UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

In re: **NORANDA ALUMINUM, INC., *et al.*,** Debtors.	**Case No. 16-10083-399** **Chapter 11** **Jointly Administered** **Hearing Date & Time**: October 17, 2016 at 1:30 p.m. (prevailing Central Time) **Objection Deadline**: October 14, 2016 at 4:00 p.m. (prevailing Central Time) **Hearing Location**: St. Louis Courtroom 5 North

NOTICE OF DEBTORS' MOTION FOR AN ORDER (A) APPROVING ENTRY INTO STALKING HORSE AGREEMENT AND AUTHORIZING BID PROTECTIONS IN CONNECTION WITH THE SALE OF THE GRAMERCY ASSETS AND ST. ANN ASSETS ASSOCIATED WITH THE DEBTORS' UPSTREAM BUSINESS AND (B) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE that this motion is scheduled for hearing on **October 17, 2016 at 1:30 p.m. (prevailing Central Time)**, before the Honorable Barry S. Schermer in Bankruptcy Courtroom 5 North, in the Thomas F. Eagleton U.S. Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102.

WARNING: Any response or objection to this motion must be filed with this Court prior to October 14, 2016 at 4:00 p.m. (prevailing Central Time). A copy shall be promptly served upon the undersigned.

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Dated: October 7, 2016
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

/s/ Christopher J. Lawhorn

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing was filed with the Court via CM/ECF on this 7th day of October, 2016, and service shall be made by Prime Clerk to counsel of record and parties as required in the Case Management Order dated 2/12/2016 through CM/ECF or via first-class mail.

/s/ Christopher J. Lawhorn

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DEBTORS' MOTION FOR AN ORDER (A) APPROVING ENTRY INTO STALKING HORSE AGREEMENT AND AUTHORIZING BID PROTECTIONS IN CONNECTION WITH THE SALE OF THE GRAMERCY ASSETS AND ST. ANN ASSETS ASSOCIATED WITH THE DEBTORS' UPSTREAM BUSINESS AND (B) GRANTING RELATED RELIEF

Noranda Aluminum, Inc. and its affiliated debtors and debtors-in-possession in the above-captioned cases (each a "Debtor" and, collectively, the "Debtors" or the "Company"),[1] by and through their undersigned counsel, hereby submit this motion (the "Motion") pursuant to sections 105, 363 and 503 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (as amended, the "Bankruptcy Code") and rules 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order (the "Stalking Horse Approval

[1] Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Stalking Horse Agreement (as defined below) and, if not defined therein, in the Bidding Procedures (as defined below), as applicable.

Order")[2] (a) approving the entry by Noranda Alumina LLC ("NAL") and Noranda Bauxite Limited ("NBL") (collectively, the "Seller") into the Asset Purchase Agreement (the "Stalking Horse Agreement"), attached hereto as Exhibit A,[3] with New Day Aluminum LLC (the "Stalking Horse Purchaser" or "Buyer") for the sale (the "Sale") of certain of the Debtors' assets (the "Acquired Assets") associated with the aluminum refinery owned and operated by NAL located in Gramercy, Louisiana (the "Gramercy Assets") and NBL's bauxite mining assets and interests located in Jamaica (the "St. Ann Assets"), in accordance with the Stalking Horse Agreement, and authorizing a break-up fee and expense reimbursement in connection therewith (the "Bid Protections"), and (b) granting related relief. In support of the Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2). Venue of this proceeding and this Motion is proper in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are Bankruptcy Code sections 105 and 363 and Bankruptcy Rules 6004 and 9014.

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[2] A copy of the proposed Stalking Horse Approval Order will be made available on the Debtors' case website at *https://cases.primeclerk.com/noranda* (the "Case Website") in advance of the hearing on the Motion.

[3] Due to their voluminous nature, copies of the schedules to the Stalking Horse Agreement and any ancillary agreements are not attached hereto, except as otherwise set forth herein. Such schedules and any ancillary agreements will be made available in the bidder data room, subject to applicable confidentiality arrangements as set forth in the Bidding Procedures.

BACKGROUND

3. On February 8, 2016 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned cases (collectively, the "Chapter 11 Cases"). The Debtors have continued in possession of their respective properties and to operate and maintain their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

4. On the Petition Date, this Court entered an order consolidating the Chapter 11 Cases for procedural purposes only. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases. On February 19, 2016, the United States Trustee, Region 13 (the "U.S. Trustee"), appointed the statutory committee of unsecured creditors (the "Committee").

5. The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, are set forth in detail in the *Declaration of Dale W. Boyles in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 5] filed on the Petition Date and is incorporated herein by reference.

6. On June 13, 2016, the Debtors filed a motion (the "Bidding Procedures Motion") [Docket No.875] seeking approval of, among other things, (i) an order establishing auction and bidding procedures (the "Bidding Procedures") for the sale of the Debtors' primary aluminum production business (the "Upstream Business") and (ii) an order approving the sale of the Upstream Business to the bidder(s) with the highest or otherwise best bid(s) in accordance with the Bidding Procedures.

7. On July 20, 2016, in connection with the relief requested in the Bidding Procedures Motion, the Court entered the *Order Establishing Bidding Procedures for the Sale of*

the Upstream Business and Granting Related Relief (the "Bidding Procedures Order") [Docket No. 998]. The Bidding Procedures Order approved the Bidding Procedures and fixed certain deadlines, including an initial bid deadline of September 15, 2016.

8. Contemporaneously herewith, the Debtors, pursuant to the Bidding Procedures Order, and having consulted with the Consultation Parties, modified the sale process dates with respect to the Gramercy and St. Ann Assets.[4] Accordingly, the Bid Deadline for the Gramercy and St. Ann Assets is now October 17, 2016 at 2:00 p.m. (prevailing Central Time), the Auction is scheduled for October 18, 2016 at 10:00 a.m. (prevailing Central Time), and the Sale Hearing is scheduled for October 19, 2016 at 10:00 a.m. (prevailing Central Time).

9. The Bidding Procedures Order contemplates that the Debtors may at any time before August 8, 2016 (or such later date as the Debtors determine in their reasonable discretion in consultation with the Consultation Parties) enter into a stalking horse agreement for the Gramercy and St. Ann Assets, subject to higher or otherwise better offers at the Auction, with any stalking horse bidder that submits a Qualified Bid for all or a portion of the Upstream Business acceptable to the Debtors, in consultation with the Consultation Parties, to establish a minimum Qualified Bid at the Auction. (*See* Bidding Procedures Order, ¶ 9.) It also provides that the stalking horse agreement may contain certain customary terms and conditions, including bid protections, in amounts to be agreed by the Debtors in accordance with the Bidding Procedures. (*See* Bidding Procedures Order, ¶ 10.) The Bidding Procedures Order provides that the Debtors' entry into a stalking horse agreement and the provision of related bid protections may be approved by the Court on no less than seven (7) days' notice. (*See* Bidding Procedures Order, ¶ 11.)

[4] On September 30, 2016, the Court approved the sale of the New Madrid Assets [Docket No. 1225].

THE STALKING HORSE AGREEMENT

10. Following weeks of negotiation, the Debtors have executed the Stalking Horse Agreement and are hereby seeking provisional approval of the Stalking Horse Purchaser and the Stalking Horse Agreement. A summary of the principal terms of the Stalking Horse Agreement is as follows:[5]

Buyer:	New Day Aluminum LLC, a subsidiary of DaDa Holdings, LLC
Purchase Price:	A secured note issued by Buyer with a principal amount equal to twenty-one million five hundred thousand Dollars ($21,500,000) (the "Purchase Price Secured Note"),[6] subject to adjustment. (*See* Stalking Horse Agreement, Section 3.1.)
Acquired Assets:	The rights, title and interests of each Seller in the assets specified in Section 2.1 of the Stalking Horse Agreement, in each case, primarily related to (i) with respect to NBL, the bauxite mining operations of NBL, including NBL's interest in the Mining Lease and the Joint Venture; and (ii) with respect to NAL, the business and operations of NAL solely to the extent related to the refining and converting of bauxite into alumina, as currently conducted at the NAL Facility. Includes inventory; equipment; assumed contracts; owned and leased real property; permits; intellectual property; receivables; pre-paid expenses; data/documents/business records; rights under confidentiality/non-compete/non-disclosure agreements; use of land associated with NBL's mining operations; subject to certain limitations, the Intellectual Property rights in certain specified marks of Sellers and goodwill of the Business. (*See* Stalking Horse Agreement, Section 2.1.)
Excluded Assets:	Employee records and certain Benefit Plans; corporate books and records; any contract that is not an assumed contract; insurance policies; prepaid deposits, including retainers related to professional fees; the Purchase Price Secured Note and all cash and cash equivalents; directors and officers insurance policies, rights, claims or causes of action of Sellers under the Stalking

[5] The following summary is qualified in its entirety by reference to the provisions of the Stalking Horse Agreement. In the event of any inconsistencies between the Stalking Horse Agreement and the descriptions herein, the terms of the Stalking Horse Agreement shall govern.

[6] The summary of terms and conditions of the Purchase Price Secured Note is set forth on Schedule 1.1(c) of the Stalking Horse Agreement, a copy of which is attached.

	Horse Agreement or the other Transaction Documents; permits and licenses that are non-transferable; Avoidance Actions; Lender Claims and Intercompany Claims/receivables; tax assets or attributes and all rights to refunds of Taxes; Tax records and Tax workpapers and Intellectual Property utilizing certain specified names. (*See* Stalking Horse Agreement, Section 2.2.)
Assumed Liabilities:	Liabilities under the Assumed Contracts; all Cure Costs other than fifty percent (50%) of the first five million Dollars ($5,000,000) of Cure Costs (the "Retained Cure Costs"); outstanding trade payables (to the extent included in the calculation of Net Working Capital); Liabilities arising out of the ownership of the Acquired Assets from and after the Closing; certain specified Liabilities related to Buyer Employees; Collective Bargaining Agreements and the Union Pension and OPEB Plans; all Liabilities of Sellers to the extent arising out of or relating to the Transferred Permits; regulatory violations and obligations on or in relation to the Transferred Permits arising post-Closing; all obligations of NBL to the Joint Venture under the JV Formation Documents; all Liabilities of NBL in respect of Reclamation and Resettlement; environmental obligations; Liabilities for Transfer Taxes and any Taxes attributable to any period (or portion thereof) beginning on or after the Closing Date; all amounts due under the Agreement for Satisfaction of IDT Award entered into with UAWU and any and all amounts owed to the Government of Jamaica in respect of levies and associated fees. (*See* Stalking Horse Agreement, Section 2.3.)
Excluded Liabilities:	Severance obligations with respect to employees of Sellers or their affiliates that are offered, but do not accept, employment by Buyer; Liabilities to the extent arising out of the operation of the Business prior to Closing or from any Excluded Asset; trade payables not included in the Net Working Capital; pre-closing worker's compensation claims; except for the Assumed Benefit Liabilities, all Liabilities with respect to Employees and any pension Liabilities; certain Intercompany Claims and the Retained Cure Costs. (*See* Stalking Horse Agreement, Section 2.4.)
Financing:	Certain Pre-Petition Term Lenders (the "Ad Hoc Group of Pre-Petition Term Lenders") have agreed to provide Buyer with "bridge" debt financing of approximately $10 million (the "Bridge Debt") in connection with the transactions contemplated by the Stalking Horse Agreement.[7] As additional consideration for the Bridge Debt, the Ad Hoc Group of Pre-Petition Term

[7] The summary of terms and conditions of the Bridge Debt is set forth on Schedule 6.6 to the Stalking Horse Agreement, a copy of which is attached.

	Lenders will receive a secured note in the amount of $11.5 million on the same terms as of the Purchase Price Secured Note, but on a second-out basis. The Buyer provided an equity commitment letter from its parent, DaDa Holdings, LLC, to provide Buyer with five million Dollars ($5,000,000) in equity financing be utilized to replace (in part) the cash collateral currently held by the ABL DIP Agent as described below. Seller is a third party beneficiary of the equity commitment letter. (*See* Stalking Horse Agreement, Sections 6.6 and 8.9.)
Replacement Cash Collateral for Credit Support Instruments	The Buyer shall deliver cash in an amount equal to five million Dollars ($5,000,000), less the Good Faith Deposit, to be utilized to replace (in part) the cash collateral currently held by the ABL DIP Agent in respect of the credit support instrument related to the Red Mud Lakes ("Replacement Credit Support Amount"). As soon as reasonably practicable, and in any event within twelve (12) months following the Closing, Buyer shall, or shall cause one or more of its Affiliates to, take or cause to be taken all actions necessary to (a) replace the balance of the cash collateral currently held by the ABL DIP Agent in respect of such credit support instrument and (b) secure the unconditional release of any Seller or its Affiliates from such credit support instrument, including effecting such release by providing guarantees, substitute letter(s) of credit or other credit support, and Buyer shall, or shall cause one or more of its Affiliates to, be substituted in all respects for any Seller or its Affiliate that is party to the such credit support instrument, so that the applicable Buyer or one or more of its Affiliates shall be solely responsible for the obligations of such credit support instrument or its replacement. (*See* Stalking Horse Agreement, Sections 4.2(a), 8.9.)
Closing Date:	No later than October 31, 2016. (*See* Stalking Horse Agreement, Section 11.1.)
Termination:	Termination provisions include: (i) if Closing does not occur by October 31, 2016 or the sale is prohibited by a Governmental Authority, (ii) if Sellers withdraw the Sale Motion, (iii) if Sellers enter into a sale or other disposition with one or more third parties (other than Buyer or one or more of its Affiliates or the Successful Bidder at the auction) of all or a material portion of the Acquired Assets (an "Alternative Transaction"), (iv) if Buyer is not the Successful Bidder or Backup Bidder at the auction (v) breach by Sellers of any of the agreements, covenants, representations or warranties contained in the Stalking Horse Agreement that results in the closing conditions of Buyer not being satisfied and cannot be cured within ten (10) days following Buyer's notification to Sellers of such breach, (vi) breach by Buyer of any of the

	agreements, covenants, representations or warranties contained in the Stalking Horse Agreement that results in the closing conditions of Sellers not being satisfied and cannot be cured within ten (10) days following Sellers' notification to Buyer of such breach, (vii) all closing conditions are met and Sellers fail to close, (viii) all closing conditions are met and Buyer fails to close and (ix) mutual written consent. (*See* Stalking Horse Agreement, Sections 11.1.)
Bid Protections:	The parties are seeking approval of a "breakup fee" of $645,000, plus reimbursement of Buyer's out of pocket expenses, capped at $1,000,000, for reasonable documented out-of-pocket costs and expenses of Buyer (including reasonable, documented expenses of counsel, investment bankers and other outside consultants, and other reasonable, documented legal expenses) related to negotiating and documenting the Stalking Horse Agreement and investigating Sellers and the Acquired Assets, in the event that (i) the Stalking Horse Agreement is terminated in certain circumstances and any Seller subsequently (1) executes a definitive agreement with respect to, and consummates, an Alternative Transaction within 180 days following such termination or (2) consummates an Alternative Transaction within 180 days following such termination or (ii) the Stalking Horse Agreement is terminated in certain circumstances and Sellers subsequently confirm a plan of reorganization within 180 days following such termination. (*See* Stalking Horse Agreement, Sections 7.7 and 11.2(c).)
Closing Conditions:	In addition to customary closing conditions, the obligation of the Stalking Horse Purchaser to consummate the transactions contemplated by the Stalking Horse Agreement is subject to the Court's approval of the Sale Order and, other than with respect to Cure Costs, the assumption and assignment of each Assumed Contract (except as would not materially and adversely affect the operation of the Business from and after Closing), no Material Adverse Effect having occurred since the execution of the Stalking Horse Agreement, the Mining Lease shall be in full force and effect with respect to Buyer, and the levy payable to the Government of Jamaica by NBL shall have been successfully re-negotiated, Buyer shall have entered into the Debt Financing Agreements and a minimum of thirty million Dollars ($30,000,000) of Net Working Capital shall be delivered to Buyer at the Closing. (*See* Stalking Horse Agreement, Article 9.)

CBAs and Union Pension Plans:	Buyer to make an offer to the respective unions to adopt and assume Sellers' CBAs. (*See* Stalking Horse Agreement, Section 8.5(f).) Buyer to (i) adopt and assume the Union Pension and OPEB Plans and all liabilities thereunder arising before, on or after Closing and (ii) accept the transfer of assets from the trusts funding the Union Pension and OPEB Plans, if any. (*See* Stalking Horse Agreement, Section 8.5(g).)

11. As described above, the Debtors also seek approval of the following Bid Protections: (a) a break-up fee of $645,000 (the "Break-Up Fee") and (b) expense reimbursement not greater than $1,000,000 (the "Expense Reimbursement"), in each case payable upon certain termination events and the consummation of an Alternative Transaction or chapter 11 plan of reorganization, as applicable.

12. The Buyer has expressed its unwillingness to act as the Stalking Horse Purchaser for the Acquired Assets and to commit further resources unless the Debtors are authorized to provide the Bid Protections requested by this Motion. The Stalking Horse Agreement and the relief requested by this Motion are consistent with the sale procedures implemented in connection with the Bidding Procedures Order. In light of the foregoing, to participate in the Auction, Qualified Bids, other than the Stalking Horse Purchaser, submitted on or prior to the Bid Deadline must equal or exceed an amount in cash (or a substantially similar secured note) equal to the principal amount of the Purchase Price Secured Note plus the Replacement Credit Support Amount, the Bid Protections and the Minimum Overbid Increment, and be an otherwise higher or better bid.

13. The Debtors, after consultation with their counsel, financial advisors, and investment bankers, and in consultation with the Consultation Parties, have determined that the

Stalking Horse Agreement and the associated Bid Protections provide the best opportunity to maximize value and to promote a robust auction process.

