; provided, however, in making any award of attorneys' fees, the arbitrator shall have the discretion to determine that in fact neither party substantially prevailed relative to the other, or that one party prevailed but should recover only a portion of its attorneys' fees due to any one or a combination of relevant factors, including but not necessarily limited to the following: the reasonableness of the fees in terms of the hours expended and the hourly rates; the extent to which the damages included in the judgment or award may have been less than the amount sought; and the extent to which only a portion of the requested relief was adjudged or awarded.

8) Severability. If any provision of this Exhibit shall be deemed invalid or unenforceable as written, it shall be deemed reformed and construed, to the greatest extent possible, in a manner which shall render it valid and enforceable, and any limitations on the scope or duration of any such provision necessary to make it valid and enforceable shall be deemed to be part thereof, and no invalidity or unenforceability of any provision shall affect any other portion of this Exhibit.

**Exhibit D**

**R&W Insurance Policy**

(attached)



**Exhibit E**

**Restrictive Covenant Agreement**

(attached)

## RESTRICTIVE COVENANT AGREEMENT

**THIS RESTRICTIVE COVENANT AGREEMENT** (this “Agreement”) is entered into as of [•], 2025 (“Effective Date”), by and among [•] (“Restricted Party”), MGBW, LLC, a Delaware limited liability company (“MGBW”), Marine Group Los Cabos LLC, a Delaware limited liability company (“MG Cabo”), MS SD, LLC, a Delaware limited liability company (“MS SD” and together with MGBW and MG Cabo, each a “Company” and, collectively the “Companies”), and [\_\_\_\_\_], a Delaware limited liability company (“Buyer”). Restricted Party and Buyer are sometimes referred to in this Agreement as a “Party” and collectively as the “Parties”.

A. Buyer, the Companies, and the other parties thereto have entered into that certain Membership Interest Purchase and Contribution Agreement, dated as of [•], 2025 (the “Purchase Agreement”).

B. Restricted Party acknowledges that this Agreement is an essential element of the transactions contemplated by the Purchase Agreement (the “Transactions”) and that, but for Restricted Party’s agreement to enter into this Agreement and comply with the covenants and agreements contained herein, Buyer would not have entered into the Purchase Agreement.

C. Capitalized terms not herein defined shall have the meanings ascribed to such terms in the Purchase Agreement.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing, the mutual promises and covenants contained herein (including the Recitals above which are incorporated herein by this reference) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Acknowledgments. Restricted Party acknowledges and agrees that as a result and as a part of his, her or its direct or indirect equity ownership in the Companies, whether held individually, through a trust, or otherwise, Restricted Party was afforded access to Confidential Information (as defined below) that would have an adverse effect on Buyer and the Target Companies if it is disclosed and/or used, and that, as a condition to Closing, it is reasonable and necessary for Restricted Party to covenant and agree, subject to the terms and conditions herein, not to disclose or use such Confidential Information. Restricted Party further acknowledges and agrees that (a) the consideration provided, directly or indirectly, to Restricted Party under the Purchase Agreement constitutes good and sufficient consideration for Restricted Party’s agreements and covenants contained herein, (b) the terms contained herein are reasonable in all respects, including, without limitation, the time period and the scope of restricted activities, (c) Buyer would not have consummated the Transactions had Restricted Party not agreed to the covenants contained herein, (d) the restrictions contained herein are designed to protect Buyer’s right to exploit the business activities conducted by the Target Companies, (e) Restricted Party’s services have been of special, unique, and extraordinary value to the Target Companies, that Restricted Party has made substantial contributions to the growth and development of the Target Companies and creation and preservation of the Target Companies’ goodwill, and that Restricted Party is familiar with the Target Companies’ trade secrets and other Confidential Information, which, if disclosed, would unfairly and inappropriately assist in competition against the Target Companies, and (f) neither Buyer nor the Target Companies would obtain the benefit of the bargain set forth in the Purchase Agreement as specifically negotiated by the parties thereto unless this Agreement was specifically performed and enforced.

2. Non-Disclosure. Restricted Party will, and will cause his, her or its Affiliates to, maintain the confidentiality of the Confidential Information and not disclose to any Person any portion of any Confidential Information and refrain from using any Confidential Information from and after the Closing until the fifth (5<sup>th</sup>) anniversary of the Closing Date (the “Restricted Period”)[, except as required in Restricted Party’s employment with or ownership of any of the Target Companies];<sup>1</sup> provided, however, the foregoing shall not prohibit any disclosure or use of Confidential Information: (a) generally available to the public or that becomes generally available to the public through no fault of Restricted Party; (b) that becomes available to Restricted Party on a non-confidential basis from a source other than the Companies (or any of their respective Affiliates) or any third party having business dealings with the Target Companies (or any of their respective Affiliates); (c) that was independently developed by Restricted Party without the use of or reference to any Confidential Information; (d) to Restricted Party’s attorney or tax adviser for the purpose of securing legal or tax advice or enforcing Restricted Party’s rights under this Agreement or otherwise; or (e) if Restricted Party is required by Law, any Governmental Authority or any recognized subpoena power, to disclose such Confidential Information, so long as Restricted Party agrees to use Restricted Party’s commercially reasonable efforts to (i) provide Buyer reasonable prior written notice in order to provide Buyer a reasonable opportunity to object to such disclosure, and (ii) if requested by Buyer, to reasonably cooperate with Buyer and the Target Companies, as applicable, at their sole expense, to seek protective treatment of the Confidential Information prior to its disclosure by Restricted Party. For purposes of this Agreement, “Confidential Information” means any non-public information with respect to the Target Companies, or the business activities conducted by the Target Companies, including, without limitation, methods of operation, suppliers, clients, customers, strategic alliances, commercial or private payors, prospects, client, customer, payor or prospect lists, products and services, proposed products and services, former products and services, proposed, pending or completed acquisitions of any company, division, product line or other business unit, prices, fees, costs, plans, designs, technology, inventions, trade secrets, know-how, software, marketing methods, policies, plans, personnel, suppliers, markets, or other specialized information or proprietary matters in any form or medium (whether merely remembered or embodied in a tangible or intangible form or medium and whether or not specifically labeled or identified as “confidential”).

(a) Defend Trade Secrets Act Notice. An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law. An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Nothing in this Agreement shall be construed to prohibit Restricted Party from exercising Restricted Party’s rights under this Section 2(a).

(b) Confidentiality Notice. Restricted Party understands and acknowledges that Restricted Party’s duty of confidentiality, non-disclosure and non-disparagement (as set forth below) pursuant to this Agreement does not limit or restrict Restricted Party’s ability to communicate directly with the U.S. Securities and Exchange Commission about a possible securities law violation, nor limit nor restrict Restricted Party’s Section 7 rights under the National Labor Relations Act, nor limit nor restrict Restricted Party’s right to communicate with the Equal Opportunity Employment Commission or any other federal, state, or local government agency, office, or official.

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<sup>1</sup> Note to Draft: Bracketed section only applicable to Todd.

3. Non-Competition. In further consideration of the consummation of the Transactions, Restricted Party agrees that during the Restricted Period, Restricted Party will not, and will cause his, her or its Affiliates not to, either directly or indirectly, whether or not for consideration, within the Territory (as defined below), become employed by, engage in, affiliate with, own, manage, operate or control, or participate in the ownership, management, operation or control of, or lend Restricted Party's reputation to, any Person that engages in the Business. As used herein, the "Business" shall mean marine service, repair, boat construction, and boat storage work in the following categories (regardless of size): (a) U.S. Government owned or controlled vessels; (b) autonomous and unmanned surface vessels; (c) landing craft air cushions; (d) yachts; (e) commercial vessels; and (f) decommissioning of mine counter measures class vessels; provided, however, Restricted Party may (x) purchase or otherwise acquire up to (but not more than) two percent (2%) of any class of securities of any enterprise (but without otherwise participating in the activities of such enterprise) if such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934, (y) acquire an equity interest in any entity or business that is not engaged in the Business, or (z) [provide dock-side services at the Fifth Avenue Marina]. For purposes of this Agreement, the term "Territory" shall mean the geographic area encompassing all coastal regions, harbors, marinas, navigable waters, and offshore areas up to twelve (12) nautical miles from the shoreline, along the western coastline of the United States and Mexico. This Territory extends from the northernmost point of Washington State southward through the coasts of Oregon, California, and Baja California, terminating at the point located at 23°06'29.3"N, 109°32'17.8"W. Additionally, the Territory includes all ports, docks, marine facilities, and any inland areas within 25 miles of the coastline that are reasonably associated with the repair, maintenance, or servicing of boats and yachts.. For purposes of this Agreement, "engage in" and similar variations shall include, without limitation, directly or indirectly having any interest in or managing or controlling any corporation, partnership, joint venture, or other entity, whether as a sole proprietor, owner, equity holder, partner, joint venturer, creditor, or otherwise, or rendering any direct or indirect service or assistance to any Person (whether as a director, officer, manager, supervisor, employee, partner, agent, representative, consultant, or otherwise).

4. Non-Solicitation. In further consideration of the consummation of the Transactions, Restricted Party covenants and agree that during the Restricted Period he, she or it will not, directly or indirectly (including without limitation through subsidiaries, Affiliates or by contract), as a partner, joint venturer, employer, employee, consultant, independent contractor, equity holder, principal, manager, agent or otherwise, (a) induce or attempt to induce any officer, manager, director or employee of the Business to leave the employ of the Target Companies or the Buyer or their respective Affiliates, or in any way interfere with the relationship between such Person, on the one hand, and any such officer, manager, director or employee, on the other hand; or (b) induce, or attempt to induce, any customer, salesperson, supplier, vendor, independent contractor, representative, agent, licensee or other Person transacting business with the Target Companies or their Affiliates related to the Business to reduce or cease doing business with such Person, or in any way to interfere with the relationship between any such customer, salesperson, supplier, vendor, independent contractor, representative, agent, licensee or business relation, on the one hand, and the Target Companies or their Affiliates, on the other hand; provided that neither clause (a) nor clause (b) shall prohibit any general solicitation by Restricted Party that is not directed specifically to any employee or independent contractor of the Target Companies (so long as such employee or independent contractor is not actually employed, engaged or hired).