RELIEF REQUESTED

14. Pursuant to this Motion, and to compensate the Stalking Horse Purchaser for serving as the stalking horse whose bid will be subject to higher or better offers, the Debtors seek entry of an order authorizing and approving (a) the Debtors' entry into the Stalking Horse Agreement and (b) the Bid Protections. The Debtors and Stalking Horse Purchaser believe the Bid Protections are reasonable in light of the benefits to the Debtors' estates of having a stalking horse bidder under a definitive Stalking Horse Agreement and the risk to Stalking Horse Purchaser that a third-party offer ultimately may be accepted. The Debtors further believe that the Bid Protections as described herein and contained in the Stalking Horse Agreement are necessary to preserve and enhance the value of the Acquired Assets.

A. The Relief Requested is a Sound Exercise of the Debtors' Business Judgment

15. Pursuant to section 105(a) of the Bankruptcy Code, a "[c]ourt may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 363(b) of the Bankruptcy Code provides that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Although section 363(b) does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, courts have required that such use, sale or lease be based upon the sound business judgment of the debtor. *See In re Channel One Comm., Inc.*, 117 B.R. 493, 496 (Bankr. E.D. Mo. 1990) (citing *Comm. of Equity Sec. Holders* v. *Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983)); *In re Trilogy Dev. Co., LLC*, 2010 Bankr. LEXIS 5636, at *3-4 (Bankr. W.D. Mo. 2010); *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y.

2003); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 674 (Bankr. S.D.N.Y. 1989) (noting that the standard for determining a section 363(b) motion is "a good business reason").

16. Courts emphasize that the business judgment rule is not an onerous standard and may be satisfied "as long as the proposed action *appears* to enhance the debtor's estate." *Crystalin, LLC* v. *Selma Props. Inc. (In re Crystalin, LLC)*, 293 B.R. 455, 463-64 (B.A.P. 8th Cir. 2003) (quoting *Four B. Corp.* v. *Food Barn Stores, Inc.,* 107 F.3d 558, 567 n. 16 (8th Cir. 1997) (emphasis original, internal alterations and quotations omitted)); *see also In re AbitibiBowater*, 418 B.R. 815, 831 (Bankr. D. Del. 2009) (the business judgment standard is "not a difficult standard to satisfy"). Under the business judgment rule, "management of a corporation's affairs is placed in the hands of its board of directors and officers, and the Court should interfere with their decisions only if it is made clear that those decisions are, *inter alia*, clearly erroneous, made arbitrarily, are in breach of the officers' and directors' fiduciary duty to the corporation, are made on the basis of inadequate information or study, are made in bad faith, or are in violation of the Bankruptcy Code." *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (citing *In re United Artists Theatre Co.*, 315 F.3d 217, 233 (3d Cir. 2003); *Richmond Leasing Co.* v. *Capital Bank, N.A.*, 762 F.2d 1303 (5th Cir. 1985); *In re Defender Drug Stores, Inc.*, 145 B.R. 312, 317 (B.A.P. 9th Cir. 1992)). *See also In re Farmland Indus. Inc.*, 294 B.R. 903, 913 (Bankr. W.D. Mo. 2003) (approving the rejection of employment agreements and noting that "[u]nder the business judgment standard, the question is whether the [proposed action] is in the Debtors' best economic interests, based on the Debtors' best business judgment in those circumstances.").

17. Approval of bid protections in connection with the sale of significant assets is analyzed under the business judgment standard and courts routinely find them to be appropriate

in chapter 11 cases. *See Official Comm. of Subordinated Bondholders* v. *Integrated Res., Inc. (In re Integrated Res., Inc.*), 147 B.R. 650, 657-58 (S.D.N.Y. 1992) (noting that overbid procedures and break-up fee arrangements that have been negotiated by a debtor are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid"); *In re 995 Fifth Ave. Assoc., L.P.*, 96B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (holding that the business judgment standard protects break-up fees and other provisions negotiated in good faith).

B. The Break-Up Fee and Expense Reimbursement are Reasonable and Appropriate

18. In considering whether to approve bid protections under the business judgment rule, courts have considered, among other things, the following questions: "(1) is the relationship of the parties who negotiated the break-up fee tainted by self-dealing or manipulation; (2) does the fee hamper, rather than encourage, bidding; (3) is the amount of the fee unreasonable relative to the proposed purchase price?" *Integrated Res., Inc.*, 147 B.R. at 657. *See also In re Wintz Companies*, 230 B.R. 840, 846 (B.A.P. 8th Cir. 1999), *aff'd*, 219 F.3d 807 (8th Cir. 2000) (noting that courts permit break-up fees "provided the fees create an incentive for increased bidding in sales from bankruptcy assets"). As stated by Judge Barta in *In re President Casinos, Inc.*, 314 B.R. 786, 789 (E.D. Mo. 2004):

> A break-up fee that is greater than the actual cost and expenses of the prospective purchaser should constitute a fair and reasonable percentage of the proposed purchase price, and should be reasonably related to the risk, effort, and expenses of the prospective purchaser. *In re Integrated Resources, Inc.,* 147 B.R. 650, 662 (S.D.N.Y.1992) appeal dismissed (*In re Integrated Resources, Inc.* (*Official Committee of Subordinated Bondholders v. Integrated Resources, Inc.*), 3 F.3d 49 (2nd Cir.1993).

19. Here, the Bid Protections are reasonable under the "business judgment rule." *First*, the Stalking Horse Agreement, including the Bid Protections, was the result of protracted

negotiations among the Debtors, the Stalking Horse Purchaser and the Ad Hoc Group of Pre-Petition Term Lenders and their respective professionals. The Stalking Horse Agreement and the Bid Protections were entered into in good faith and without self-dealing or manipulation. Moreover, the Stalking Horse Purchaser is not affiliated with the Debtors in any respect.

20. *Second*, the Bid Protections encourage, rather than hamper bidding. The Stalking Horse Agreement, which the Stalking Horse Purchaser entered into based on the protections afforded it through the Bid Protections, has provided a floor bid for the Acquired Assets, ensuring that the Debtors receive the highest and best price for such assets. Further, the Stalking Horse Purchaser expended significant time and resources in developing its stalking horse bid, to the benefit of other bidders who can use the Stalking Horse Agreement as a baseline bid. The Bid Protections provide an appropriate incentive to the Stalking Horse Purchaser to participate in the Auction as the stalking horse but are not so high as to discourage bidding.

21. *Third*, the Bid Protections are fair and reasonable in amount and are reasonably intended to compensate for the risk to the Stalking Horse Purchaser of the Stalking Horse Agreement being used to attract higher or better bids. Courts in the Eighth Circuit have held that the average range of reasonableness for break-up fees and expenses is approximately one to four percent of the purchase price. *In re Tama Beef Packing, Inc.,* 312 B.R. 192, 194 (N.D. Iowa 2004), cited approvingly but reversed on other grounds, *In re Tama Beef Packing, Inc.,* 321 B.R. 496, 498 (8th Cir. B.A.P. 2005) ("*Tama II*"); *In re Falcon Products Inc.*, Case No. 05-41108 (Bankr. E.D. Mo. Aug. 4, 2005) (B.S.S.) (approving 5% break-up fee on a $4 million sale transaction); *In re Otologics, L.L.C.*, Case No. 12-47045 (Bankr. E.D. Mo. Aug. 22, 2012) (C.E.R.) (approving 3.6% break-up fee on a $14 million sale transaction); s*ee also In re Riverstone Networks*, Case No. 06-10110 (Bankr. D. Del. Feb. 24, 2006) (approving 3%

termination fee on a $170 million sale transaction); *In re Great Northern Paper, Inc*., Case No. 03-10048 (Bankr. D. Me. Feb. 18, 2003) (approving 5.0% break-up fee, plus expense reimbursement, on a $91 million sale transaction).

22. The Break-Up Fee is equal to approximately 3.0% of the principal amount of the Purchase Price Secured Note, falling well within the acceptable range in the Eighth Circuit. Further, the Stalking Horse Purchaser has expended, and likely will continue to expend, considerable time, money and energy pursuing the sale, and has engaged in extended and lengthy good faith negotiations with the Debtors and their advisors.

23. After soliciting interest from potential bidders in accordance with the Bidding Procedures Order, the Debtors, in consultation with their advisors, determined that the stalking horse proposal from the Stalking Horse Purchaser will increase the likelihood of a sale to a contractually committed bidder at a price the Debtors believe is fair, while providing the Debtors with an opportunity to enhance the value to their estate through an auction process. Further, payment of the Bid Protections will not diminish the value of Debtors' estates, as the Debtors do not intend to terminate the Stalking Horse Agreement and pay the Bid Protections, unless doing so would permit the Debtors to accept a better Bid, generating additional value for the estates. Moreover, under these circumstances, the Bid Protections will be paid directly out of such higher and better Sale Proceeds.

24. The Debtors therefore request that the Court approve the Stalking Horse Purchaser as such and approve the Bid Protections under sections 105(a) and 363(b) of the Bankruptcy Code.

C. The Break-Up Fee and Expense Reimbursement are Necessary to Preserve the Value of the Debtors' Estates

25. As explained above, historically bankruptcy courts have approved bidding incentives similar to the Break-Up Fee and Expense Reimbursement under the business judgment rule. However, courts in the Eighth Circuit also have applied section 503(b) of the Bankruptcy Code to determine whether break-up fees or expenses are allowable as administrative expenses. *See In re Tama Beef Packing, Inc.*, 290 B.R. 90, (B.A.P. 8th Cir. 2003) ("*Tama I*")[8]; *President Casinos, Inc.*, 314 B.R at 788-89. The *Tama I* court agreed with the reasoning of the Third Circuit in *In re Calpine Corp.* v. *O'Brien Envtl. Energy, Inc.* (*In re O'Brien Envtl. Energy, Inc.*), 181 F.3d 527 (3d Cir. 1999), and held that "the determination of whether break-up fees or expenses are allowable under section 503(b)(1)(A) will be made in reference to general administrative expense jurisprudence." The *O'Brien* court held that even though bidding incentives are measured against a business judgment standard in nonbankruptcy transactions, the administrative expense provisions of Bankruptcy Code section 503(b) govern in the bankruptcy context. Accordingly, to be approved, bidding incentives must provide some postpetition benefit to the debtor's estate. *See O'Brien*, 181 F.3d at 533.

26. The Third Circuit defined at least two instances in which bidding incentives may benefit the estate. *First*, a break-up fee or expense reimbursement may be necessary to preserve the value of the estate if the assurance of the fee "promote[s] more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *O'Brien*, 181 F.3d at 537. *Second*, if the availability of break-up fees and expenses were to "induce a bidder to research the value of the debtor and convert that value to a

[8] In *Tama II*, the Bankruptcy Appellate Panel "revised," but did not overrule, the analysis in *Tama I* concerning break-up fees, concluding that "the break-up fee discussion was superfluous" as the buyer's claim at issue in the case was not a break-up fee, but simply an administrative expense.

dollar figure on which other bidders can rely, the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth." *Id.*

27. As described above, the Break-Up Fee and Expense Reimbursement are reasonable and appropriate in light of the size and nature of the transaction and the considerable effort and expense that the Stalking Horse Purchaser has expended and will continue to expend in connection with its stalking horse bid. Further, the Break-Up Fee and Expense Reimbursement requested herein were a material inducement to the Stalking Horse Purchaser to enter into the Stalking Horse Agreement, which was negotiated between the Debtors, the Stalking Horse Purchaser and their respective advisors at arm's length and in good faith. The Stalking Horse Purchaser's bid, in turn, has established a minimum bid for others to exceed, thereby ensuring that during the Auction, if any, the Debtors will receive no less than the Purchase Price for the Acquired Assets and other bidders should be encouraged to participate in a robust auction process. Accordingly, the Break-Up Fee and Expense Reimbursement should be approved under section 503(b) and afforded administrative priority status under sections 503(b) and 507(a)(2) of the Bankruptcy Code.

REQUEST FOR WAIVER OF RULE 6004(h) STAY

28. Pursuant to Bankruptcy Rule 6004(h) an order authorizing the sale of property is stayed for fourteen (14) days after the entry of an order unless the Court orders otherwise. The Debtors request that this Court waive the stay imposed by Bankruptcy Rule 6004(h). The sale of the Acquired Assets must be approved and consummated promptly to preserve the value of the Acquired Assets. In addition, the authority to pay the Bid Protections to the Stalking Horse Purchaser is a necessary component of its bid. Accordingly, the Debtors respectfully request that

the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief. The Debtors note that similar requests to waive the stay imposed under Bankruptcy Rule 6004(h) are routinely granted. *See, e.g., In re Bakers Footwear Grp. Inc.*, No. 12-49658 (CER) (Bankr. E.D. Mo. Nov. 1, 2012); *In re ContinentalAFA Dispensing Company*, No. 08-45921 (KAS) (Bankr. E.D. Mo. Nov. 12, 2008); *In re the Great Atlantic & Pacific Tea Company, Inc.*, Case No. 15-23007 (SCC) (Bankr. S.D.N.Y. Aug. 11, 2015); *In re Delia's, Inc.*, Case No. 14-23678 (RDD) (Bankr. S.D.N.Y. Feb. 10, 2015); *In re Midway Games Inc.*, Case No. 09-10465 (KG) (Bankr. D. Del. June 3, 2009); *In re Nortel Networks Inc., et al.*, Case No. 09-10138 (Bankr. D. Del. Mar. 3, 2009).

NOTICE

29. In accordance with the Bidding Procedures Order, the Debtors have provided notice of this Motion to (a) the Core Parties, (b) any Non-ECF Parties (as those terms are defined in the *Order Pursuant to Section 105(a) of the Bankruptcy Code, 28 U.S.C. § 1404, Bankruptcy Rule 1015(c) and Local Rule 9004(C) (I) Denying Transfer of Division and (II) Establishing Certain Notice, Case Management and Administrative Procedures* [Docket No. 123]), and (c) all entities known to have expressed a *bona fide* interest in purchasing any of the Acquired Assets since the Petition Date and such other potential purchasers identified by the Consultation Parties. All parties who have requested electronic notice of filings in these cases through the Court's ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of this Motion and the Stalking Horse Agreement will also be made available on the Case Website. The proposed Stalking Horse Approval Order may be modified or withdrawn at any time without further notice. If any significant modifications are made to the Stalking Horse Approval Order, the amended proposed Stalking Horse Approval Order will be made available on the Debtors' Case Website, and no

further notice will be provided. In light of the relief requested, the Debtors submit that no further notice is necessary.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested in this Motion and grant the Debtors such other and further relief as this Court deems just and proper.

Dated: October 7, 2016
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

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EXHIBIT A
STALKING HORSE AGREEMENT

EXECUTION VERSION

ASSET PURCHASE AGREEMENT

DATED AS OF OCTOBER 7, 2016

BY AND AMONG

NEW DAY ALUMINUM LLC, AS BUYER,

AND

NORANDA ALUMINA LLC
AND
NORANDA BAUXITE LIMITED, AS SELLERS

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of October 7, 2016 (the "Execution Date"), is made and entered into by and among New Day Aluminum LLC, a Delaware limited liability company ("Buyer"), Noranda Alumina LLC, a Delaware limited liability company ("NAL"), and Noranda Bauxite Limited (f/k/a St. Ann Bauxite Limited), a company organized and existing under the laws of Jamaica ("NBL") (each a "Seller" and, collectively, "Sellers"). Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

RECITALS

WHEREAS, on February 8, 2016, Sellers and certain of their Affiliates (collectively, the "Debtors") filed voluntary petitions (the "Bankruptcy Case") under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court");

WHEREAS, in accordance with the Bidding Procedures and subject to the terms and conditions set forth in this Agreement and the entry of the Sale Order, Sellers desire to sell to Buyer all of the Acquired Assets and to assign to Buyer all of the Assumed Liabilities, Buyer desires to purchase from Sellers all of the Acquired Assets and assume all of the Assumed Liabilities, and the Parties intend to effectuate the transactions contemplated by this Agreement, upon the terms and conditions hereinafter set forth;

WHEREAS, the Acquired Assets and Assumed Liabilities shall be purchased and assumed by Buyer pursuant to the Sale Order, free and clear of all Encumbrances (other than Permitted Encumbrances), pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, and Rules 6004 and 6006 of the Federal Rules of Bankruptcy Procedure; and

WHEREAS, each Seller's ability to consummate the transactions set forth in this Agreement is subject to, among other things, the entry of the Sale Order by the Bankruptcy Court.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

"ABL DIP Agent" means BofA, together with its successors, in its separate capacities as administrative and collateral agent under the ABL DIP Agreement.

"ABL DIP Agreement" means that certain Post-Petition Credit Agreement, dated as of February 9, 2016, by and among certain Debtors, as borrowers, the lenders party thereto and BofA, as administrative agent, as amended, restated, amended and restated, supplemented, waived and/or otherwise modified prior to the date hereof.

"ABL DIP Credit Parties" means, collectively, the ABL DIP Lenders and the ABL DIP Agent.

"ABL DIP Lenders" means BofA and certain other financial institutions (and their respective successors and assigns) in their capacity as lenders under the ABL DIP Agreement.

"Accounting Referee" has the meaning set forth in Section 3.2(c).

"Accounting Standards" means the accounting standards, principles, policies, procedures, categorizations, definitions, methods, practices and techniques set forth on Exhibit A.

"Accounts Receivable" means, with respect to the Business, all accounts receivable, notes receivable, purchase orders, negotiable instruments, completed work or services that have not been billed, chattel paper, notes and other rights to payment of Sellers, including those consisting of all accounts receivable in respect of services rendered or products sold to customers by Sellers, in each case solely relating to the Business, any other miscellaneous accounts receivable related solely to the Business, and any claim, remedy or other right of Sellers to the extent related to any of the foregoing, together with all unpaid financing charges accrued thereon and any payments with respect thereto, but excluding any accounts receivables owed by a Debtor or any of its subsidiaries.

"Acquired Assets" has the meaning set forth in Section 2.1.

"Acquired Intellectual Property" has the meaning set forth in Section 2.1(g).

"Affiliate" has the meaning set forth in Rule 12b-2 of the regulations promulgated under the Exchange Act; provided, however, that for purposes of this Agreement, the Joint Venture shall not constitute an Affiliate of any Seller.

"Agreement" has the meaning set forth in the introductory paragraph.