5. Use of Name. Without the prior written consent of Buyer, from and after the Closing, Restricted Party will not, and will cause its Affiliates not to, directly or indirectly, use any name bearing any resemblance to the registered and unregistered trademarks, trade names, assumed names, and domain names of any of the Target Companies as of the Closing.

6. Equitable Relief. The Parties each acknowledge and agree that a breach of the provisions of this Agreement may cause irreparable harm for which monetary damages may be difficult to calculate. Consequently, each Party will have the right, in addition to any other rights it may have, to seek to obtain injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any provision of this Agreement and the Parties will not be required to prove actual damages or obligated to post bond or other security in seeking such relief.

7. Reformation of Agreement. If any of the covenants contained in this Agreement, or any portion thereof, is found by a court of competent jurisdiction to be invalid or unenforceable as against public policy or for any other reason, such court shall exercise its discretion to reform such covenant to the end that such non-disclosure, non-solicitation, non-hire, or other covenant shall be reasonable under the circumstances and be enforceable by the Parties. In any event, if any provision of this Agreement is found unenforceable for any reason, such provision shall remain in force and effect to the maximum extent allowable and all non-affected provisions shall remain fully valid and enforceable. In the event of any violation of the provisions of this Agreement by Restricted Party, the covenants contained in this Agreement will be extended by a period of time equal to the period of such violation, it being the intention of the Parties that the running of the applicable restricted period shall be tolled during any period of such violation.

8. Assignment of Qui Tam Proceeds. In further consideration of the consummation of the Transactions:

(a) Except as otherwise disclosed in the Purchase Agreement or any Transaction Documents, Restricted Party represents and warrants that Restricted Party is not aware of any facts that would establish, tend to establish, or in any way support an allegation that Buyer and the Companies and their respective Subsidiaries and Affiliates (collectively, “Buyer Related Parties”) has engaged in conduct that Restricted Party believes could violate the federal False Claims Act and/or any state or local or municipal qui tam counterpart (which prohibit the presentation by any Company or any Affiliate of any Company of false claims and statements or the create of false records or statements in order to obtain payment of federal, state, county or municipal funds, or to avoid refunds of such government funds) or any other Law.

(b) In order to ensure that Restricted Party has complied with Restricted Party’s obligations under this Agreement and to the fullest extent permitted by Law, Restricted Party irrevocably assigns to the federal government, or relevant state or local government, any right Restricted Party may have to any proceeds, bounties, or awards in connection with any claims filed by or on behalf of the government under any Laws, including, without limitation, the False Claims Act (and/or any state or local counterparts of these federal statutes or any other federal, state, or local qui tam or “bounty” statute) against the Buyer Related Parties. Restricted Party also represents and promises that Restricted party will deliver any such proceeds, bounties, or awards to the United States government (or other government unit entitled by reason of the assignment to have them).

9. General Provisions.

(a) Incorporation by Reference. The terms and provisions (including the exhibits referenced therein) of Sections 10.05 (Governing Law) and 10.12 (Binding Arbitration) of the Purchase Agreement are hereby incorporated herein by this reference, *mutatis mutandis*, with the same force and effect as if fully set forth herein, and the Parties hereto agree to such terms.

(b) Entire Agreement. This Agreement, the Purchase Agreement, the Transaction Documents, and any other written agreement(s) of even date herewith between the Parties concerning the subject matter hereof contain the complete agreement between the Parties and supersede any prior

understandings or agreements by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

(c) Amendments and Waivers. This Agreement can be amended, supplemented, or changed, and any provision hereof can be waived, only by a writing signed by the Parties to be bound. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy.

(d) Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile or other electronic transmission (including e-mail), each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. Such delivery of counterparts shall be conclusive evidence of the intent to be bound hereby and to the extent applicable, the foregoing constitutes the election of the Parties to invoke any Law authorizing electronic signatures.

(e) Binding Effect. Restricted Party may not assign this Agreement or any of Restricted Party's rights hereunder without the express written consent of Buyer. Buyer may assign all or any portion of its rights hereunder to: (i) any of its Affiliates; (ii) any acquirer of substantially all of its or any of its or its Affiliates' assets or equity interests; and (iii) for collateral security purposes to any lenders of Buyer or any of its Affiliates. This Agreement and the agreements, undertakings, and representations herein contained shall inure to the benefit of and bind the Parties and their respective successors and assigns.

(f) Joint Negotiation and Drafting. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(g) Headings. The headings used in this Agreement are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement.

(h) Other Obligations. Without implication that the contrary would otherwise be true, Restricted Party's obligations, and Buyer's obligations under this Agreement are in addition to, and not in limitation of, any obligations that Restricted Party, or Buyer may have under any other written agreement of even date herewith to which Restricted Party and Buyer, are a party, including, without limitation, any non-compete, non-solicit, confidentiality, inventions, or non-disparagement provisions or other restrictive covenants therein.

[Signature Page Follows]

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

RESTRICTED PARTY

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

COMPANIES

**MGBW, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

**MARINE GROUP LOS CABOS LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

**MS SD, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

BUYER

[\_\_\_\_\_] ,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

**Exhibit F**

**Material Terms for Amended and Restated SD Lease**

(attached)

Exhibit G





January 15, 2025

**Non-Binding Draft Term Sheet for Amended and Restated Lease**

1. **Land Area:** A parcel of land consisting of approximately 419,823 square feet.
2. **Water Area:** A parcel of water consisting of approximately 358,756 square feet.
3. **Lease Term:** February 1, 1985 – January 31, 2041 plus the following:
  - a. An additional 15-year lease term extension, contingent on the Board of Port Commissioners (Board) approving environmental review for the modernization project in accordance with the California Environmental Quality Act (CEQA). Lessor and Lessee have entered into a 3 party agreement with Accent to conduct an environmental process with a defined scope of work requiring a minimum \$15M capital investment.
4. **Use:** Permitted use provisions to be revised to accommodate up to 820-ton displacement with a prohibition against intensification of use beyond a reasonable baseline number of vessels serviced annually, which baseline shall be based on historical use with a percentage growth factor to mutually agreed upon by the parties.
5. **Monthly Rent:** In exchange for a \$5 Million payment for offsite improvements at Harbor Park to be paid in annual installments of \$1 Million per year over the first 5 years of the Lease Term with the first installment paid concurrent with execution of the Amended and Restated Lease (A&R Lease), the monthly rent shall be \$72,130.00 upon execution of the A&R Lease with annual 3.5% increases commencing on the anniversary of the second year of the A&R Lease and every year thereafter through the remainder of the lease term.
6. **Compensation for Removal of Section 49 (Early Termination of Lease if Substitute Leased Premises Offered by Lessor to Lessee) and Section 50 (Early Termination of Lease by Lessor Purchase if Substitute Leased Premises Offered by Lessor and Not Leased by Lessee):** One-time, lump sum payment of \$1,500,000 to be paid concurrent with the execution of the A&R Lease.
7. **Participation in Refinancing and Sales:** Lessor shall be entitled to a participation fee in any future refinancing transaction equal to 2.5% of the net proceeds from the refinancing transaction (ie. gross loan proceeds less any repaid indebtedness, reimbursement of Lessee's equity investment, proceeds reinvested in the premises or Lessee's business and reasonable costs associated with the refinance). Lessor shall also be entitled to a participation fee in any future assignment/sale/change in control transactions with an unrelated third party (a Transfer) equal to a lump sum payment



of \$400,000.

**8. Section 54 – Cooperation with Lessor’s Chula Vista Bayfront Master Plan:**

Section 54 shall be revised to include the following requirements:

- a. MGBW shall organize the boats and equipment in a uniform and orderly manner, and, as feasible, keep unused equipment out of sight from above at the adjacent Resort Hotel and Convention Center;
- b. Lessee shall complete the construction and installation of and maintain the perimeter fence in accordance with the design approved by District under the District Conditional Project Approval letter on file with the Office of the District Clerk dated May 21, 2024, bearing Document No. 76748; and
- c. The requirement in the existing Section 54 that MGBW will continue to support the Chula Vista Bayfront Master Plan, Port Master Plan Amendment and Local Coastal Plan Amendment including any future coastal development permits, tentative maps, final maps, and all elements of the CVBMP at a project level.

**9. Nighttime Operations:** Nighttime Operations to be permitted subject to commercially reasonable noise and lighting restrictions based on a noise study and a lighting analysis to ensure compatibility between the Marine Group Boat Works operation and the Resort Hotel and Convention Center and the adjacent wildlife preserve, and pending residential uses.

**10. Lease Form:** Lessor and Lessee agree to use District’s current standard lease form, subject to the terms set forth in this Term Sheet and such other revisions as mutually agreed to by the parties.

**This DRAFT Term Sheet remains subject to the District’s continuing review and comment and the parties understand and agree that this DRAFT Term Sheet is nonbinding and is not intended to be and does not constitute a legally binding obligation, and that the terms herein are for discussion purposes only. No legally binding obligations between the Parties will be created, implied, or inferred unless and until they are embodied in a final written agreement or agreements independent of this DRAFT Term Sheet and executed by the parties, subject to approval by the Board of Port Commissioners, with any such approval to be granted or denied in the Board’s sole and absolute discretion.**

**In addition to the foregoing, the District notes the following: no approval of a project under CEQA has occurred with respect to anything set forth in this DRAFT**



**Term Sheet. As noted herein, and in addition to the non-binding nature of this DRAFT Term Sheet, the District reserves its sole and absolute discretion to approve, disapprove, or condition all actions, which require the exercise of discretion, including without limitation all legislative and quasi-judicial actions that District cannot lawfully be committed to by contract (collectively, "Discretionary Action") and that nothing in the DRAFT Term Sheet will be construed as circumventing or limiting District's discretion to approve anything in this DRAFT Term Sheet or with respect to environmental review required by CEQA, an amendment to the existing Port Master Plan, Coastal Development Permit, Coastal Development Permit exclusion, or other permits and entitlements, the exercise of eminent domain, code enforcement and the making of findings and determinations. Any and all Discretionary Actions may be approved, denied or conditioned by the District, in its sole and absolute determination. Additionally, the District may approve all feasible mitigation measures and adopt or deny the adoption of a Statement of Overriding Considerations, if applicable.**

**Exhibit G**

**Form of SD Property Estoppel Certificate**

(attached)