"Allocation Statement" has the meaning set forth in Section 3.3(b).

"Alternative Transaction" means a sale or other disposition to one or more third parties (other than Buyer or one or more of its Affiliates) of all or a material portion of the Acquired Assets.

"Assumed Benefit Liabilities" has the meaning set forth in Section 2.3(e).

"Assumed Contracts" has the meaning set forth in Section 2.5(a)(i).

"Assumed Liabilities" has the meaning set forth in Section 2.3.

"Assumption Agreement" means an Assignment and Assumption Agreement in customary form reasonably acceptable to the Parties.

"Available Contracts" has the meaning set forth in Section 2.5(a)(i).

"Avoidance Action" means any claim, right or cause of action of any Seller arising under Chapter 5 of the Bankruptcy Code and any analogous state law claims relating to the Acquired Assets or the Business.

"Bankruptcy Case" has the meaning set forth in the recitals.

"Bankruptcy Code" means Title 11 of the United States Code, Sections 101 *et seq*.

"Bankruptcy Court" has the meaning set forth in the recitals.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure.

"Benefit Plan" means any (i) "employee benefit plan" within the meaning of Section 3(3) of ERISA or (ii) other employee benefit plans, agreements, programs, policies, arrangements or payroll practices, whether or not subject to ERISA (including any funding mechanism therefor now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise), including any plan, program, arrangement or agreement that is a pension, profit-sharing, savings, retirement, employment, consulting, severance pay, termination, executive compensation, incentive compensation, deferred compensation, bonus, stock purchase, stock option, phantom stock or other equity-based compensation, change in control, retention, salary continuation, vacation, sick leave, disability, death benefit, group insurance, hospitalization, medical, dental, life (including all individual life insurance policies as to which any Seller is the owner, the beneficiary, or both), Code Section 125 "cafeteria" or "flexible" benefit, employee loan, educational assistance or fringe benefit plan, program, arrangement or agreement, whether written or oral, in each case, that (x) is sponsored, maintained or contributed to by Parent or any Seller, or for which Parent or any Seller has any obligation to sponsor, maintain or contribute to, or for which Parent or any Seller has any direct or indirect liability, whether contingent or otherwise and (y) under which any current

or former officer, director, employee, consultant (or their respective beneficiaries) of Sellers has any present or future right to benefits, except for any Multiemployer Plan.

"Bidding Procedures" means the bid procedures attached as Exhibit A to the Bidding Procedures Order.

"Bidding Procedures Order" means the Order of the Bankruptcy Court, dated July 20, 2016, approving the Bidding Procedures.

"Bill of Sale" means a bill of sale in customary form reasonably acceptable to the Parties.

"BofA" means Bank of America, N.A.

"Break-Up Fee" means the "break-up fee" approved by the Bankruptcy Court.

"Business" means, collectively, the:

(i) bauxite mining operations of NBL, including NBL's interest in the Mining Lease and the Joint Venture; and

(ii) business and operations of NAL solely to the extent related to the refining and converting of bauxite into alumina, as currently conducted at the NAL Facility.

in each case, other than with respect to such business and operations to the extent they relate to any Excluded Assets or Excluded Liabilities.

"Business Day" means any day of the year (other than a Saturday or Sunday) on which national banking institutions in New York are open to the public for conducting business and are not required or authorized to close.

"Buyer" has the meaning set forth in the introductory paragraph.

"Buyer Employees" has the meaning set forth in Section 8.5(a).

"Claim" means a "claim" as defined in Section 101(5) of the Bankruptcy Code, against any Seller.

"Closing" has the meaning set forth in Section 4.1.

"Closing Date" means the date and time as of which the Closing occurs as set forth in Section 4.1.

"Closing Statement" has the meaning set forth in Section 3.2(b).

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985.

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

"Collective Bargaining Agreement" has the meaning set forth in Section 5.10(b).

"Company" or "Parent" means Noranda Aluminum Holding Corporation, a Delaware corporation and the ultimate parent of Sellers.

"Confidential Information" has the meaning set forth in Section 13.2.

"Confidentiality Agreement" has the meaning set forth in Section 7.1(c).

"Contract" means any agreement, contract, obligation, undertaking, lease (including Leases and Lessor Leases), sublease, purchase order, arrangement, license, commitment, or other binding arrangement or understanding (in each case, whether written or oral), and any amendments, modifications or supplements thereto.

"Copyrights" means all United States and foreign copyright rights in any original works of authorship, whether registered or unregistered, including all copyright registrations and applications.

"Cortland" means Cortland Capital Market Services LLC.

"Cure Costs" means all monetary liabilities, including pre-petition monetary liabilities, of Sellers that must be paid or otherwise satisfied to cure all of Sellers' monetary defaults under the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code at the time of the assumption thereof and assignment to Buyer as provided hereunder as such amounts are determined by the Bankruptcy Court or approved pursuant to the assignment and assumption procedures provided for in the Bidding Procedures Order.

"Credit Support Instrument" has the meaning set forth in Section 8.9.

"Debt Financing" has the meaning set forth in Section 6.6.

"Debt Financing Agreements" has the meaning set forth in Section 6.6.

"Debt Financing Secured Note" means the secured note issued by Buyer as consideration for the Debt Financing and having the terms and conditions set forth on Schedule 1.1(c).

"Debtors" has the meaning set forth in the recitals.

"Deeds" means special (or limited) warranty deeds, or jurisdictional equivalents, as the case may be, in recordable form for the appropriate jurisdiction, transferring title to the Owned Real Property (subject only to Permitted Encumbrances).

"Determination Date" has the meaning set forth in Section 2.5(a)(i).

"DIP Agreements" means, collectively, the ABL DIP Agreement and the Term DIP Agreement.

"DIP Credit Parties" means, collectively, the ABL DIP Credit Parties and the Term DIP Credit Parties.

"DIP Debtors" means Noranda Aluminum, Inc., a Delaware corporation, and its affiliated debtors and debtors in possession.

"DIP Order" means the Final Order Granting Debtors' Motion to (i) Authorize Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 363, 364; (ii) Grant Liens and Superpriority Claims to Post-Petition Lenders Pursuant to 11 U.S.C. §§ 364 and 507, (iii) Provide Adequate Protection to Pre-Petition Credit Parties, (iv) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507, and (v) Grant Related Relief Docket No. 392, as amended by the Stipulation Amending Final Dip Order, dated August 29, 2016.

"Disclosure Schedules" means the disclosure schedules attached hereto, dated as of the date hereof, delivered or made available by Sellers to Buyer in connection with the execution of this Agreement.

"Documents" means all of the documents that are used or useful in, or held for use in, the Business (other than Tax Returns and Tax workpapers).

"Employees" means all of the Seller Employees and Specified Employees.

"Encumbrance" means any "interest" as that term is used in Section 363(f) of the Bankruptcy Code, mortgage, deed of trust, pledge, security interest, encumbrance, easement, condition, reservation, lien (statutory or otherwise), mechanics lien, charge, Claim, conditional sales agreement, covenant, collateral assignment, encroachment, lease, right of use or possession, restriction on transfer, right of first option, right of first refusal, or other similar third party interest, or other title or survey defect, charge, hypothecation, deemed trust, action, easement, right-of-way, servitude or covenant on real property, other than any license of Intellectual Property, whether imposed by Contract, Legal Requirement, equity or otherwise.

"Environmental Laws" means any and all Legal Requirements concerning or relating to (a) public health and safety as may be affected by the Release of, or exposure to, Hazardous Substances or (b) pollution or protection of the environment, including those relating to (i) the presence, use, manufacturing, refining, production, generation, handling, transportation, treatment, recycling, storage, disposal, distribution, importing, labeling, testing, processing, discharge, Release, threatened Release, control, cleanup, or other action or failure to act involving Hazardous Substances; and (ii) human health as affected by Hazardous Substances but including, in each case, any Legal Requirements concerning or relating to environmental provisions of any applicable Mining and Mining Safety Law

"Environmental Permits" has the meaning set forth in Section 5.5.

"Equipment" means all furniture, fixtures, equipment, computers, machinery, vehicles, apparatus, appliances, implements, telephone systems, signage, supplies and all other tangible personal property of every kind and description, and Improvements and tooling of Sellers, primarily used, or held for use, in connection with the operation of the Business,

wherever located, including communications equipment, information technology assets, and any attached and associated hardware, routers, devices, panels, cables, manuals, cords, connectors, cards, and vendor documents, and including all warranties of the vendor applicable thereto.

"Equity Commitment Letter" has the meaning set forth in Section 6.6.

"Equity Financing" has the meaning set forth in Section 6.6.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any Person that would be considered a single employer with any Seller under Sections 414(b), (c), (m) or (o) of the Code.

"Estimated Working Capital" has the meaning set forth in Section 3.2(a).

"Estimated Net Working Capital Adjustment" means Estimated Working Capital minus Target Working Capital, expressed as a positive number if positive, and as a negative number if negative, as determined in accordance with Section 3.2.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Assets" has the meaning set forth in Section 2.2.

"Excluded Contracts" has the meaning set forth in Section 2.5(a)(i)

"Excluded Liabilities" has the meaning set forth in Section 2.4.

"Execution Date" has the meaning set forth in the introductory paragraph.

"Existing Stock" has the meaning set forth in Section 8.7.

"Expense Reimbursement" means the "expense reimbursement" amount approved by the Bankruptcy Court up to which Sellers shall be liable under the circumstances set forth in Section 11.2(c) for reasonable documented out-of-pocket costs and expenses of Buyer (including reasonable, documented expenses of counsel, investment bankers and other outside consultants, and other reasonable, documented legal expenses) related to negotiating this Agreement and investigating Sellers and the Acquired Assets and to be paid as set forth in Section 11.2(c).

"Extended Contract Period" has the meaning set forth in Section 2.5(a)(i).

"FCPA" has the meaning set forth in Section 5.17.

"Final Order" means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Bankruptcy Case (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented to by Buyer) and as to which (A) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, stay, reargument or rehearing shall then be

pending or (B) if an appeal, writ of certiorari, new trial, stay, reargument or rehearing thereof has been sought, such Order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument or rehearing shall have expired, as a result of which such Proceeding or Order shall have become final in accordance with Bankruptcy Rule 8002; provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Bankruptcy Rules, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

"Financial Statements" has the meaning set forth in Section 5.19.

"Financing" has the meaning set forth in Section 6.6.

"FLSA" means Fair Labor Standards Act of the United States Department of Labor, and any state or local laws governing wages, hours, and/or overtime pay.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time.

"Good Faith Deposit" means an amount equal to two million one hundred fifty thousand Dollars ($2,150,000).

"Governmental Authority" means any domestic or foreign federal, state or local government, or political subdivision thereof, multi-national organization, quasi-governmental authority, or other similar recognized governmental authority or regulatory or administrative authority, agency or commission having any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, or any court, tribunal or judicial body, or any arbitrator or arbitral body.

"Governmental Authorization" means any approval, consent, license, Permit, waiver or other authorization issued or granted by or under the authority of any Governmental Authority.

"Hazardous Substance" means any "hazardous waste," "hazardous material" "hazardous substance", pollutant, contaminant, or toxic material defined or regulated under any Environmental Law or Mining and Mining Safety Law.

"Improvements" means the buildings, plants, structures, fixtures, systems, facilities, infrastructure and other improvements affixed or appurtenant to the Owned Real Property or Leased Real Property.

"Incorporated Information" means and includes any and all matters disclosed in (i) the Company's Annual Report on Form 10-K (as amended) for the year ended December 31, 2015 (but excluding any disclosures set forth in any "risk factors" section, any disclosures in any "forward-looking statements" section and any other disclosures that are similarly predictive or forward-looking in nature, in each case other than any specific historical factual information contained therein, which shall not be excluded), (ii) the Statements of Financial Affairs filed by the Debtors with the Bankruptcy Court on March 28, 2016 (Docket Ref. No. 554-5) as the same

may be amended or supplemented from time to time and (iii) the Schedules of Assets and Liabilities filed by the Debtors with the Bankruptcy Court on March 28, 2016 (Docket Ref. No. 553-5) as the same may be amended or supplemented from time to time.

"Indebtedness" means, at any time and with respect to any Person: (a) all obligations (including penalties, fees and expenses) of such Person for borrowed money; (b) all obligations (including penalties, fees and expenses) of such Person for the deferred purchase price of property or services (other than trade payables, other expense accruals and deferred compensation items arising in the Ordinary Course of Business); (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments (other than performance, surety and appeal bonds arising in the Ordinary Course of Business in respect of which such Person's liability remains contingent); (d) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), other than inventory or other property purchased by such Person in the Ordinary Course of Business; (e) all obligations of such Person under leases which have been or should be, in accordance with generally accepted accounting principles, recorded as capital leases, to the extent required to be so recorded; (f) all reimbursement, payment or similar obligations of such Person, contingent or otherwise, under acceptance, letter of credit or similar facilities, in each case only to the extent drawn; (g) obligations in respect of futures contracts, forward contracts, swaps, options, hedging or similar arrangements; (h) all Indebtedness of others referred to in clauses (a) through (g) above guaranteed directly or indirectly by such Person; and (i) all Indebtedness referred to in clauses (a) through (h) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any lien upon or in property owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness.

"Intellectual Property" means all intellectual property, including all Copyrights, Patents, Trademarks and Trade Secrets.

"Intercompany Claims" means any and all claims and causes of action held or available to any Debtor or a subsidiary of a Debtor against any other Debtor or any subsidiary of the Debtors.

"Inventory" has the meaning set forth in Section 2.1(a).

"IRS" has the meaning set forth in Section 3.3(e).

"JBML" means Jamaica Bauxite Mining Limited, a company organized and existing under the laws of Jamaica and wholly-owned by the Government of Jamaica.

"Joint Venture" means Noranda Jamaica Bauxite Partners, a general partnership formed under the laws of Jamaica, whose partnership interests are forty-nine percent (49%) owned by NBL and fifty-one percent (51%) owned by JBML.

"JV Formation Documents" has the meaning set forth in Section 5.20(a).

"Knowledge" means, with respect to any matter in question, in the case of Sellers, the knowledge of any of the individuals listed on Schedule 1.1(a)(i), after reasonable investigation and due inquiry, and, in the case of Buyer, the knowledge of any of the individuals listed on Schedule 1.1(a)(ii).

"Lease" has the meaning set forth in the definition of "Leased Real Property."

"Leased Real Property" means, specifically excluding any Excluded Asset, the interests in real property let, leased or subleased by any Seller, as tenant, subtenant, lessee or sublessee, solely relating to the Business, or in which a Seller had been granted a possessory interest or right to use or occupy all or any portion of the same, solely relating to the Business (each such lease, a "Lease," and collectively, the "Leases").

"Legal Requirement" means any federal, state, provincial, local, municipal, foreign, international, or multinational law, constitution, treaty, convention, ordinance, code, rule, statute, judgment, regulation, Order, other requirement or rule of law enacted, adopted, promulgated, issued or applied by any Governmental Authority or other similar authority, including Mining and Mining Safety Laws.

"Lender Claims" means all Avoidance Actions and any other causes of action available to any Seller or its estate against any of the DIP Debtors, the DIP Credit Parties, the Pre-Petition Credit Parties or any of their respective directors, officers, managers, employees, shareholders, members and advisors.

"Lenders" has the meaning set forth in Section 6.6.

"Lessor Leases" has the meaning set forth in Section 5.4(b).

"Liability" means any liability, obligation or commitment of any kind or nature whatsoever (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, direct or indirect, or due or to become due), including any liability for any Trade Payables.

"Lot" has the meaning set forth in the Bidding Procedures.

"Material Adverse Effect" means any change, event, effect, state of facts or occurrence that individually or in the aggregate (taking into account all other such changes, events, effects, states of fact or occurrences) has had, or would be reasonably expected to have, a material adverse change in or material adverse effect on (1) the assets, properties, financial condition or results of operations of the Business (excluding the Excluded Assets and the Excluded Liabilities), taken as a whole or (2) the ability of Sellers to consummate the transactions contemplated by this Agreement or to perform any of their obligations under this Agreement, but, in each case, excluding any change, event, effect, state of facts or occurrence to the extent that it results from or arises out of (i) any reasonably anticipated effects of the commencement or prosecution of the Bankruptcy Case; (ii) the execution and delivery of this Agreement or the announcement thereof or consummation of the transactions contemplated hereby; (iii) changes in Legal Requirements or GAAP; (iv) any specific action required to be taken (or omitted) by this Agreement or taken (or omitted) at the written request of Buyer; (v)

any change in the United States or foreign economies or financial markets in general, including changes in interest rates or currency exchange rates; (vi) general industry changes in the industries in which Sellers compete; (vii) acts of God (including earthquakes, storms, severe weather, fires, floods and natural catastrophes); (viii) any failure of the Business to achieve external or internal forecasts or financial projections (provided that any change, event, effect, state of facts or occurrence giving rise to such failure may be taken into account in determining whether there has been a Material Adverse Effect); (ix) any breach of this Agreement by Buyer; or (x) any change, event, effect, state of facts or occurrence of economic or political conditions (including acts of terrorism, hostilities, sabotage, military actions or war, or any material worsening of such acts of terrorism, hostilities, sabotage, military actions or war), in each case of clauses (iii), (v), (vi), (vii) and (x) to the extent that such conditions do not disproportionately affect in any material respect the Business as compared to the business of other companies that are principally engaged in substantially the same business as Sellers.

"Material Contract" means any of the following Contracts of any Seller relating to the Acquired Assets:

(i) Contracts pursuant to which such Seller is reasonably expected to incur potential aggregate Liabilities in an amount greater than or equal to $1,000,000 per annum and has a term of greater than one year;

(ii) Contracts with any labor union or association representing any employees of any Seller;

(iii) Contracts for the sale of any assets of the Business for consideration in excess of $1,000,000, other than in the Ordinary Course of Business;

(iv) Contracts relating to the acquisition by any Seller of any operating business or the capital stock of any other person, in each case for consideration in excess of $1,000,000;

(v) Contracts for the employment of any Buyer Employee involving annual compensation (i.e., salary plus bonus) in excess of $300,000;

(vi) Contracts which have a "most favored nation" or similar pricing provision; or

(vii) Contracts which purport to restrict any Seller from engaging in any business or activity anywhere in the world, purport to limit individuals who may be solicited for employment or employed by any Seller or otherwise purport to restrict the business activities of any Seller.