## **FORM OF ESTOPPEL STATEMENT**

\_\_\_\_\_, 2025

Marine Group Global Holdings, LLC  
c/o Vigeo Investments  
P.O. Box 80206  
Denver, CO 80206  
Attention: Steven Folse

California Bank & Trust  
9775 Clairemont Mesa Blvd  
San Diego, CA 92124  
Attention: Business Lending Services  
Reference: Marine Group Boat Works, LLC

Gentlemen:

This Estoppel Statement ("Statement") is issued for the benefit of Marine Group Global Holdings, LLC ("MGGH") and California Bank & Trust ("CBT") by the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (hereinafter referred to as "Lessor"), as Lessor under that certain Amended, Restated, and Combined Lease dated February 3, 2009, covering a portion of those lands conveyed to Lessor by that certain act of the Legislature of the State of California entitled "San Diego Unified Port District Act", Stats. 1962, 1st Ex. Sess., c. 67, between Lessor and Marine Group Boat Works, LLC, a California limited liability company (hereinafter referred to as "Lessee"), as Lessee, a copy of which lease is on file in the Office of the Clerk of Lessor bearing Document No. 54509 (the "Original Lease"), as amended by Agreement for Amendment No. 1 of Amended, Restated, and Combined Lease, dated July 10, 2012 on file in the Office of the Clerk of Lessor bearing Document No. 59238 ("Amendment No. 1") and Agreement for Amendment No. 2 of Amended, Restated and Combined Lease dated November 6, 2015 on file in the Office of the Clerk of Lessor bearing Document No. 64198 ("Amendment No. 2" and, collectively with the Original Lease and Amendment No.1, the "Lease").

Lessee, as a seller, currently anticipates entering into a Membership Interest Purchase and Contribution Agreement (the "**Purchase Agreement**"), by and among Lessee, MGGH and the other parties thereto, pursuant to which MGGH will purchase all of the membership interests in Lessee which will include, without limitation, all of Lessee's interest in and to the Lease. The transaction subject to the Purchase Agreement is referred to herein as the "**Interest Purchase**" and is expected to close on or about [\_\_\_\_\_, 2025]. The date on which the Interest Purchase actually closes is referred to herein as the "**Closing Date**."

In connection with the closing of the Interest Purchase contemplated in the Purchase Agreement, effective as of the Closing Date, MGGH will acquire all of the ownership interests in Lessee and assume all of Lessee's right, title and interest in, to and under the Lease; and Lessor has agreed to

provide its consent to the transfer of the membership interests in Lessee and MGGH's acquisition of Lessee's interest in and to the Lease.

To the actual knowledge of Lessor (without any duty of investigation or inquiry), Lessor hereby acknowledges and confirms to Recipient (as defined below) the following:

1. The Lease is currently in full force and effect and has not been modified, supplemented or amended in whole or in part. The Lease constitutes the entire understanding between Lessor and Lessee with respect to the Premises.
2. The Lease is for a term of forty-five (45) years, commencing February 1, 1985, and ending January 31, 2030. Pursuant to Section 1 of the Lease and subject to the terms and conditions set forth therein including, without limitation, the requirement that Lessee has been a "tenant in good standing" for the five (5) years preceding the option exercise, Lessee has an option to extend the lease term for an additional 11 years.
3. As of the date of this Statement, Lessee is not, to the actual knowledge of Lessor (without any duty of investigation or inquiry), in default or in breach under the provisions of the Lease, neither party to the Lease has delivered any written notice of default to the other; and, to the knowledge of Lessor and Lessee, no event has occurred that, with the giving of notice or the passage of time or both, would constitute a default under the Lease.
4. The current fixed rent payable under the Lease is \$\_\_\_\_\_ U.S. Dollars per year year, payable in equal monthly installments of \$\_\_\_\_\_ due on the first (1<sup>st</sup>) day of each month during the lease term.
5. All improvements to the Premises including, without limitation, all capital improvements required to be made by the parties under the Lease have been made.
6. Lessor has no option to terminate or otherwise modify the terms and conditions of the Lease other than as specifically provided in the Lease.
7. Lessor has no actual knowledge (without any duty of investigation or inquiry) of any other assignment or hypothecation of said leasehold estate, or any pledge or assignment of rents with respect to said premises except: \_\_\_\_\_.
8. The loan term will not extend beyond the lease expiration date of January 31, 2030.
9. It is understood that the Lessor has not reviewed or approved the terms and conditions of the proposed encumbrance documents, such as the leasehold deed of trust or note secured thereby and is not agreeing to be a party to the leasehold deed of trust, note or other documents.
10. Nothing contained in the conditions to consent or this Statement shall be construed to modify, amend or waive any provisions of the Lease.
11. Lessor's consent to this encumbrance shall be null and void and of no further force and effect if Lessee does not obtain financing from CBT, as confirmed by receipt of final loan documents signed by both Lessee and CBT, within ninety (90) days of Lessor's consent.

12. Lessee acknowledges that it will not seek rent relief as a result of not being able to meet its debt service or debt repayment obligations.

13. This Statement is given by Lessor with the understanding that the statements herein made may be relied upon by MGGH and CBT.

14. To the actual knowledge of Lessor, all rent, and any other charges payable by Lessee pursuant to the Lease (referred to collectively hereinafter as "Rent") has been paid through and including the date of this Statement first set forth above; provided, however, there may be Rent still due and owing which will be discovered at the time of audit by Lessor and, to that extent, Lessor cannot represent that all Rent has been paid.