"Material Customers" has the meaning set forth in Section 5.15.

"Material Suppliers" has the meaning set forth in Section 5.15.

"Mining" means the exploration, extraction, processing, storage and transportation of bauxite and to the Reclamation of lands used for such activities.

"Mining and Mining Safety Law" means all Legal Requirements relating to Mining and Mining safety, including the Mining Act Regulations of 1947.

"Mining Lease" means that Special Mining Lease from the Government of Jamaica, dated September 30, 2004, and held by NBL.

"Mining Permits" means all applicable Permits related to Mining or otherwise required by Mining and Mining Safety Law.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA.

"NAAC" means Noranda Aluminum Acquisition Corporation, a Delaware corporation.

"NAL" has the meaning set forth in the introductory paragraph.

"NAL Facility" means the alumina refinery of NAL located in Gramercy, Louisiana

"NBL" has the meaning set forth in the introductory paragraph.

"Net Working Capital" means the current assets set forth on Schedule 1.1(b), minus the current liabilities set forth on Schedule 1.1(b), each only to the extent included in the Acquired Assets or Assumed Liabilities and as determined in accordance with the Accounting Standards as of immediately following the Closing. A sample Net Working Capital calculation is attached hereto as Exhibit A to Schedule 1.1(b).

"Net Working Capital Adjustment" means Net Working Capital minus Estimated Working Capital, expressed as a positive number if positive, and as a negative number if negative, as determined in accordance with Section 3.2.

"Objections Notice" has the meaning set forth in Section 3.3(c).

"Order" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, consent, stipulation, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority or an arbitrator, mediator or other judicially sanctioned Person or body having jurisdiction over the applicable Person.

"Ordinary Course of Business" means, with respect to any Person, the ordinary and usual course of normal day-to-day operations of such Person and its business, consistent with its past practice; provided that, in the case of Sellers, "Ordinary Course of Business" shall take into account the business and operating practices that have been utilized by Sellers since the commencement of the Bankruptcy Case.

"Outside Date" has the meaning set forth in Section 11.1(b)(ii).

"Owned Real Property" means, specifically excluding any Excluded Asset, all real property owned by any Seller solely relating to the Business, and all right, title and interest of such Seller therein, together with all of such Seller's right, title and interest in and to the following: (i) all buildings, structures, systems, hereditaments and Improvements located on such real property owned by such Seller and (ii) all easements, if any, in or upon such real property owned by such Seller, licenses and all rights-of-way, beneficial easements, licenses, and other rights, privileges and appurtenances belonging or in any way pertaining to such real property owned by Sellers, in each case solely relating to the Business.

"Party" or "Parties" means, individually or collectively, as applicable, Buyer and Sellers.

"Patents" means United States and foreign patents and patent applications, as well as any continuations, continuations-in-part, divisions, extensions, reexaminations, reissues, renewals and patent disclosures related thereto.

"PBGC" has the meaning set forth in Section 5.11(b).

"Permits" means any and all permits (including Environmental Permits and Mining Permits), licenses, approvals, consents, waivers, franchises, filings, accreditations, registrations, certifications, certificates of occupancy, easements, rights of way, notifications, exemptions, clearances, and authorizations, together with all modifications, renewals, amendments, supplements and extensions thereof and applications therefor, in each case of any Seller are of or from any Governmental Authority, in each case solely relating to Sellers' operation of the Business and ownership of the Acquired Assets.

"Permitted Encumbrances" means Encumbrances specifically permitted by the Sale Order.

"Person" means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust, association, organization or other legal entity or group (as defined in Section 13(d)(3) of the Exchange Act) or Governmental Authority.

"Petition Date" means February 8, 2016.

"Post-Closing Taxes" has the meaning set forth in Section 2.3(k).

"Pre-Closing Statement" has the meaning set forth in Section 3.2.

"Pre-Paid Expenses" means any Seller's rights with respect to all deposits (including customer deposits and security deposits (whether maintained in escrow or otherwise) for rent, electricity, telephone or otherwise), advances, pre-paid expenses, prepayments, rights under warranties or guarantees, vendor rebates and other refunds of every kind and nature (whether or not known or unknown or contingent or non-contingent), related solely to the Business and not related to an Excluded Asset or an Excluded Liability, except that professional fee retainers and pre-paid deposits related thereto shall not be included in the definition of "Pre-Paid Expenses."

"Pre-Petition ABL Agent" means BofA in its capacity as administrative and collateral agent under the Pre-Petition ABL Agreement.

"Pre-Petition ABL Agreement" means that certain ABL Credit Agreement, dated as of February 29, 2012, among the Company, NAAC, the subsidiaries of NAAC party thereto, the lenders party thereto from time to time, and BofA, as administrative agent and collateral agent for the lenders, as amended, restated, amended and restated, supplemented, waived and/or otherwise modified prior to the date hereof.

"Pre-Petition ABL Credit Parties" means, collectively, the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders.

"Pre-Petition ABL Lenders" means those certain financial institutions in their capacity as lenders under the Pre-Petition ABL Agreement.

"Pre-Petition Credit Parties" means, collectively, the Pre-Petition ABL Credit Parties and Pre-Petition Term Credit Parties.

"Pre-Petition Term Agent" means Cortland, in its separate capacities as administrative agent and collateral agent under the Pre-Petition Term Agreement, or such successor administrative agent and collateral agent as may be appointed under the Pre-Petition Term Agreement.

"Pre-Petition Term Agreement" means that certain Credit Agreement, dated as of February 29, 2012, among the Company, NAAC, the lenders party thereto from time to time, Cortland, as successor to BofA, as administrative agent and collateral agent for the lenders, as amended, restated, amended and restated, supplemented, waived and/or otherwise modified prior to the date hereof.

"Pre-Petition Term Credit Parties" means, collectively, the Pre-Petition Term Agent and the Pre-Petition Term Lenders.

"Pre-Petition Term Lenders" means those certain financial institutions in their capacity as lenders under the Pre-Petition Term Agreement.

"Previously Omitted Contract" has the meaning set forth in Section 2.5(b)(i).

"Previously Omitted Contract Designation" has the meaning set forth in Section 2.5(b)(i).

"Previously Omitted Contract Notice" has the meaning set forth in Section 2.5(b)(ii).

"Proceeding" means any action, suit, claim, demand, hearing, arbitration, complaint, summons, litigation, mediation, formal investigation (or written notice by a Governmental Authority of intent to commence one), hearing or similar proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest,

formal inquiry or similar matter initiated, commenced, conducted, heard or pending by or before any Governmental Authority, arbitrator or mediator.

"Purchase Price" has the meaning set forth in Section 3.1.

"Purchase Price Secured Note" has the meaning set forth in Section 3.1(a).

"Real Property" and "Real Properties" means any Seller's rights with respect to (i) the Owned Real Property; (ii) the Leased Real Property; (iii) all Improvements; (iv) all strips and gores and any land lying in the bed of any public road, highway or other access way, open or proposed, adjoining any Owned Real Property; and (v) all easements, licenses, rights and appurtenances relating to the foregoing that any Seller has a legally recognized interest therein, in each case solely relating to the Business.

"Reclamation" means reclamation, revegetation, recontouring, abatement, control or prevention of adverse effects of mining activities.

"Release" means, except as authorized by and in compliance with a valid Permit issued under Environmental Law or Mining and Mining Safety Law, (a) any releasing, spilling, discharging, disposing, leaking, pumping, injecting, pouring, depositing, emitting, leaching of any Hazardous Substance into the outdoor environment, including ambient air, surface water, groundwater and surface or subsurface strata, and (b) migration of Hazardous Substances into or out of any of the Real Property through soil, surface water, or groundwater.

"Representative" means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

"Resettlement" means any obligation to relocate persons displaced from lands required for bauxite mining and any associated obligations, including land-for-land replacement, monetary compensation, relocation assistance (e.g., costs of shifting + allowance), and assistance in rental/lease of alternative land/property.

"Response Period" has the meaning set forth in Section 3.3(c).

"Retained Cure Costs" has the meaning set forth in Section 2.4(p).

"Retained Names and Marks" has the meaning set forth in Section 2.2(s).

"Sale Motion" means the motion filed by the Debtors pursuant to, *inter alia*, Sections 363 and 365 of the Bankruptcy Code to obtain the Bidding Procedures Order and the Sale Order and approve, among other things, the transactions contemplated by this Agreement.

"Sale Order" means an Order of the Bankruptcy Court, in form and substance reasonably satisfactory to Buyer and Sellers, pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code authorizing and approving, *inter alia*, the sale of the Acquired Assets to Buyer on the terms and conditions set forth herein, free and clear of all Encumbrances (other than Permitted Encumbrances and Assumed Liabilities), and the assumption and assignment of

the Assumed Contracts to and the assumption of the Assumed Liabilities by Buyer, and containing findings of fact and conclusions of law that Buyer has acted in "good faith" within the meaning of Section 363(m) of the Bankruptcy Code, which order shall in any event provide that, on the Closing Date and concurrently with the Closing, the Acquired Assets shall be transferred to Buyer free and clear of all then-existing Encumbrances (including, for the avoidance of doubt, free and clear of all successor liability), other than Permitted Encumbrances and Assumed Liabilities.

"Secured Notes" means, collectively, the Debt Financing Secured Note and the Purchase Price Secured Note.

"Securities Act" means the Securities Act of 1933, as amended.

"Sellers" has the meaning set forth in the introductory paragraph.

"Seller Employees" means all of the individuals directly employed by a Seller on the Execution Date, as well as any additional persons who become employees of a Seller during the period from the Execution Date through and including the Closing Date.

"Specified Employees" means the individuals directly employed by Debtors (other than any Seller) as set forth on Schedule 1.1(d).

"Straddle Period" has the meaning set forth in Section 8.1(a).

"Subsidiary" means any legal entity with respect to which a specified Person (or a subsidiary thereof) owns, directly or indirectly, more than 50% of the voting stock or other equity or partnership interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such legal entity, or of which the specified Person controls the management. For the avoidance of doubt, the Joint Venture shall not constitute a Subsidiary of any Seller for purposes of this Agreement.

"Successful Bidder" has the meaning assigned to that term in the Bidding Procedures Order.

"Target Working Capital" means thirty-five million Dollars ($35,000,000).

"Tax" or "Taxes" (and with correlative meaning, "Taxing") means (i) any federal, state, provincial, local, foreign or other income, alternative, minimum, add-on minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, intangibles, windfall profits, gross receipts, value added, sales, use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, premium, severance, environmental (including taxes under Section 59A of the Code), escheat, natural resources, real property, personal property, ad valorem, intangibles, rent, occupancy, license, occupational, employment, unemployment insurance, social security, disability, workers' compensation, payroll, health care, withholding, estimated or other similar tax, duty, levy or other governmental charge or assessment or deficiency thereof (including all interest and penalties thereon and additions thereto whether disputed or not) and (ii) any liability

for any items described in clause (i) payable by reason of Contract, transferee liability or operation of Legal Requirements (including Treasury Regulation Section 1.1502-6) or otherwise.

"Tax Return" means any return, declaration, report, claim for refund, information return or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed or required to be filed in connection with the determination, assessment or collection of any Tax or the administration of any Legal Requirements, regulations or administrative requirements relating to any Tax.

"Term DIP Agents" means Cortland, together with its successors, in its separate capacities as administrative and collateral agent under the Term DIP Agreement.

"Term DIP Agreement" means that certain Debtor-In-Possession Term Loan Credit Agreement, dated as of February 11, 2016, among the Company, NAAC, as the borrower representative, NBL, as the Jamaican borrower, certain other Debtors, as guarantors, the lenders party thereto and Cortland, as administrative agent, as amended, restated, amended and restated, supplemented, waived and/or otherwise modified prior to the date hereof.

"Term DIP Credit Parties" means, collectively, the Term DIP Agents and the Term DIP Lenders.

"Term DIP Lenders" means those certain lenders (with their respective successors and assigns) under the Term DIP Agreement.

"Title IV Plan" means any Benefit Plan subject to Title IV of ERISA (which, for the avoidance of doubt, excludes any Multiemployer Plan).

"Trade Payables" means trade obligations and accrued operating expenses incurred in the ordinary course of business of Sellers to the extent that such obligations relate solely to the Acquired Assets or the Business.

"Trade Secrets" means trade secrets and other confidential and proprietary information and know-how.

"Trademarks" means United States, state and foreign trademarks, service marks, logos, slogans, trade dress and trade names, Internet domain names and any other similar designations of source of goods or services, whether registered or unregistered, and registrations and pending applications to register the foregoing, and all goodwill related to or symbolized by the foregoing.

"Transaction Documents" means this Agreement, the Assumption Agreement, the Bill of Sale, the TSA Assignment Agreement (if agreed by Buyer and Sellers) and any other agreements, instruments or documents entered into at the Closing pursuant to this Agreement.

"Transferred Names and Marks" has the meaning set forth in Section 2.1(p).

"Transferred Permits" has the meaning set forth in Section 2.1(f).

"Transfer Taxes" means any real property transfer Tax, sales Tax, use Tax, real property recording Tax or fee, intangible Tax, documentary stamp Tax or similar Tax attributable to the sale or transfer of the Acquired Assets (and the perfecting or recording of evidence thereof) and not exempted under the Sale Order, by Section 1146(c) of the Bankruptcy Code or applicable state or municipal law.

"Treasury Regulations" means the Treasury regulations promulgated under the Code.

"TSA Assignment Agreement" means, if and to the extent mutually agreed to be entered into in connection with the transactions contemplated hereby, an assignment agreement in the form mutually agreed to by the Parties assigning to Buyer certain rights and obligations under that certain Transition Services Agreement, dated August 22, 2016, by and between Gränges Americas Inc. (f/k/a/ Beagle Acquisition Corp.) and Noranda Intermediate Holding Corporation, as amended.

"Union" and "Unions" have the meanings set forth in Section 5.10(b).

"Union Pension and OPEB Plans" means (i) the Noranda Alumina LLC Hourly Pension Plan (Gramercy), (ii) the VEBA benefits available to hourly employees at the Gramercy, Louisiana location, (iii) the Noranda Alumina LLC Hourly Employee Savings Plan, (iv) the Gramercy Alumina LLC Supplemental Unemployment Benefits Plan, (v) the Noranda Bauxite Limited Salaried Retirement Plan, (vi) the Noranda Bauxite Limited Hourly Retirement Plan, (vii) the Noranda Bauxite Limited Pensioners Group Life Plan and (viii) the Noranda Bauxite Limited Pensioners Group Health Plan.

"WARN Act" has the meaning set forth in Section 5.10(d).

1.2 Other Definitions and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a day other than a Business Day, the period in question shall end on the next succeeding Business Day.

Contracts, Agreements and Orders. Any reference in this Agreement to any contract, license, agreement or order means such contract, license, agreement or order as amended, supplemented or modified from time to time in accordance with the terms thereof.

Day. Any reference in this Agreement to "days" (but not Business Days) means to calendar days.

Dollars. Any reference in this Agreement to "$" means United States dollars.

Exhibits/Schedules. All Exhibits, Schedules and Disclosure Schedules attached or annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit, Schedule or Disclosure Schedule but not otherwise defined therein shall be defined as set forth in this Agreement.

Gender and Number. Any reference in this Agreement to gender includes all genders, and words imparting the singular number include the plural and vice versa.

Headings. The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any "Section," "Article" "Schedule" or "Disclosure Schedule" are to the corresponding Section, Article, Schedule or Disclosure Schedule of this Agreement unless otherwise specified.

Herein. Words such as "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear.

Including. The word "including" or any variation thereof means "including, without limitation," and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

Law. Any reference to any law in this Agreement means such law as amended, modified, codified, reenacted, supplemented or superseded in whole or in part, and in effect from time to time.

Lot Numbers. References to Lots by number are to the Lots as identified in Exhibit A to the Bidding Procedures.

Other. The words "to the extent" shall be interpreted to mean "to the extent (but only to the extent)".

Person. Any reference to a Person shall include such Person's successors and permitted assigns.

(b) No Strict Construction. Buyer, on the one hand, and Sellers, on the other hand, 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 Buyer, on the one hand, and Sellers, on the other hand, 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. Without limiting the foregoing, no rule of strict construction construing ambiguities against the draftsperson shall be applied against any Person with respect to this Agreement.

ARTICLE 2

PURCHASE AND SALE

2.1 Purchase and Sale.

Subject to the entry of the Sale Order and upon the terms and subject to the conditions of this Agreement, on the Closing Date, each Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, acquire and accept from such Seller, free and clear of all Encumbrances (other than Permitted Encumbrances and Assumed Liabilities), all of such Seller's right, title and interest in, to or under the following properties, rights, claims and assets (in each case, other than the Excluded Assets), wherever situated or located, whether real, personal or mixed, whether tangible or intangible, whether identifiable or contingent, whether owned, leased, licensed, used or held for use, but in each case primarily, in or relating to the Business, and whether or not reflected on the books and records of such Seller, as the same shall exist at the Closing (collectively, the "Acquired Assets"):

(a) all inventory (of any kind or nature), merchandise and goods solely related to the Business and maintained, held or stored by a Seller, whether or not prepaid, and any prepaid deposits for any of the same, other than any such items to the extent related to an Excluded Asset ("Inventory");

(b) all Equipment that is owned or leased by a Seller (to the extent that the underlying lease is an Assumed Contract) and which is used primarily in the Business;

(c) subject to Section 2.5, all Assumed Contracts and any and all amendments, ratifications or extensions of the foregoing, together with all rights, privileges and benefits thereunder;

(d) all (i) Real Property (other than the Leased Real Property to the extent the Leases related thereto are not Assumed Contracts) and (ii) the Lessor Leases (to the extent that a Lessor Lease is an Assumed Contract);

(e) except to the extent prohibited by Legal Requirements, any rights of a Seller to the warranties and licenses received from manufacturers and sellers of the Equipment, Improvements or any component thereof, in each case relating primarily to the Business;

(f) subject to Section 2.5(c) and obtaining the consents set forth on Section 5.2(b) of the Disclosure Schedules, all Permits held by a Seller, including those identified on Schedule 2.1(f), in each case to the extent such Permits are transferrable in accordance with their terms (the "Transferred Permits"); provided, that Schedule 2.1(f) and the definition of "Transferred Permits" shall be deemed updated and amended to exclude, without further action by either Party, any Permit that relates to an Excluded Asset;

(g) all Intellectual Property owned or licensed (to the extent licensed pursuant to an Assumed Contract) by a Seller and transferrable by such Seller primarily relating to the Business (the "Acquired Intellectual Property");

(h) all Accounts Receivable;

(i) all Pre-Paid Expenses;

(j) to the extent not prohibited by Legal Requirements and not subject to attorney-client privilege or other work product privilege, all Documents and other books and records of a Seller (financial, accounting, personnel files of Buyer Employees, and other) relating primarily to the Business, and correspondence, and all customer sales, marketing, advertising, packaging and promotional materials, files, data, drawings, engineering and manufacturing data and other technical information and data, and all other business and other records, in each case, that are primarily used or held for use in, or that are primarily related to, the Acquired Assets, the Assumed Liabilities or the Business; provided, that such Seller shall be permitted to keep copies of all of the foregoing to the extent necessary or required by the Bankruptcy Court or in connection with the Bankruptcy Case, subject to Section 13.2;

(k) except as set forth on Schedule 2.1(k), and excluding any Avoidance Actions and Lender Claims, all claims, interests, rights, rebates, abatements, remedies, recoveries, goodwill, customer and referral relationships, other intangible property and all privileges, set-offs and benefits of a Seller, and all claims, demands, indemnification rights and causes of action, in each case arising primarily under or relating primarily to any of the Acquired Assets (including Acquired Intellectual Property), the Assumed Liabilities or the Business, including any such claims arising out of Assumed Contracts, express or implied warranties, representations and guarantees from suppliers, manufacturers, contractors or others to the extent relating to the operation of the Business or affecting the Equipment, Inventory or other tangible Acquired Assets;

(l) all rights of a Seller under non-disclosure or confidentiality, non-compete, or non-solicitation agreements (in each case, to the extent transferrable) relating primarily to the Business;

(m) all rights to subside lands associated with mining operations and all rights to the waiver of and release from subsidence liability and indemnity rights under any and all conveyances, representations and instruments or agreements of any kind and nature applicable to NBL and/or the Joint Venture's mining activities and interests, in each case relating solely to the Business;

(n) all of the NBL's right, title and interest in the Joint Venture and the right to any distribution and/or revenue share that NBL would otherwise be entitled to from the Joint Venture;

(o) all telephone, telex and telephone facsimile numbers and other directory listings relating solely to the Business or the Acquired Assets;

(p) subject to the right of Gränges Americas Inc. (f/k/a/ Beagle Acquisition Corp.) to use, for a period up to twelve (12) months from and after August 22, 2016, solely in connection with the operation of the "downstream" rolled aluminum production business of Norandal USA, Inc., all of the existing stocks of signs, letterheads, invoice stock, advertisements and promotional materials, inventory, packaging and other documents and materials of Norandal USA, Inc. containing "Noranda," "Norandal" or any similar names indicating affiliation with Norandal USA, Inc., any of its Affiliates, the "downstream" business or the business or activities engaged in by Norandal USA, Inc. or any of its Affiliates, all Intellectual Property rights in the marks set forth on Schedule 2.1(p) (collectively, the "Transferred Names and Marks");

(q) all assets, if any, listed on Schedule 2.1(q); and

(r) all goodwill associated with any of the Acquired Assets.

2.2 Excluded Assets.

Notwithstanding anything to the contrary in this Agreement, nothing herein shall be deemed to sell, transfer, assign, convey or deliver any of the Excluded Assets to Buyer, and Sellers shall retain all right, title and interest to, in and under, and all Liabilities with respect to, the Excluded Assets. For all purposes of and under this Agreement, the term "Excluded Assets" shall consist of the following items, assets and properties (whether or not such assets are otherwise described in Section 2.1):

(a) the assets, if any, listed on Schedule 2.2(a) or on Schedule 2.1(k);

(b) any (i) Employee personnel files or records (other than Buyer Employee personnel files or records) and (ii) Benefit Plans (other than as explicitly provided in Section 8.5) and any assets, trust agreements, insurance policies, administrative service agreements and other contracts, files and records in respect thereof;

(c) (i) any shares of capital stock or other equity interest in or issued by any Seller or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest in or issued by any Seller, and (ii) except as set forth in Section 2.1(n), any shares of capital stock or other equity interest in or issued by any entity in which any Seller holds an equity interest, or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest in or issued by any entity in which any Seller holds an equity interest;

(d) the limited liability company, partnership and corporate books and records of internal limited liability company, partnership and corporate proceedings, minute books, organizational or governing documents, stock ledgers and other records of any Seller;

(e) any documents that any Seller is required by Legal Requirements to retain and documents subject to attorney-client privilege or other work product privilege; provided, that, to the extent such documents relate to the Business, such documents shall remain subject to Section 13.2, if applicable;

(f) any Contract that is not an Assumed Contract;

(g) all insurance policies and all rights under or arising out of such insurance policies, including all rights to any pending claims;

(h) any prepaid deposits related to professional fee retainers;

(i) the Secured Notes, all cash and cash equivalents, including checks, commercial paper, treasury bills, certificates of deposit, bank accounts and other bank deposits, instruments and investments of any Seller;

(j) all current and prior director and officer insurance policies of any Seller and all rights of any nature with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries;

(k) any rights, claims or causes of action of any Seller under this Agreement or any other Transaction Document;

(l) subject to Section 2.5(c), any Permits and licenses held by any Seller that are not assignable or transferrable;

(m) except as set forth on Schedule 2.1(q), any surety bonds or other financial assurances, any cash of any Seller (wherever held) that secures or otherwise supports letters of credit serving as, securing or supporting financial assurances, and any deposits, escrows, surety bonds or other financial assurances and any cash or cash equivalents securing any surety bonds or financial assurances, including in connection with any of the Transferred Permits or any Assumed Liabilities;

(n) all Avoidance Actions;

(o) all Lender Claims;

(p) any Intercompany Claims and any intercompany receivables by, between or among any Seller, any Debtor or any of their Subsidiaries;

(q) except as set forth on Schedule 2.1(q), any tax assets or attributes and all rights to refunds of Taxes of any Seller;

(r) all Tax records and Tax workpapers; and

(s) all Intellectual Property utilizing the names set forth on Schedule 2.2(s) (collectively, the "Retained Names and Marks").

2.3 Assumed Liabilities. Subject to entry of the Sale Order, upon the terms and subject to the conditions of this Agreement, on the Closing Date, Buyer shall, effective at the time of the Closing, assume and agree to discharge and perform when due, the Liabilities of each Seller (or, in the case of Section 2.3(e), of the applicable Debtor) (and only those Liabilities) which are enumerated in this Section 2.3 (the "Assumed Liabilities"). The following Liabilities

of each Seller (and only the following Liabilities) shall constitute, without duplication, the Assumed Liabilities:

(a) all Liabilities expressly under the Assumed Contracts or in respect of the Pre-Paid Expenses;

(b) all Cure Costs other than Retained Cure Costs;

(c) outstanding Trade Payables, to the extent included in the calculation of Net Working Capital;

(d) Liabilities arising out of the ownership or operation of the Acquired Assets or the Business for periods following the Closing Date, including with respect to workers' compensation or occupational health claims relating to any Buyer Employee arising out of an event that occurs on or after the Closing Date;

(e) (i) the specific Liabilities of any Seller (if any) (or, in the case of any Specified Employee, of the applicable Debtor employing such Specified Employee) related to Buyer Employees as identified on Schedule 2.3(e) or allocated to Buyer pursuant to Section 8.5, including for the avoidance of doubt, liabilities with respect to the Collective Bargaining Agreements and the Union Pension and OPEB Plans (collectively, the "Assumed Benefit Liabilities");

(f) all Liabilities of any Seller to the extent arising out of or relating to the Transferred Permits, including (i) compliance with performance obligations or standards under the Transferred Permits and associated Legal Requirements; and (ii) obligations to replace and/or increase bonds or other financial assurance instruments associated with the Transferred Permits, in each case solely to the extent first arising after the Closing and not resulting from a breach by the Sellers;

(g) regulatory violations and obligations on or in relation to the Transferred Permits arising post-Closing;

(h) all obligations of NBL to the Joint Venture under the JV Formation Documents;

(i) all Liabilities of NBL and, to the extent provided therefor under the JV Formation Documents, the Joint Venture in respect of Reclamation and Resettlement (and, if applicable, post-mining operation Liabilities);

(j) all Liabilities to the extent arising out of or relating to: (i) compliance with any Mining and Mine Safety Law, and any mine operating or safety compliance matters, related to the Acquired Assets or the acquired mining areas of the Business; (ii) the Real Property, Equipment or the Business' compliance with Environmental Laws; and (iii) any remediation or corrective action required to resolve any environmental, safety or health conditions present at, under or migrating from the Real Property, including any arising from a Release resulting from the operation of the Real Property, the Equipment or the Business, excluding, in each of the preceding cases (i)-(iii), any monetary fines and penalties imposed or

sought by any Governmental Authority for which Sellers or any of their Affiliates have received a written notice of violation or notice of claim (or other written notice of similar legal intent or meaning) on or prior to the Closing Date (whether or not disclosed on the Disclosure Schedules);

(k) all Liabilities with respect to any Transfer Taxes and Taxes attributable to any period (or portion thereof) beginning on or after the Closing Date (determined in accordance with Section 8.1(a), such Taxes, "Post-Closing Taxes");

(l) all amounts due under the Agreement for Satisfaction of IDT Award, dated August 7, 2015, entered into with UAWU; and

(m) any and all amounts owed to the Government of Jamaica in respect of levies and associated fees.

2.4 Excluded Liabilities.

Notwithstanding any provision in this Agreement to the contrary, with respect to the Liabilities, Buyer is only assuming the Assumed Liabilities and shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of, or Liability against, any Seller, the Business or the Acquired Assets, of any kind or nature, whether or not direct or indirect, and Sellers shall be solely and exclusively liable with respect to all Liabilities of Sellers, other than the Assumed Liabilities (such Liabilities other than Assumed Liabilities, collectively, the "Excluded Liabilities"). Without limiting the generality of the foregoing, the Excluded Liabilities shall include each of the following Liabilities of any Seller, except to the extent they are set forth in Sections 2.3(a)-2.3(m):

(a) all severance obligations with respect to employees of any Seller or any of its Affiliates who are offered employment by Buyer but who do not become employees of the Buyer;

(b) all product-related or warranty Liabilities to the extent related to products manufactured and sold prior to the Closing Date;

(c) all Liabilities with respect to any Taxes that are not expressly assumed by the Buyer pursuant to Section 2.3(k).

(d) all Liabilities with respect to Proceedings pending on or before the Closing Date or to the extent against or giving rise to Liability against the Business or the Acquired Assets prior to the Closing Date even if instituted after the Closing Date;

(e) all Liabilities to any owner or former owner of capital stock or warrants with respect to such capital stock or warrants, holder of Indebtedness for borrowed money, or current or former officer or director of, in each case, any Seller in such capacities;

(f) except as expressly provided herein, all Liabilities with respect to any Excluded Asset;

(g) other than Trade Payables that are included in the calculation of Net Working Capital, all Liabilities for: (i) costs and expenses incurred or owed in connection with the administration of the Bankruptcy Case; and (ii) all costs and expenses incurred by any Seller in connection with the negotiation, execution and consummation of the transactions contemplated under this Agreement;

(h) except as set forth in Section 2.3(d), all workers' compensation claims and occupational health claims related to the Acquired Assets, including and with respect to Buyer Employees and former employees of any Seller who worked or who were employed at the Acquired Assets;

(i) except for the Assumed Benefit Liabilities, (i) all Liabilities with respect to Employees, former Employees (or their representatives or beneficiaries) or employees of any ERISA Affiliate, for any action or inaction of Parent or any Seller (or any of their respective predecessors) occurring prior to or on the Closing Date, including with respect to vacation, payroll, sick leave, unemployment benefits, retirement benefits, pension benefits, employee stock option, equity compensation, employee stock purchase, or profit sharing plans, health care and other welfare plans or benefits (including COBRA), or any other employee plans or arrangements or benefits or other compensation of any kind to any employee, and Liabilities of any Seller and its predecessors pursuant to the WARN Act; (ii) any Liability arising under any employment agreement, severance, retention or termination agreement or other similar arrangement with any employee, consultant or contractor (or its representatives) of Parent or any Seller; or (iii) any Liability or other obligations of any Seller or any ERISA Affiliate arising under, relating to or with respect to any Benefit Plan or Multiemployer Plan;

(j) all Liabilities (other than Assumed Liabilities) accruing, arising out of, or relating to any federal, state or local investigations of any Seller or any Employee, agents, vendors or representatives of any Seller arising out of actions prior to the Closing (other than rights of setoff and recoupment claims);

(k) all Liabilities of any Seller to any broker, finder or similar party in connection with this Agreement or the transactions contemplated hereby;

(l) except as set forth in Section 2.3, all Liabilities arising under any Contract;

(m) except as set forth in Section 2.3, all Liabilities to the extent related to the operation of the Business or the Acquired Assets prior to the Closing;

(n) other than Intercompany Claims between Sellers, all Intercompany Claims;

(o) other than Assumed Benefit Liabilities, any and all pension Liabilities; and

(p) fifty percent (50%) of the first five million Dollars ($5,000,000) of Cure Costs (the "Retained Cure Costs").

2.5 Assignment and Assumption of Contracts.

(a)

(i) Schedule 2.5(a)(1) sets forth a list of all executory Contracts (including Leases and Lessor Leases) primarily relating to the Business or the Acquired Assets to which a Seller is party (excluding those contracts set forth on Schedule 2.5(a)(2), the "Available Contracts"), which Schedule 2.5(a)(1) may be updated by Sellers from time to time to add or remove any Contracts inadvertently included or excluded from such schedule, subject in the case of removal to the prior written consent of Buyer (such consent not to be unreasonably withheld, delayed or conditioned). Schedule 2.5(a)(2) sets forth a list of those executory Contracts set forth on Schedule 2.5(a)(1) to which a Seller is party, but which such Seller is retaining (the "Retained Contracts"), which Schedule 2.5(a)(2) may be updated by Sellers from time to time until two (2) days prior to the Closing Date to add or remove any Contracts inadvertently included or excluded from such schedule, subject in each case to the prior written consent of Buyer (such consent not to be unreasonably withheld, delayed or conditioned). All Contracts of Sellers that are listed on Schedule 2.5(a)(2) shall not be considered Available Contracts. On or before the Business Day prior to the Closing Date (the "Determination Date"), Buyer shall designate on Schedule 2.5(a)(3) which Available Contracts Buyer wishes to "Assume" (the "Assumed Contracts"). All Contracts of Sellers that are listed on Schedule 2.5(a)(1) and which Buyer does not designate on Schedule 2.5(a)(3) for assumption shall not be considered Assumed Contracts or Acquired Assets and shall automatically be deemed "Excluded Contracts" (and for the avoidance of doubt, Buyer shall not be responsible for any related Cure Costs); provided, however, that if an Available Contract is subject to a cure dispute or other dispute as to the assumption or assignment of such Available Contract that has not been resolved to the mutual satisfaction of Buyer and Sellers prior to the Closing Date, then the Determination Date shall be extended (but only with respect to such Available Contract) to no later than the earlier of (A) the date on which such dispute has been resolved to the mutual satisfaction of Buyer and Sellers, (B) the date on which such Available Contract is deemed rejected by operation of 11 U.S.C. § 365(d)(4) and (C) the date required by the Bankruptcy Court and set forth in either the Bidding Procedures Order or the Sale Order (the "Extended Contract Period"), but subject in all respects to the requirements of such Orders. If such Available Contract is not expressly assumed by Buyer in writing by the end of such Extended Contract Period, such Available Contract shall be automatically deemed an Excluded Contract. Buyer shall be responsible for any obligations or Liabilities arising during any Extended Contract Period relating to any Available Contract that has not been assumed or rejected as of the Determination Date as provided in this Section 2.5(a). For the avoidance of doubt, except as expressly provided in this Section 2.5(a), Buyer shall not assume or otherwise have any Liability with respect to any Excluded Contract.

(ii) The applicable Seller, and Buyer, shall use commercially reasonable efforts to assign, or cause to be assigned, the Assumed Contracts to Buyer, including taking all reasonable and necessary actions required by the Bankruptcy Court to obtain an Order containing a finding that the proposed assumption and assignment of the Assumed Contracts to Buyer satisfies all applicable requirements of Section 365 of the Bankruptcy Code. Buyer shall use commercially reasonable efforts to comply with all of the requirements of Section 365 of the Bankruptcy Code necessary to permit such assumption and assignment.

(iii) If, prior to the Closing Date, there are Available Contracts that have not been designated as an Assumed Contract or an Excluded Contract, Sellers shall not assume or reject any such Available Contract pursuant to Section 365 of the Bankruptcy Code and any order of the Bankruptcy Court until the earlier of (x) the date Buyer so directs Sellers and (y) the end of the Extended Contract Period, if applicable (which assumption shall be at Buyer's sole cost and expense); provided, that Buyer shall be responsible for any obligations or Liabilities arising during any Extended Contract Period.

(iv) At the Closing, (x) Sellers shall, pursuant to the Sale Order and the Assumption Agreement, assign, or cause to be assigned, to Buyer (the consideration for which is included in the Purchase Price) each of the Assumed Contracts that is capable of being assigned and (y) Sellers shall pay promptly all Cure Costs, to the extent constituting Retained Cure Costs (if any), and Buyer shall pay promptly all other Cure Costs (if any), in each case in connection with such assignment (as agreed to among Buyer and Sellers or as determined by the Bankruptcy Court) and assume and perform and discharge the Assumed Liabilities (if any) under the Assumed Contracts, pursuant to the Sale Order and the Assumption Agreement.