15. This Statement is given by Lessor with the understanding that the statements herein made may be relied upon only by MGGH and CBT (collectively the "Recipient") and only for the purpose of estopping Lessor from asserting contrary facts against Lessee and Recipient which Lessee also has no knowledge of.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

APPROVED AS TO FORM AND LEGALITY      SAN DIEGO UNIFIED PORT DISTRICT

GENERAL COUNSEL

By: \_\_\_\_\_  
Assistant/Deputy

By: \_\_\_\_\_  
Name  
Director, Real Estate

SDUPD Docs No. \_\_\_\_\_

**Exhibit H**

**Form of Cabo Property Estoppel Certificate**

(attached)



## CONSENT TO TRANSFER OF LESSEE'S INTEREST AND LEASE ESTOPPEL

This CONSENT TO TRANSFER OF LESSEE'S INTEREST AND LEASE ESTOPPEL (this "**Consent**") is made as of \_\_\_\_\_, 202\_ (the "**Effective Date**"), by and among (i) Marine group Boat Works De Los Cabos S. DE R.L. DE C.V. ("**Lessee**"), (ii) \_\_\_\_\_, a Delaware limited liability company ("**Purchaser**"), and (iii) Banco Invex, Sociedad Anonima, Institucion De Banco Multiple, Grupo Financiero Invex, En Su Caracter De Fiducario Del Fideicomiso Puerto Los Cabos "Fonatur 192" ("**Lessor**").

### RECITALS

1. Lessee leases that certain real property and related infrastructure known as [\_\_\_\_\_] Marina Center] in San Jose Del Cabo, Baja California Sur, Mexico (the "**Premises**"), pursuant to that certain Lease Agreement by and between the Lessee and Lessor dated July 10, 2008, recorded in the Public Registry of Property and Commerce of Los Cabos, Baja California Sur, under entry number 129, Page 129 Volume V, as amended by that certain Amendment to Lease dated July 2, 2009 (as amended, the "**Lease**").
2. Lessee, as a seller, currently anticipates entering into a Membership Interest Purchase and Contribution Agreement (the "**Purchase Agreement**"), by and among Marine Group Los Cabo, LLC, a Delaware limited liability company ("**MGLC**"), which is the parent entity of Lessee, Purchaser and the other parties thereto, pursuant to which Purchaser will purchase all of the membership interests in MGLC which will include, without limitation, all of MGLC's membership interests in Lessee and, consequently, all of Lessee's interest in and to the Lease. The transaction subject to the Purchase Agreement is referred to herein as the "**Interest Purchase**" and is expected to close on or about [\_\_\_\_\_, 2025]. The date on which the Interest Purchase actually closes is referred to herein as the "**Closing Date**."
3. In connection with the closing of the Interest Purchase contemplated in the Purchase Agreement, effective as of the Closing Date, Purchaser will acquire all of the ownership interests in Lessee and assume all of Lessee's right, title and interest in, to and under the Lease; and Lessor agrees to provide its consent to the transfer of the membership interests in Lessee and Purchaser's acquisition of Lessee's interest in and to the Lease.

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Lessee, Lessor and Purchaser hereby agree, as follows:

**1. Recitals Incorporated; Definitions.** The Recitals set forth above are hereby incorporated by this reference and shall be deemed terms and provisions hereof. Capitalized terms used and not otherwise defined in this Consent shall have the respective meanings ascribed to such terms in the Lease.

**2. Consent to Transfer of Membership Interests.** Effective as of the Closing Date, Purchaser will acquire all of the membership interests in MGLC including, without limitation, all of MGLC's membership interests in Lessee and Lessee's interest in and to the Lease. Lessor consents to the Interest Purchase and Purchaser's acquisition of the membership interests and Lessor acknowledges that the Interest Purchase as consented to by Lessor will not constitute a default under the Lease and that the Lease shall remain in full force and effect in all respects. **Estoppel.** In connection with the Interest Purchase, Lessor and Lessee hereby certify to Purchaser, as of the Effective Date hereof and again as of the Closing Date, as follows:

(a) A true, correct, and complete copy of the Lease (including all amendments) is attached hereto as **Exhibit A**.

(b) The Lease:

(i) is in full force and effect and Lessee has the sole right of possession of the Premises;

(ii) has not otherwise been further modified, supplemented or amended;

(iii) constitutes the entire understanding between Lessor and Lessee with respect to the Premises; and

(iv) has been duly executed and delivered on behalf of Lessor and Lessee, respectively, pursuant to the proper authority therefor and is binding and enforceable against Lessor in accordance with its terms.

(c) The initial term of the Lease is twenty (20) years and is scheduled to expire on [July 10, 2028]. The Lease also grants Lessee an option to renew the Lease for an additional twenty (20) years upon the terms and conditions set forth in the Lease.

(d) The Premises contain approximately 16,752.833 square meters.

(e) To the knowledge of Lessor and Lessee, there are no existing defaults on the part of Lessor or Lessee under the Lease; neither party to the Lease has delivered any written notice of default to the other; and, to the knowledge of Lessor and Lessee, no event has occurred that, with the giving of notice or the passage of time or both, would constitute a default under the Lease.