(b) Previously Omitted Contracts.

(i) If, prior to or following Closing, it is discovered that a Contract should have been listed on Schedule 2.5(a)(1) but was not listed on Schedule 2.5(a)(1) and has not been rejected by a Seller (any such Contract, a "Previously Omitted Contract"), Sellers shall, promptly following the discovery thereof (but in no event later than three (3) Business Days following the discovery thereof), notify Buyer in writing of such Previously Omitted Contract and all Cure Costs (if any) for such Previously Omitted Contract. Buyer shall thereafter deliver written notice to Sellers, no later than five (5) Business Days following notification of such Previously Omitted Contract from Sellers, designating such Previously Omitted Contract as "Assumed" or "Rejected" (a "Previously Omitted Contract Designation"). A Previously Omitted Contract designated in accordance with this Section 2.5(b)(i) as "Rejected," or with respect to which Buyer fails to timely deliver a Previously Omitted Contract Designation, shall be an Excluded Contract.

(ii) If Buyer designates a Previously Omitted Contract as "Assumed" in accordance with Section 2.5(b)(i), the applicable Seller shall serve a notice (the "Previously Omitted Contract Notice") on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Costs with respect to such Previously Omitted Contract and such Seller's intention to assume and assign such Previously Omitted Contract in accordance with this Section 2.5. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with at least fourteen (14) days (or as otherwise required by the Bidding Procedures) to object, in writing to such Seller and Buyer, to the Cure Costs or the assumption and assignment of its Contract. If the counterparties, such Seller and Buyer are unable to reach a consensual resolution with respect to the objection, Sellers shall seek an expedited hearing before the Bankruptcy Court to determine the Cure Costs and approve the assumption. If no objection is served on Sellers and Buyer, Sellers shall obtain an order of the Bankruptcy Court fixing the Cure Costs and approving the assumption of the Previously Omitted Contract. Seller shall be responsible for all Cure Costs, to the extent constituting Retained Cure Costs (if any), and Buyer shall be responsible for all other Cure Costs

(if any), in each case relating to such "Assumed" Previously Omitted Contracts and Buyer shall be responsible for any obligations or Liabilities relating to such "Assumed" Previously Omitted Contracts arising during the Extended Contract Period.

(c) Non-Assignment of Contracts and Permits. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer any Contract or any Permit, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, an attempt at assignment or transfer thereof, without the consent or approval required or necessary for such assignment or transfer, would constitute a violation of a Legal Requirement or a breach of such Contract or Permit. If, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code and the commercially reasonable efforts of Sellers, such consent or approval is required but not obtained with respect to an Assumed Contract or a Permit, neither Sellers nor Buyer shall be in breach of this Agreement nor shall the Purchase Price be adjusted nor shall the Closing be delayed in respect of the Assumed Contracts or the Permits; provided, however, if the Closing occurs, then, with respect to any Assumed Contract or Permit for which consent or approval is required but not obtained, from and after the Closing for a period of no more than six (6) months (or, if earlier, until the conversion or dismissal of the Bankruptcy Case), Sellers shall reasonably cooperate, at Buyer's sole cost and expense, with Buyer in any reasonable arrangement that Buyer may request to provide Buyer with all of the benefits of, or under, the applicable Assumed Contract or Transferred Permit, including enforcement for the benefit of Buyer of any and all rights of Sellers against any party to the applicable Assumed Contract or Transferred Permit arising out of the breach or cancellation thereof by such party; provided, however, to the extent that any such arrangement has been made to provide Buyer with the benefits of, or under, the applicable Assumed Contract or Transferred Permit, from and after the Closing, Buyer shall be responsible for, and shall promptly pay and perform all payment and other obligations under such Assumed Contract or Permit (all of which shall constitute, and shall be deemed to be, Assumed Liabilities hereunder) to the same extent as if such Assumed Contract or Permit had been assigned or transferred at the Closing with respect to Assumed Contracts and Permits, and at such applicable later date specified in this Section 2.5(c) with respect to any additional Assumed Contracts. Any assignment to Buyer of any Assumed Contract or Permit that shall, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, require the consent or approval of any Person for such assignment as aforesaid shall be made subject to such consent or approval being obtained. Notwithstanding anything to the contrary contained herein, Buyer shall reimburse, indemnify and hold harmless Sellers and/or their Affiliates from any and all Liabilities incurred by Sellers and/or their Affiliates in connection with any action taken by Sellers at Buyer's or its Affiliates' request pursuant to this Section 2.5(c).

2.6 Further Assurances.

(a) Except as otherwise provided herein and subject to the terms and conditions of this Agreement, the Bankruptcy Code and any orders of the Bankruptcy Court, from and after the Execution Date, Sellers and Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable Legal Requirements to consummate the transactions contemplated by this Agreement, including (i) preparing and filing as promptly as practicable with any Governmental Authority or other third party all documentation to effect all necessary filings,

notices, petitions, statements, registrations, submissions of information, applications and other documents and (ii) obtaining and maintaining all approvals, consents, registrations, permits, authorizations and other confirmations required to be obtained from any Governmental Authority or other third party that are necessary, proper or advisable to consummate the transactions contemplated by this Agreement, in each case, after giving effect to the Sale Order.

(b) At and after the Closing, Sellers shall execute and deliver to Buyer such further instruments and certificates as reasonably requested by Buyer and Buyer will reimburse Sellers for any reasonable out-of-pocket expenses incurred by Sellers in connection with actions taken by Sellers (i) to vest, perfect or confirm ownership (of record or otherwise) in Buyer, of Sellers' right, title or interest in, to or under any or all of the Acquired Assets and Business, including the Real Property, free and clear of all Encumbrances (other than Permitted Encumbrances and Assumed Liabilities) or (ii) to otherwise effectuate the purposes and intent of this Agreement and the other Transaction Documents. From and after the Closing Date, Buyer will reimburse Sellers for any reasonable out-of-pocket expenses incurred by Sellers in connection with actions taken by Sellers and each of the Parties shall take, or cause to be taken, and cooperate with the other Parties to take, or cause to be taken, all actions, do or cause to be done all things as may be reasonably requested by the other Parties in order to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in Buyer or otherwise to carry out this Agreement, and shall execute and deliver all deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances, and as may be required to consummate the transactions contemplated by this Agreement, it being specifically understood that, notwithstanding anything to the contrary herein, no Seller shall have any obligation to (i) record or pay any recording fees and Taxes in connection with the foregoing (except to the extent Buyer agrees to reimburse Sellers for any out-of-pocket expenses incurred by Sellers in connection with such recordation or payment), or (ii) pay any title insurance fee or premium in connection with any title insurance commitment or policy Buyer may obtain, in each case, included any related costs and expenses (except to the extent Buyer agrees to reimburse Sellers for any out-of-pocket expenses incurred by Sellers in connection with such commitment or policy).

ARTICLE 3

PURCHASE PRICE

3.1 Consideration.

The aggregate consideration (the "Purchase Price") for the purchase, sale, assignment and conveyance of the Acquired Assets shall consist of:

(a) a secured note (the "Purchase Price Secured Note") issued by Buyer with a principal amount equal to twenty-one million five hundred thousand Dollars ($21,500,000), having the terms and conditions set forth on Schedule 1.1(c), but subject to adjustment as provided in Section 3.2; and

(b) the assumption by Buyer of the Assumed Liabilities from Sellers, including the assumption of the obligation to pay to the applicable counterparties of the applicable Assumed Contracts the Cure Costs payable by Buyer under Section 2.5.

3.2 Purchase Price Adjustment.

(a) At least three (3) Business Days prior to the Closing Date, Sellers shall prepare and deliver to Buyer a certificate executed by an executive officer of Sellers (the "Pre-Closing Statement") setting forth Sellers' good faith estimates of the Net Working Capital (the "Estimated Working Capital") and the resulting Estimated Net Working Capital Adjustment calculated in accordance with this Section 3.2, together with supporting documentation for such estimates and any additional information reasonably requested by Buyer. The Pre-Closing Statement shall be prepared in accordance with this Agreement and the Accounting Standards. If the Estimated Net Working Capital Adjustment is a positive number, the Purchase Price Secured Note deliverable by Buyer at Closing pursuant to Section 4.2(b) shall be increased by the Estimated Net Working Capital Adjustment. If the Estimated Net Working Capital Adjustment is a negative number, the Purchase Price Secured Note deliverable by Buyer at Closing pursuant to Section 4.2(b) shall be decreased by the Estimated Net Working Capital Adjustment. Sellers shall consider in good faith any revisions to the calculations set forth in the Pre-Closing Statement proposed in good faith by Buyer and, to the extent Sellers agree to any such revisions, such revisions shall be binding on the Parties for purposes of determining the Pre-Closing Statement.

(b) Not later than sixty (60) days after the Closing Date, Buyer shall prepare and deliver to Sellers a certificate executed by an executive officer of Buyer (the "Closing Statement") setting forth Buyer's determination of the Net Working Capital and the resulting Net Working Capital Adjustment calculated in accordance with this Section 3.2, together with supporting documentation for such estimates and any additional information reasonably requested by Sellers. The Closing Statement shall be prepared in accordance with this Agreement and the Accounting Standards.

(c) Within thirty (30) days after Sellers' receipt of the Closing Statement, Sellers shall deliver to Buyer a written statement either accepting the Closing Statement or specifying any objections thereto. During such thirty (30) day period, Buyer shall reasonably cooperate with Sellers and their agents and advisors in connection with review of the Closing Statement by Sellers and their agents and advisors by promptly providing all information and by providing access to all relevant books, records and employees of Buyer as are reasonably requested by Sellers or any of their agents or advisors in connection with their review of the Closing Statement and the calculation of the Net Working Capital and the resulting Net Working Capital Adjustment. If Sellers do not deliver any such written statement accepting the Closing Statement or specifying any objections thereto within such thirty (30) day period, then the Closing Statement shall become final and binding upon all Parties. If Sellers delivers a written statement specifying objections within such period, then the Parties shall negotiate in good faith for a period of thirty (30) days following Buyer's receipt of such objections to resolve any such objections. If the Parties are able to resolve all of Sellers' objections during such thirty (30) day period, then the Closing Statement, as revised in accordance with such resolution, shall become final and binding upon all Parties. If the Parties are not able to resolve all such objections during

such thirty (30) day period, then any remaining disputes shall be referred for resolution to a firm of independent nationally recognized accountants reasonably chosen and mutually accepted by both Parties (the "Accounting Referee"). The Accounting Referee shall be instructed to resolve any such disputes within thirty (30) days after its appointment. The resolution of such disputes by the Accounting Referee shall be (i) set forth in writing, (ii) determined in accordance with this Agreement, (iii) within the range of dispute between Buyer and Sellers and (iv) binding upon all Parties, absent manifest error. Upon delivery of such resolution by the Accounting Referee, the Closing Statement, as modified in accordance with such resolution, shall become final and binding upon all Parties. The fees, costs and expenses relating to the Accounting Referee shall be borne jointly by Buyer and Seller in inverse proportion to the extent to which the Accounting Referee agrees with Buyer or Sellers, respectively, with respect to any matter submitted to the Accounting Referee for resolution.

(d) (i) If Sellers fail to deliver a written statement specifying objections in accordance with Section 3.2(c), the Net Working Capital Adjustment shall be as set forth in the Closing Statement or (ii) if Sellers deliver a written statement of objection, the Net Working Capital Adjustment as mutually agreed by negotiation of the Parties or as resolved by submission to the Accounting Referee, as the case may be, pursuant to Section 3.2(c).

(e) If the Net Working Capital Adjustment is a positive number, then the principal amount of the Purchase Price Secured Note delivered by Buyer pursuant to Section 4.2(b) shall be increased by such amount. If the Net Working Capital Adjustment is a negative number, then the principal amount of the Purchase Price Secured Note delivered by Buyer pursuant to Section 4.2(b) shall be reduced by such shortfall. All adjustments made pursuant to this Section 3.2 shall be treated by all Parties for Tax purposes as adjustments to the Purchase Price.

3.3 Allocation of Purchase Price.

(a) Buyer and Sellers agree that, for Buyer's and Sellers' respective federal, state and local income Tax purposes, the Purchase Price, the Assumed Liabilities (to the extent required by applicable Legal Requirements) and other relevant items shall be allocated among the Acquired Assets as determined pursuant to this Section 3.3.

(b) Within one hundred and twenty (120) days following the Closing Date or, if later, within 30 days of the final resolution of Net Working Capital, pursuant to Section 3.2, Sellers shall prepare and deliver to Buyer a statement allocating the sum of the Purchase Price, the Assumed Liabilities and other relevant items among such Acquired Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (each such statement, an "Allocation Statement").[1]

(c) Buyer shall have a period of thirty (30) Business Days after the delivery of an Allocation Statement (the "Response Period") to present in writing to Sellers notice of any objections that Buyer may have to the allocations set forth therein (an "Objections

[1] Note to Draft: Allocation between Gramercy and Jamaica to be discussed.

Notice"). Unless Buyer timely objects, such Allocation Statement shall be binding on the Parties without further adjustment.

(d) If Buyer shall raise any objections within the Response Period, Buyer and Sellers shall negotiate in good faith and use their commercially reasonable efforts to resolve such dispute. If the Parties fail to agree within fifteen (15) days after the delivery of the Objections Notice, then the disputed items shall be resolved by the Accounting Referee, whose determination shall be final and binding on the Parties. The Accounting Referee shall resolve the dispute within thirty (30) days after the item has been referred to it. The fees, costs and expenses relating to the Accounting Referee shall be borne jointly by Buyer and Sellers in inverse proportion to the extent to which the Accounting Referee agrees with Buyer or Sellers, respectively, with respect to any matter submitted to the Accounting Referee for resolution.

(e) Unless otherwise required by Legal Requirements, the Internal Revenue Service (the "IRS") or any other Taxing authority, the allocation of the Purchase Price pursuant to such Allocation Statement (if applicable, as modified by Sections 3.3(c) and 3.3(d) hereof) shall be final and binding on the Parties, and the Parties shall follow such Allocation Statement for purposes of filing IRS Form 8594 (and any supplements to such form) and all other Tax Returns, and shall not take any position inconsistent therewith in any communication with any Taxing authority. If the IRS or any other Taxing authority proposes a different allocation, Sellers or Buyer, as the case may be, shall promptly notify the other Party of such proposed allocation. Sellers or Buyer, as the case may be, shall provide the other Party with such information and shall take such actions (including executing documents and powers of attorney in connection with such proceedings) as may be reasonably requested by such other Party to carry out the purposes of this Section 3.3.

3.4 Withholding.

Buyer shall be entitled to deduct and withhold from the Purchase Price otherwise payable pursuant to this Agreement to Sellers such amounts as Buyer is required to deduct and withhold under applicable Legal Requirements. To the extent that amounts are so deducted, withheld and paid to the appropriate Governmental Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to Sellers. Notwithstanding the foregoing, Buyer shall provide written notification of Buyer's intent to withhold at least two (2) Business Days prior to such withholding being made (except for withholdings required due to Sellers' failure to deliver the forms described in Section 4.3(d)) and use reasonable efforts to mitigate the requirement to withhold.

ARTICLE 4

CLOSING AND DELIVERIES

4.1 Closing Date.

Upon the terms and subject to the conditions hereof, the closing of the sale of the Acquired Assets and the assumption of the Assumed Liabilities (other than those pertaining to Previously Omitted Contracts pursuant to Section 2.5(b) and Assumed Contracts subject to a

cure dispute pursuant to Section 2.5(a)(i) contemplated hereby) (the "Closing") shall take place at the offices of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, no later than three (3) Business Days following the date on which all the conditions set forth in Article 9 and Article 10 have been satisfied or (if permissible) waived by the Party entitled to waive such condition (other than the conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or on such other date and time as Sellers and Buyer may mutually agree in writing. The date and time at which the Closing actually occurs is hereinafter referred to as the "Closing Date." Upon consummation of the Closing, the purchase and sale of the Acquired Assets and the assumption of the Assumed Liabilities hereunder, and the Closing, shall be deemed to have occurred as of 12:01 a.m. (Missouri time) on the Closing Date.

4.2 Buyer's Deliveries.

At the Closing, Buyer shall deliver (and/or cause one or more of its Affiliates to deliver) to Sellers and, in the case of the Debt Financing Secured Note referred to in clause (c), the Pre-Petition Term Lenders providing the Debt Financing:

(a) cash in an amount equal to five million Dollars ($5,000,000), less the Good Faith Deposit, by wire transfer of immediately available funds to the accounts designated by the ABL DIP Agent prior to the Closing Date, to be used in accordance with Section 8.9;

(b) the Purchase Price Secured Note, as adjusted pursuant to Section 3.2(a);

(c) the Debt Financing Secured Note;

(d) the Assumption Agreement, duly executed by Buyer;

(e) the TSA Assignment Agreement (if agreed by Buyer and Sellers), duly executed by Buyer;

(f) each other Transaction Document to which Buyer is a party, duly executed by Buyer;

(g) the documents necessary for the transfer of NBL's interest in the Joint Venture to Buyer, in a form mutually acceptable to Buyer and NBL, duly executed by Buyer;

(h) the certificates of Buyer to be received by Sellers pursuant to Sections 10.1 and 10.2; and

(i) such other documents as Sellers may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

4.3 Sellers' Deliveries.

At the Closing, Sellers shall deliver (and/or cause one or more of its Affiliates to deliver) to Buyer:

(a) the Bills of Sale, Deeds and the Assumption Agreement (in each case, relating to the Acquired Assets), the TSA Assignment Agreement (if agreed by Buyer and Sellers) and each other Transaction Document to which any Seller is a party, duly executed by the applicable Seller;

(b) a certified copy of the Sale Order;

(c) the certificates of Sellers to be received by Buyer pursuant to Sections 9.1 and 9.2;

(d) certificates executed by each Seller, in the form prescribed under Treasury Regulation Section 1.1445-2, that either (a) such Seller is not a foreign person within the meaning of Section 1445(f)(3) of the Code or that (b) the Acquired Assets acquired from such Seller do not constitute a U.S. real property interest within the meaning of section 897(c) of the Code;

(e) with respect to the Pre-Petition Term Lenders, an appropriate termination statement or release (in form and substance reasonably satisfactory to Buyer and its counsel) releasing the Acquired Assets from the applicable security interest or mortgage;

(f) the documents necessary for the transfer of NBL's interest in the Joint Venture to Buyer, in a form mutually acceptable to Buyer and NBL, duly executed by Seller; and

(g) such other documents as Buyer may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers hereby jointly and severally represent and warrant to Buyer as of the date hereof and as of the Closing Date as follows, except as disclosed in Sellers' Disclosure Schedules (subject to Section 13.6(b)) or contained in the Incorporated Information:

5.1 Organization and Good Standing.

Each Seller is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Subject to the applicable provisions of the Bankruptcy Code, each Seller has all requisite corporate or limited liability company power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted. Each Seller is duly qualified or licensed to do business and is in good standing in

each jurisdiction where the character of its Business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.2 Authority; Validity; Consents.

(a) Each Seller has, subject to entry of the Sale Order, the requisite corporate or limited liability company power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which such Seller is a party and to consummate the transactions contemplated hereby and thereby, and, subject to entry of the Sale Order, the execution, delivery and performance of this Agreement and such other Transaction Documents by such Seller and the consummation by such Seller of the transactions contemplated herein and therein have been duly and validly authorized by all requisite corporate or limited liability company action on the part of such Seller. Subject to entry of the Sale Order, this Agreement has been duly and validly executed and delivered by each Seller and each other Transaction Document required to be executed and delivered by a Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to entry of the Sale Order, this Agreement and the other Transaction Documents to which a Seller is (or will be) a party constitute (or, when entered into, will constitute), with respect to such Seller, the legal, valid and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity.

(b) Subject to entry of the Sale Order, except (i) as may be required to comply with the antitrust legislation of any relevant jurisdiction applicable to the purchase of the Acquired Assets or the Business, (ii) for entry of the Sale Order, (iii) for notices, filings and consents required in connection with the Bankruptcy Case, including the requirements of the Bidding Procedures Order, and (iv) for the notices, filings and consents set forth on Section 5.2(b) of the Disclosure Schedules, Sellers are not required to give any notice to, make any registration, declaration or filing with or obtain any consent, waiver or approval from, any Governmental Authority in connection with the execution and delivery of this Agreement and the other Transaction Documents to which a Seller is (or will be) a party or the consummation or performance of any of the transactions contemplated hereby and thereby.

5.3 No Conflict.

Except as a result of the Bankruptcy Case, none of the execution and delivery by any Seller of this Agreement or any other Transaction Document to which such Seller is (or will be) a party or, after giving effect to the Sale Order, the consummation of the transactions contemplated hereby or thereby or, after giving effect to the Sale Order and the Bidding Procedures Order, compliance by it with any of the provisions hereof or thereof will, (a) conflict with or result in a violation of (i) any provision of the certificate of incorporation or bylaws (or other organizational or governing documents) of such Seller or (ii) any Legal Requirement binding upon such Seller or by which the Business or any Acquired Assets are subject or bound, (b) (i) violate, conflict with, or result in a breach of, in any material respect, any of the terms of,

or constitute (with or without notice or lapse of time or both) a default under, or give rise to any right of termination, modification, cancellation or acceleration under any license or Permit held by any Seller, authorization, consent, order or approval of, or registration, declaration or filings with, any Governmental Authority or (ii) result in a material breach of or constitute (with or without notice or lapse of time or both) a default under or give rise to any right of termination, modification, cancellation or acceleration under any Material Contract which is an Available Contract, or (c) result in the creation of any Encumbrance (other than a Permitted Encumbrance or Assumed Liability) upon the properties or assets of such Seller being sold or transferred hereunder.

5.4 Real Property.

(a) Owned Real Property. Section 5.4(a) of the Disclosure Schedules sets forth an accurate and complete list of the Owned Real Property. Except for Permitted Encumbrances, Sellers have good and marketable fee title to the Owned Real Property. Except for the Lessor Leases, none of the Owned Real Property is subject to any lease or grant to any third-party of any right to the use, purchase, occupancy or enjoyment of such Owned Real Property or any portion thereof required to conduct the Business. Except for Permitted Encumbrances and the applicable terms of Permits held by Sellers, at the Closing the Owned Real Property will not be subject to any Encumbrances (other than liens that will be removed pursuant to the Sale Order), which in any material respect interfere with or impair the present and continued use thereof in the Ordinary Course of Business. There are no pending or, to Sellers' Knowledge, threatened condemnation proceedings relating to any of the Owned Real Property except those which do not materially impair or restrict the current use of the Owned Real Property subject thereto. There are no outstanding options or rights of first refusal to purchase any of the Owned Real Property or any interest therein.

(b) Lessor Leases. Section 5.4(b) of the Disclosure Schedules lists, as of the Execution Date, all unexpired leases, subleases, licenses, sublicenses, occupancy or other agreements whereby any Seller leases, subleases, licenses or grants an interest in any Owned Real Property or Leased Real Property to a third party (the "Lessor Leases"). Sellers have made available, to the extent they are in any Seller's possession or control, true, complete and correct copies of the Lessor Leases to Buyer, including any amendments thereto. Other than as a result of the Bankruptcy Case, no Seller is in material breach of or in default under any Lessor Leases to which it is party and, to Sellers' Knowledge, no other party to any Lessor Lease has given any Seller written notice of or made a claim with respect to any material breach or any default by such Seller thereunder (other than as a result of the Bankruptcy Case).

(c) Leased Real Property. Section 5.4(c) of the Disclosure Schedules contains a list of all Leased Real Property held or used for, or necessary to the operation of the Business. Sellers have made available, to the extent that they are in any Seller's possession or control, true and complete copies of all Leases to Buyer. The Leases are valid instruments, enforceable in accordance with their respective terms. Other than as a result of the Bankruptcy Case, no Seller is in (x) breach of any material term or (y) default under any Lease to which it is party and, to Sellers' Knowledge, no other party to any Lease has given any Seller written notice of or made a claim with respect to any material breach or default thereunder. Other than as a result of the Bankruptcy Case, there are no conditions that currently exist or which with the

passage of time will result in a default or breach of any material term by any Seller or, to the Sellers' Knowledge, any other party to a Lease. None of the Leased Real Property is subject to any sublease or grant to any third-party of any right to the use, occupancy or enjoyment of the Leased Real Property or any portion thereof that would materially impair the use of the Leased Real Property in the operation of the Business. No Seller has received written notice of any pending or threatened condemnation or other proceedings or claims relating to such Seller's interest in any of the Leased Real Property.

(d) The Owned Real Property and the Leased Real Property comprises all the real property that is used in the conduct of the Business as conducted as of the date of this Agreement.

5.5 Environmental Matters. (a) With respect to the Real Properties and the Business, Sellers are not the subject of any outstanding material liability or obligation under or pursuant to Environmental Laws or Environmental Permits nor has any Seller received any written notice, claim, notice of violation, citation, complaint or inquiry from any Governmental Authority or any other Person respecting any such liability or obligation, including any notice or claim alleging liability for the Release, disposal, treatment, recycling, storage, transport or the arrangement for transport or disposal of any Hazardous Substances at any offsite location at which Hazardous Substances generated by the Business come to be located, (b) there is no Proceeding or Order pending, or, to the Knowledge of Sellers, threatened that alleges any material liability or violation pursuant to any applicable Environmental Law or Environmental Permit in connection with the Real Properties or the Business, including without limitation, any such material liability relating to the Release, treatment, storage, recycling or handling of any Hazardous Substances by or on behalf of Sellers at the Real Properties, (c) there has been no Release of Hazardous Substances and no Person has been exposed to Hazardous Substances at, to, on, under or from the Real Properties in a manner that has or could be reasonably expected to result in material liability under Environmental Laws or Environmental Permits, (d) Sellers are in material compliance with Environmental Laws with respect to the Business and the Real Properties, (e) Sellers have timely obtained, currently maintain in full force and effect and are in material compliance with all material Permits which are required under or pursuant to Environmental Laws (the "Environmental Permits") for the operation of the Real Properties and the Business, all such Environmental Permits are valid and in good standing, and Sellers have not been advised by any Governmental Authority of any planned revocation, restriction, cancellation, termination or suspension of, or adverse modification to such Environmental Permit and the material Environmental Permits are set forth in Schedule 5.5(e), (f) Sellers have no Knowledge of any facts or circumstances concerning any alleged material violation or liability arising under any Environmental Law or Environmental Permits with respect to the Real Property or the Business, (g) Sellers have not assumed, undertaken, or provided an indemnity with respect to any material liability of any other Person under Environmental Laws, and (h) Sellers have provided to Buyer true and complete copies of any and all non-privileged litigation documents and material regulatory correspondence in their possession or control or prepared on Sellers behalf that were generated within the preceding five (5) years and any environmental reports (including, without limitation, Phase I environmental site assessment reports and Phase II reports), assessments, analytical results or Environmental Permits concerning environmental conditions at the Real Property and/or compliance of the Business with Environmental Laws or Environmental Permits.

5.6 Title to Acquired Assets.

Sellers have good and valid title to, or, in the case of property leased or licensed by Sellers, a valid leasehold or licensed interest in, all of the Acquired Assets, and Buyer will be vested with good title to such Acquired Assets, free and clear of all Encumbrances, except for (a) the Assumed Liabilities and (b) Permitted Encumbrances. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property included in the Acquired Assets are structurally sound, are in good operating condition and repair (ordinary wear and tear excepted), and are adequate for the uses to which they are being put. The Acquired Assets, together with the Excluded Assets, constitute all of the assets used by Sellers to operate the Business as it is currently operated.

5.7 Taxes.

All material Taxes relating to the Acquired Assets that are due and payable have been timely paid to the extent that payment thereof is not stayed as a result of the Bankruptcy Case. The representation in this Section 5.7 is the exclusive representation of Sellers with respect to Taxes.

5.8 Legal Proceedings.

Except for the Bankruptcy Case (and proceedings related thereto), there are no Proceedings or Orders pending or, to Sellers' Knowledge, threatened, against, affecting or related to the Business or any of the Acquired Assets or any Seller's right to own the Acquired Assets or to operate the Business which would reasonably be expected to materially and adversely affect the operation of the Business or the Acquired Assets from and after the Closing.

5.9 Compliance with Legal Requirements; Permits.

(a) Except with respect to Permits required under any Environmental Law, which Permits are addressed in Section 5.5, Sellers hold all of the Permits necessary for the current operation and conduct of the Business and the Acquired Assets in compliance with Legal Requirements, other than those Permits the absence of which would not be reasonably likely to materially and adversely affect the operation of the Business. The Permits set forth on Section 5.9(a) of the Disclosure Schedules are all of the material Permits held by Sellers with respect to the current operation and conduct of the Business.

(b) Except (x) with respect to compliance with Environmental Law, which is addressed in Section 5.5 and (y) for fully paid, discharged or finally settled citations and notices of violations issued by Governmental Authorities, Sellers have, since December 31, 2013 conducted the Business in accordance, in all material respects, with all Legal Requirements, Orders and Permits.

(c) Except (x) with respect to actions under Environmental Law, which are covered under Section 5.5 and (y) for fully paid, discharged or finally settled citations and notices of violations issued by Governmental Authorities, neither Sellers nor any of their Representatives have received, since December 31, 2013, any written notice from a Governmental Authority that alleges that the Business is not in compliance with any Legal

Requirement, Order or Permit applicable to the Business or the operations or properties of the Business or that states the intention on the part of any issuing Governmental Authority to revoke, cancel, suspend or modify any Permit necessary for the current operation and conduct of the Business (except with respect to regular periodic expirations and renewals thereof). Except as would not reasonably be expected to materially and adversely affect the operation of the Business: (i) since December 31, 2013, Sellers have not had any Permits that are necessary for the operation and conduct of the Business appealed, denied, revoked, restricted or suspended and (ii) Sellers are not currently a party to any proceedings involving the possible appeal, denial, revocation, restriction or suspension of any Permits that are necessary for the current operation and conduct of the Business or any of the privileges granted thereunder (except where the obligation to hold such a Permit is being contested in good faith by appropriate proceedings diligently conducted or is excused by the Bankruptcy Court).

5.10 Labor Matters.

(a) Section 5.10(a) of the Disclosure Schedules sets forth a correct and complete list of all of Sellers' employees employed in the operation of the Business and their respective start dates, positions, salary or wages.

(b) No Seller is, or has been since December 31, 2013, party to or subject to any collective bargaining agreement, works council agreement, labor union contract, trade union agreement, or other similar agreement (each a "Collective Bargaining Agreement") with any union, works council, or labor organization (each a "Union" and collectively "Unions").

(c) To Sellers' Knowledge, since December 31, 2013, other than pursuant to procedures established in connection with the Bankruptcy Case, (i) no Union or group of Employees or former Employees has organized any employees for purposes of collective bargaining, sought to bargain collectively with any Seller, made a demand for recognition or certification as an employee representative for purposes of collective bargaining or filed a petition for recognition with any Governmental Authority; (ii) as of the date hereof, no Collective Bargaining Agreement is being negotiated by any Seller, other than pursuant to procedures established in connection with the Bankruptcy Case; (iii) there have been no material strikes, lockouts, slowdowns, work stoppages, boycotts, handbilling, picketing, walkouts, demonstrations, leafleting, sit-ins, sick-outs, or other material forms of organized labor disruption with respect to any Seller; (iv) there are no unfair labor practice charges, grievances or complaints pending, or to the Sellers' Knowledge, threatened with respect to the Business; and (v) there are no grievances filed by any Union or by any employee represented by any Union pending or, to Sellers' Knowledge, threatened, with respect to the Business.

(d) Since December 31, 2013, Sellers have not failed to provide advance notice of layoffs or terminations as required by, or incurred any material Liability under, the Worker Adjustment and Retraining Notification Act of 1988, and including any similar state or local Legal Requirement (the "WARN Act"), or any applicable Legal Requirement for employees outside the United States regarding the termination or layoff of employees. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or pursuant to procedures established in connection with the Bankruptcy Case, (i) since December 31, 2013, Sellers have been in compliance with all applicable Legal Requirements

relating to labor and employment, including all Legal Requirements relating to employment practices; the hiring, promotion, assignment, and termination of employees; discrimination; equal employment opportunities; disability; labor relations; wages and hours; FLSA, classification of independent contractors, hours of work; payment of wages; immigration; workers' compensation; employee benefits; background and credit checks; working conditions; occupational safety and health; family and medical leave; employee terminations; and data privacy and data protection; (ii) there are no pending, or to Sellers' Knowledge, threatened, Proceedings against any Seller brought by or on behalf of any applicant for employment, any current or former Employee, any person alleging to be a current or former employee, any representative, agent, consultant, independent contractor, subcontractor, or leased employee, volunteer, or "temp" of such Seller, or any group or class of the foregoing, or any Governmental Authority, alleging violation of any labor or employment Legal Requirements, breach of any Collective Bargaining Agreement, breach of any express or implied contract of employment, wrongful termination of employment, or any other discriminatory, wrongful, or tortious conduct in connection with the employment relationship; (iii) each of the Employees has all work permits, immigration permits, visas, or other authorizations required by any Legal Requirement for such Employee given the duties and nature of such Employee's employment; and (iv) no individual has been improperly excluded from, or wrongly denied benefits under, any Benefit Plan.

5.11 Employee Benefits.

(a) (i) No Benefit Plan (or any benefit plans, programs or arrangements of an ERISA Affiliate that would be a Benefit Plan if such ERISA Affiliate were a Seller) (A) is, or has been within the past six (6) years, a Title IV Plan or subject to Section 412 of the Code; (B) is maintained by more than one employer within the meaning of Section 413(c) of the Code; (C) is subject to Sections 4063 or 4064 of ERISA; (ii) no Benefit Plan is (A) a "multiple employer welfare arrangement" as defined in Section 3(40) of ERISA; or (B) an "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is not intended to be qualified under Section 401(a) of the Code; and (iii) neither Sellers nor any of their respective ERISA Affiliates contribute to, or are obligated to contribute to, or within the six (6) years preceding this Agreement contributed to or were obligated to contribute to, a Multiemployer Plan.

(b) Since December 31, 2013, there has been no "reportable event" (as defined in Section 4043 of ERISA and the regulations thereunder) with respect to any Title IV Plan set forth on Section 5.11(a) of the Disclosure Schedules that would require the giving of notice to the Pension Benefit Guaranty Corporation (the "PBGC") under Section 4041(c)(3)(C) or 4063(a) or 4043 of ERISA.

(c) (i) No Seller has terminated any Title IV Plan within the last six (6) years or incurred any outstanding liability under Section 4062 of ERISA to the PBGC, or to a trustee appointed under Section 4042 of ERISA; (ii) all premiums due the PBGC with respect to the Title IV Plans set forth on Section 5.11(a) of the Disclosure Schedules have been paid; (iii) no Seller has filed a notice of intent to terminate any Title IV Plan set forth on Section 5.11(a) of the Disclosure Schedules and has not adopted any amendment to treat such Title IV Plan as terminated; (iv) the PBGC has not instituted, or to Sellers' Knowledge, threatened to institute,

proceedings to treat any Title IV Plan set forth on Section 5.11(a) of the Disclosure Schedules as terminated; and (v) no event has occurred or circumstance exists that may constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan set forth on Section 5.11(a) of the Disclosure Schedules.

(d) No Seller nor any ERISA Affiliate of such Seller has, within the past six (6) years, withdrawn from a Multiemployer Plan in a "complete withdrawal" or a "partial withdrawal" as defined in Sections 4203 and 4205 of ERISA, respectively, so as to result in an unsatisfied liability, contingent or otherwise (including the obligations pursuant to an agreement entered into in accordance with Section 4204 of ERISA), of such Seller or such ERISA Affiliate.