(f) The current fixed rent payable under the Lease is \$500.00 U.S. Dollars per month, plus variable rent in an amount equal to 5% of Lessee's gross revenues from Services and 35% of all gross Drystack Revenues. Lessee is also responsible for the payment of all Value Added Taxes due and payable. All Rent due and payable under the Lease has been paid and Lessee is current in all of its monetary obligations under the Lease.

(g) All improvements to the Premises including, without limitation, the Improvements and all other capital improvements required to be made by the parties under the Lease have been made.

(h) Lessor has no option to terminate or otherwise modify the terms and conditions of the Lease other than as specifically provided in the Lease.

(i) To the knowledge of Lessor and Lessee, there has been no casualty with respect to the Premises.

(j) There does not exist any pending, or to the knowledge of Lessor and Lessee, contemplated, condemnation or eminent domain proceedings that affect the Premises or any part thereof, and neither Lessor nor Lessee has received no notice, oral or written, of the intention of any governmental body or other entity to take or use all or any part thereof.

**4. Notices to Purchaser.** From and after the Closing Date, any notice to be given hereunder or under the Lease to Purchaser shall be given in the manner provided in the Lease and addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**5. No Release.** This Consent shall not release the obligations and liabilities of Lessee to Lessor under the Lease prior to the Closing Date and shall not be deemed or construed to modify, waive, impair or affect any of the covenants, agreements, terms, provisions or conditions contained in the Lease.

**6. Counterparts.** This Consent may be executed and delivered (including by facsimile, "pdf" or other electronic transmission) in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**7. Headings.** The headings contained in this Consent are for reference purposes only and shall not affect in any way the meaning or interpretation of this Assignment.

**8. Continued Effectiveness of Lease.** As of the Closing Date, the Lease shall remain in full force and effect. All covenants, obligations, conditions and terms of the Lease not specifically altered by this Consent are hereby ratified and confirmed.

**9. Binding Effect.** This Consent shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**10. Representations and Warranties.** Lessee represents and warrants to Purchaser that: (a) the Lease is in full force and effect; (b) the Lease has not been assigned, encumbered, modified, extended, or supplemented except as disclosed, in writing, to Purchaser; (c) Lessee knows of no defense or counterclaim to the enforcement of the Lease; (d) Lessee is not entitled to any reduction, offset or abatement of the rent payable under the Lease; and (e) Lessee has not received any notice, and has no knowledge, of any default by Lessee under the Lease.

**11. Choice of Law.** This Consent shall be governed by and construed in accordance with the laws of the State of Delaware and the Civil Code of the State of Baja California Sur, as applicable, without giving effect to any choice or conflict of law provision or rule.

**12. Conflicts.** If any terms, provisions or conditions contained in this Consent shall, to any extent, be invalid or unenforceable, the remainder of this Consent or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby and each and every other term, provision and conditions of this Consent shall be valid and enforceable to the fullest extent permitted by law.

\*\*\*Signature Page Follows\*\*\*

**IN WITNESS WHEREOF**, Lessor, Lessee and Purchaser have executed and delivered this Consent as of the date first above written.

**PURCHASER:**

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LESSEE:**

By: \_\_\_\_\_  
Name: [●]  
Title: [●]

**LESSOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\*\*\**Signature Page to Consent*\*\*\*

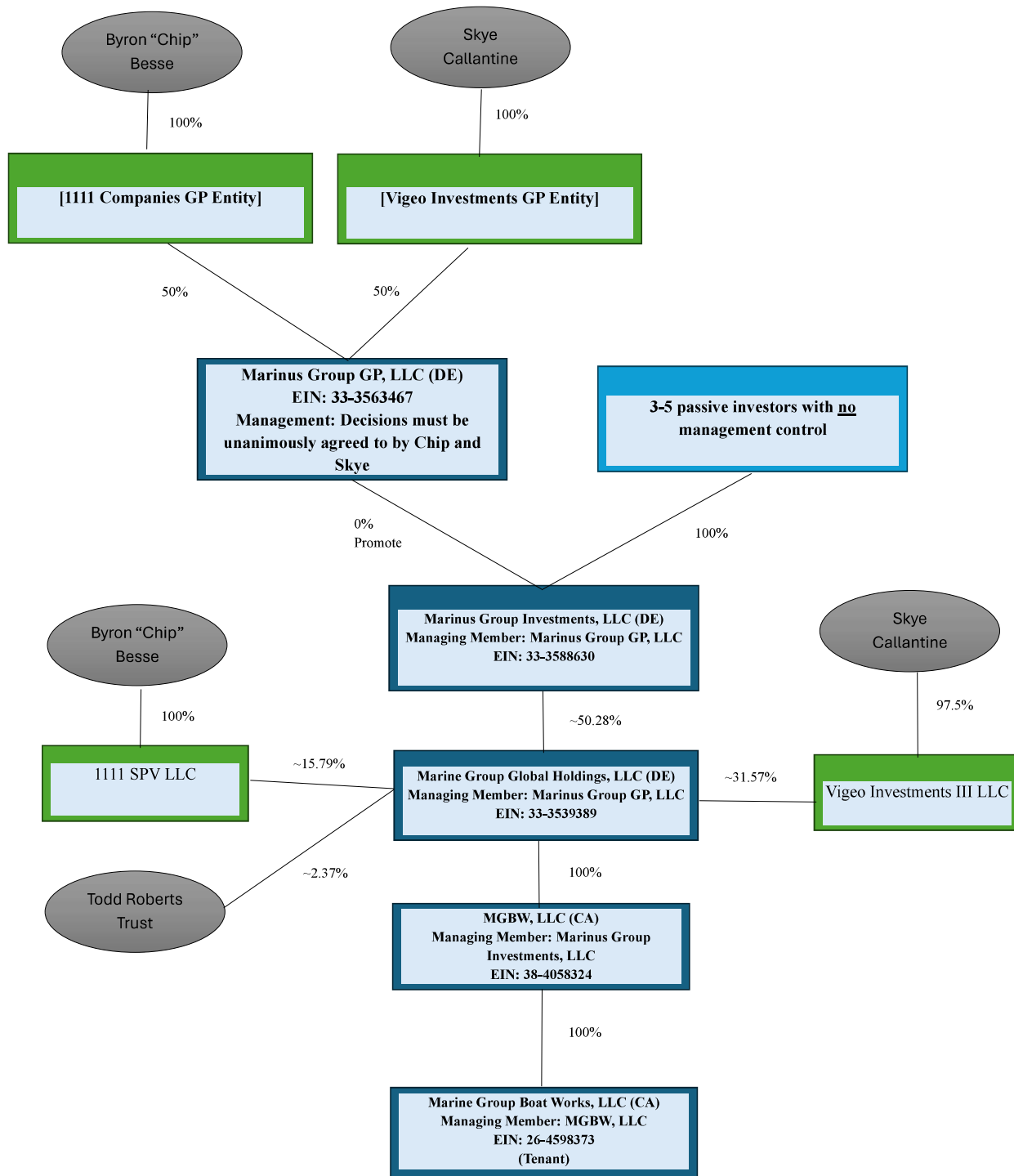
**EXHIBIT A**  
**LEASE**

See attached.

## ADDENDUM B

### Ownership Structure

(attached)



ADDENDUM C

Credit Application

(attached)





# MARINE GROUP

BOAT WORKS

## CREDIT APPLICATION

<b>Billing Address</b>		
Send all invoices and correspondence to:	Voice	(619) 427-6767 X 123
Marine Group Boat Works, LLC	FAX	(619) 427-0324
Accounts Payable	Email	<a href="mailto:AP@marinegroupbw.com">AP@marinegroupbw.com</a>
997 G Street	Web Site	<a href="http://www.marinegroupbw.com">www.marinegroupbw.com</a>
Chula Vista, CA 91910-3414		
<b>Delivery Addresses</b>		
Marine Group Boat Works, LLC		
997 G Street		
Chula Vista, CA 91910-3414		
<b>Company Info &amp; Principals</b>		
Limited Liability Company established 2009	Art Engel	
In business since 1986	1311 First St.	
	Coronado, CA 92118-1502	
Federal Tax ID No. 26-4598373	(619) 437-6999	
	Herb Engel	
	1311 First St.	
	Coronado, CA 92118-1502	
	(619) 437-6999	
Marine Group Boat Works is a full-service superyacht repair and refit facility located along the San Diego Bay with a location in Los Cabos, BCS, Mexico. With a 820-ton hoist, the facility can work on private, commercial and government vessels up to 220 feet long with specialized services including retrofits; conversions; hull extensions; carpentry, mechanical and electrical work; and custom painting.		
<b>Vendor Specific Information</b>		
Resale No.: SR FH 101-537857		
Purchasing Contact is Nino Zizzo (619)427-6767 X 121   <a href="mailto:gzizzo@marinegroupbw.com">gzizzo@marinegroupbw.com</a>		
A/P Contacts are: Alex Copley (619) 621-2249 (primary);		
Tom Lunch Controller (619) 427-6767 X 139 (secondary)		
<b>Bank Reference</b>		
California Bank & Trust		
Account Number:	2120438851	
Contact Person:	Julia Mahmood	
	11375 El Camino Real, Suite 150	
	San Diego, CA 92130	
Voice	(858)720-9353	
Fax	(858)720-9366	
<b>Trade References</b>		
Name WestAir Gases and Equipment	Voice	(619) 423-9912
Address 2300 Haffley Ave, National City, CA 91950	<a href="mailto:ar@westairgases.com">ar@westairgases.com</a>	
Name Truitt Machine & Fabrication, Inc	Voice	(619) 498-1300
Address 4304 Vista Coronado Dr.Chula Vista, CA 91910	<a href="mailto:truittmachine@yahoo.com">truittmachine@yahoo.com</a>	
Name JAG Yacht Coating, Inc	Voice	(619) 947-4663
Address 684 Marcilla Way, Chula Vista, CA 91910	<a href="mailto:msflores@jagsd.com">msflores@jagsd.com</a>	
Name Dependable Marine, Inc.	Voice	(619) 226-2015
Address 3134 Main St. Unit B, San Diego, CA 92113	<a href="mailto:beckied@dependablemarinecat.com">beckied@dependablemarinecat.com</a>	