(e) No Seller or any organization to which such Seller is a successor or parent corporation, within the meaning of Section 4069(b) of ERISA, has engaged in any transaction described in Sections 4069 or 4212(c) of ERISA.

(f) Except in connection with the Bankruptcy Case, Sellers have no plan, contract or commitment, whether legally binding or not, to create any new employee benefit or compensation plans, policies or arrangements for any Buyer Employee.

(g) Section 5.11(g) of the Disclosure Schedules sets forth each material Benefit Plan. For each Benefit Plan or Multiemployer Plan under which any Seller Employee or Specified Employee (or their respective beneficiaries) receives any benefit or under which Parent or any Seller has any obligation to contribute to or provide any benefit to any Seller Employee or Specified Employee (or their respective beneficiaries), Sellers have made available to Buyer a copy of such plan (or a description thereof if such plan is not written). Each Benefit Plan has been maintained in all material respects with the applicable provisions of the Code, ERISA, and any other applicable Legal Requirement. Each Benefit Plan that is intended to comply with Section 401(a) of the Code has received a current, favorable determination letter issued by the IRS.

5.12 Sellers' Intellectual Property. (i) Sellers own or have valid licenses to use all Acquired Intellectual Property and (ii) to Sellers' Knowledge, the conduct of the Business by Sellers as currently conducted (including the products and services currently sold or provided by any Seller) does not infringe or otherwise violate any Person's Intellectual Property rights, and no such claims are pending or threatened in writing against any Seller. No claim by any Person contesting the validity, enforceability, use or ownership of the Acquired Intellectual Property has been made, is currently pending or, to Sellers' Knowledge, is threatened. To Sellers' Knowledge, no Person is infringing or otherwise violating any Acquired Intellectual Property owned by a Seller, and no such claims are pending or threatened in writing against any Person by such Sellers. None of the Acquired Intellectual Property is subject to any outstanding Order or agreement that restricts the rights of any Seller to transfer, use, enforce or license the Acquired Intellectual Property.

5.13 Contracts. Section 5.13 of the Disclosure Schedules sets forth a true and complete list, as of the date hereof, of all Material Contracts to which a Seller is a party. Each Material Contract is in full force and effect and is a valid and binding obligation of such Seller in

accordance with its terms and conditions, in each case except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Upon entry of the Sale Order, other than the payment of Cure Costs, (i) no Seller will be in breach or default of its obligations under any Material Contract; and (ii) to Sellers' Knowledge, no other party to any Material Contract is in breach or default thereunder, except, in each case, for any breaches or defaults that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.14 Inventory. All Inventory is owned by Sellers free and clear of all Encumbrances (other than Permitted Encumbrances or Encumbrances that will be released at the Closing in accordance with the Sale Order), and no Inventory is held on a consignment basis. The quantities of each item of Inventory are commercially reasonable in the present circumstances of Sellers. The Inventory has been properly stored in a manner consistent with industry standards.

5.15 Customers and Suppliers. Section 5.15(a) of the Disclosure Schedule sets forth the ten (10) largest suppliers of each Seller (based on dollar amounts paid by such Seller for products or services supplied to such Seller) for the year ended December 31, 2015 (the "Material Suppliers") and the aggregate amount paid by each Seller to a Material Supplier during such period. Section 5.15 (b) of the Disclosure Schedules sets forth the ten (10) largest customers of each Seller (based on dollar amounts of products and services purchased from such Seller) for the year ended December 31, 2015 (the "Material Customers") and the aggregate amount for which each Seller invoiced a Material Customers during such period.

5.16 Brokers or Finders.

Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby or thereby for which Buyer is or will become liable.

5.17 Undue Influence.

In connection with the operation of the Business, neither the Sellers nor any director, officer, agent, employee or Affiliate of any Seller has, directly or indirectly, with respect to the Business (i) made any unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity or related in any way to the Business; (ii) made or offered any payment or transfer of anything of value to any government official or employee, political party or campaign, official or employee of any public international organization, or official or employee of any government-owned enterprise or institution to obtain or retain business or to secure an improper advantage; (iii) violated any provision of the Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder (the "FCPA"), or any other applicable anti-corruption law; (iv) established or maintained any unlawful fund of corporate monies or other properties; or (v) made or proposed to make any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature. Sellers and their Affiliates, have conducted the Business in compliance with the FCPA and other applicable

anti-corruption laws in all material respects and maintain procedures which are reasonably expected to ensure compliance therewith.

5.18 Absence of Certain Changes.

(a) Since the Petition Date through the date hereof, there has not been a Material Adverse Effect.

(b) Since the Petition Date, the Business has been operated in the Ordinary Course of Business and, except as expressly contemplated by this Agreement, the DIP Agreements, the DIP Order or any other orders entered in the Bankruptcy Case, there has not been:

(i) any damage, destruction or other casualty loss (whether or not covered by insurance) affecting the Business or the Acquired Assets in any material respect;

(ii) any creation or other incurrence of any Encumbrance upon any of the Acquired Assets (other than Permitted Encumbrances or Encumbrances that will be released at the Closing in accordance with the Sale Order);

(iii) any purchase or other acquisition of any material properties or assets that constitute Acquired Assets or any sale, lease, transfer or other disposition of any properties or assets that would have constituted Acquired Assets, except for purchases and sales in the Ordinary Course of Business;

(iv) removal of any (non-surplus) Equipment from the Real Property other than in the Ordinary Course of Business;

(v) termination, expiration or lapse without renewal of any material Permit related to the Business;

(vi) any capital expenditure, or binding commitments for capital expenditures, by any Seller with respect to the Business in an amount in excess of $1,000,000 in the aggregate;

(vii) any increase in the compensation payable or paid, whether conditionally or otherwise, other than in the Ordinary Course of Business, to any employee, consultant or agent of any Seller whose annual base compensation exceeds $150,000 (or would exceed such amount after such increase); or

(viii) any change in the accounting principles and practices of any Seller from those applied in the preparation of the Financial Statements.

5.19 Financial Statements and Related Matters. Attached as Section 5.19 of the Disclosure Schedules are true, correct and complete copies of the consolidating balance sheets of Sellers as of July 31, 2015, December 31, 2015 and July 31, 2016 and the related consolidating statements of operations and related consolidating statement of cash flows for the seven months ended July 31, 2015 and July 31, 2016 and for the fiscal year ended December 31, 2015

(collectively, the "Financial Statements"). The Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby and the books and records of Seller and (ii) each fairly present, in all material respects and in conformity with GAAP applied on a consistent basis, the financial position, assets and liabilities of the Business as of the respective dates thereof and its results of operations and cash flows for the respective periods then ended. The Financial Statements are derived from the audited yearly or unaudited interim financial statements of the Company, which are prepared in accordance with GAAP, and prepared in a manner consistent with the presentation of the segment data presented in Note 3 to the audited financial statements of the Company.

5.20 Joint Venture.

(a) Section 5.20(a) of the Disclosure Schedules sets forth a true and complete list of the formation and operating documents of the Joint Venture, including side letters and all amendments thereto (collectively, the "JV Formation Documents"). True and complete copies of the JV Formation Documents have been made available to Buyer. Each of the JV Formation Documents is in full force and effect except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Upon entry of the Sale Order, and the payment of Cure Costs, (i) NBL will not be in material breach or in default of its obligations under any of the JV Formation Documents; and (ii) to NBL's Knowledge, no other party to any of the JV Formation Documents is in material breach or in default thereunder.

(b) The Joint Venture is a partnership duly organized, validly existing and in good standing under the laws of Jamaica. The Joint Venture has all requisite power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted. The Joint Venture is qualified or licensed to do business and is in good standing in each jurisdiction where the character of its business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, reasonably be expected to materially and adversely affect the ability of the Joint Venture to conduct its business.

(c) NBL owns (beneficially and of record) forty-nine percent (49%) of the partnership interests of the Joint Venture, and will transfer such interest free and clear of all Encumbrances (other than Permitted Encumbrances or Encumbrances contained in the JV Formation Documents). All of such partnership interests are duly authorized, validly issued and outstanding, fully paid and nonassessable.

5.21 Warranties Exclusive.

EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 5 (AS MODIFIED BY THE DISCLOSURE SCHEDULES) OR IN THE BILL OF SALE AND THE ASSUMPTION AGREEMENT, SELLERS MAKE NO REPRESENTATION OR WARRANTY, STATUTORY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AT LAW OR IN EQUITY, IN RESPECT OF ANY OF THEIR ASSETS (INCLUDING THE ACQUIRED ASSETS), LIABILITIES (INCLUDING THE ASSUMED LIABILITIES) OR THE BUSINESS,

INCLUDING, WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED AND NONE SHALL BE IMPLIED AT LAW OR IN EQUITY. NEITHER SELLERS NOR ANY OTHER PERSON, DIRECTLY OR INDIRECTLY, HAS MADE OR IS MAKING, ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, REGARDING ANY PRO-FORMA FINANCIAL INFORMATION, FINANCIAL PROJECTIONS OR OTHER FORWARD-LOOKING STATEMENTS OF SELLERS.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers, as of the date hereof and as of the Closing Date, as follows:

6.1 Organization and Good Standing.

Buyer is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer has the requisite power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted.

6.2 Authority; Validity; Consents.

(a) Buyer has the requisite corporate or limited liability company power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby, and the execution, delivery and performance of this Agreement and the other Transaction Documents by Buyer and the consummation by Buyer of the transactions contemplated herein and therein have been duly and validly authorized by all requisite limited liability company or corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer and each other Transaction Document required to be executed and delivered by Buyer at Closing will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is (or will be) a party constitute (or, when entered into, will constitute) the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity.

(b) Except (i) as required to comply with the antitrust legislation of any relevant jurisdiction applicable to the purchase of the Acquired Assets or the Business and (ii) for the notices, filings and consents set forth on Schedule 6.2(b), Buyer is not required to give any notice to, make any registration, declaration or filing with or obtain any consent, waiver or approval from any Governmental Authority in connection with the execution and delivery of this Agreement and the other Transaction Documents to which Buyer is (or will be) a party or the consummation or performance of any of the transactions contemplated hereby and thereby.

6.3 No Conflict.

Neither the execution and delivery by Buyer of this Agreement or any other Transaction Documents to which it is (or will be) a party nor the consummation of the transactions contemplated hereby or thereby nor compliance by it with any of the provisions hereof or thereof (a) conflict with or result in a violation of (i) any provision of the certificate of incorporation or bylaws (or other organizational or governing documents) of Buyer or (ii) any material Legal Requirement binding upon Buyer or (b) violate, conflict with, or result in a material breach of any of the terms of, or constitute (with or without notice or lapse of time or both) a material default under, or give rise to any right of termination, modification, cancellation or acceleration under (i) any note, bond, mortgage, indenture, deed of trust, contract, commitment, arrangement, license, agreement, lease or other instrument or obligation to which Buyer is a party or by which Buyer may be bound or to which any of Buyer's assets may be subject or affected in any material respect and that, in each case, is material to the business of Buyer, or (ii) any material license, permit, authorization, consent, order or approval of, or registration, declaration or filings with, any Governmental Authority.

6.4 Brokers or Finders.

Neither Buyer nor any Person acting on behalf of Buyer has paid or become obligated to pay any fee or commission to any broker, finder, investment banker, agent or intermediary for or on account of the transactions contemplated by this Agreement for which any Seller (or any Affiliate of any Seller) is or will become liable.

6.5 Legal Proceedings.

There is no Proceeding or Order pending against, or to Buyer's Knowledge, threatened against or affecting, Buyer before any arbitrator or any Governmental Authority which in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated by this Agreement and the other Transaction Documents or which would or would reasonably be expected to impair Buyer's ability to consummate the transactions contemplated by this Agreement and the other Transaction Documents.

6.6 Financing. Schedule 6.6 sets forth the principal terms of the "bridge" debt financing that certain Pre-Petition Term Lenders have agreed to provide Buyer in connection with the transactions contemplated hereby (the "Debt Financing"). Buyer has delivered to Sellers a true, complete and fully executed copy of a commitment letter (together with all annexes, exhibits, schedules and other attachments thereto, the "Equity Commitment Letter") from DaDa Holdings, LLC, providing the terms and conditions upon which DaDa Holdings, LLC has committed to provide Buyer with five million Dollars ($5,000,000) in equity financing in connection with the transactions contemplated hereby (the "Equity Financing" and together with the Debt Financing, the "Financing"). Other than the negotiation and entry into definitive agreements with respect to the Debt Financing (the "Debt Financing Agreements") or as expressly set forth in the Equity Commitment Letter, there are no conditions precedent to the funding of the full amount of the Financing. There are no other agreements, side letters or arrangements that would permit the parties to the Equity Commitment Letter to reduce the amount of the Equity Financing or that would otherwise affect the availability of the Equity

Financing.

6.7 Qualification.

(a) To Buyer's Knowledge, there exist no facts or circumstances that would cause, or be reasonably expected to cause, Buyer and/or its Affiliates not to qualify as "good faith" purchasers under Section 363(m) of the Bankruptcy Code.

(b) As of the Closing, Buyer will be capable of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code with respect to the Assumed Contracts.

6.8 No Other Representations or Warranties; Condition of the Business; Buyer's Reliance.

Buyer acknowledges that no Seller, any of its Affiliates or any other Person is making, and Buyer is not relying on, any representations or warranties whatsoever, statutory, expressed or implied, written or oral, at law or in equity, beyond those expressly made by Sellers in Article 5 hereof (as modified by the Disclosure Schedules). Buyer acknowledges that, except as expressly set forth in Article 5 (as modified by the Disclosure Schedules), no Seller, any of its Affiliates or any other Person has, directly or indirectly, made any representation or warranty, statutory, expressed or implied, written or oral, at law or in equity, as to the accuracy or completeness of any information that Sellers furnished or made available to Buyer and its Representatives in respect of the Business, and Sellers' operations, assets, stock, Liabilities, condition (financial or otherwise) or prospects. Buyer acknowledges that no Seller, any of its Affiliates or any other Person, directly or indirectly, have made, and Buyer has not relied on, any representation or warranty, whether written or oral, regarding any pro-forma financial information, financial projections or other forward-looking statements of Sellers, and Buyer will make no claim with respect thereto. Buyer acknowledges that, except as expressly set forth in Article 5 (as modified by the Disclosure Schedules), the Acquired Assets are being transferred on an "AS IS, WHERE IS" basis.

6.9 Information.

Buyer has conducted such investigations of Sellers, as it deems necessary and appropriate in connection with the execution and delivery of this Agreement and the other Transaction Documents to which Buyer is a party and the consummation of the transactions contemplated hereby and thereby. None of Sellers or any other Person (including any officer, director, member or partner of any Seller or any of their Affiliates) shall have or be subject to any liability to Buyer, or any other Person, resulting from Buyer's use of any information, documents or material made available to Buyer in any "data rooms," management presentations, due diligence or in any other form in expectation of the transactions contemplated hereby or by the other Transaction Documents.

ARTICLE 7

ACTIONS PRIOR TO THE CLOSING DATE

7.1 Access and Reports; Confidentiality.

(a) From and after the Execution Date through and including the Closing Date or the earlier termination of this Agreement in accordance with the provisions of Article 11, Sellers shall (i) afford Buyer and its Representatives reasonable access, not to be unreasonably conditioned or delayed, upon reasonable notice, to its personnel, properties, books, Permits, Contracts and records, and furnish as promptly as practicable to Buyer all reasonable information concerning the Acquired Assets, the Business, any Benefit Plans, personnel and such other matters as may be reasonably requested; (ii) furnish to Buyer such financial and operating data and other information relating to the Business and the Acquired Assets as may be reasonably requested; (iii) permit Buyer to make such reasonable inspections and, at Buyer's sole cost and expense, copies thereof as Buyer may require; and (iv) instruct the executive officers and senior business managers, employees, counsel, auditors and financing advisors of each Seller to reasonably cooperate with Buyer and its Representatives regarding the same; provided, that any such access shall be conducted consistent with and not in violation of the Bidding Procedures Order and in a manner not to unreasonably interfere with the Business. All requests for information made pursuant to this Section 7.1 shall be directed to Kerry Greer, PJT Partners LP, 280 Park Avenue, 16th Floor, New York, NY 10017 or other person as designated by such person or Sellers. Notwithstanding the foregoing, Buyer and its Representatives shall not (A) have access to personnel records of Sellers relating to individual performance or evaluation records, medical histories or other information which in Sellers' good faith opinion (after consultation with legal counsel) is sensitive or the disclosure of which could subject a Seller to risk of liability and (B) have any right to perform or conduct, or cause to be performed or conducted, any environmental sampling or testing at, in, on or underneath any of Sellers' properties without prior written consent from Sellers. No investigation pursuant to this Section 7.1 or by Buyer or its Representatives at any time prior to or following the date hereof shall affect or be deemed to modify any representation or warranty made by Sellers herein.

(b) Notwithstanding the foregoing but subject in all respects to the Bidding Procedures Order, this Section 7.1 shall not require Sellers to permit any access to, or to disclose (i) any information that, in the reasonable, good faith judgment (after consultation with counsel, which may be in-house counsel) of Sellers, is reasonably likely to result in any violation of any Legal Requirement or any Contract to which any Seller is a party or cause any privilege (including attorney-client privilege) or work product protection that any Seller would be entitled to assert to be waived or (ii) if Sellers or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand, are adverse parties in a litigation, any information that is reasonably pertinent thereto; provided, that, in the case of clause (i), the Parties shall reasonably cooperate in seeking to find a way to allow disclosure of such information to the extent doing so (A) would not (in the good faith belief of Sellers (after consultation with counsel, which may be in-house counsel)) be reasonably likely to result in the violation of any such Legal Requirement or Contract or be reasonably likely to cause such privilege or work product protection to be undermined with respect to such information or (B) could reasonably (in the good faith belief of Sellers (after consultation with counsel, which may be in-house counsel)) be managed through

the use of customary "clean-room" arrangements pursuant to which non-employee Representatives of Buyer could be provided access to such information.

(c) All confidential documents and information concerning the Business furnished to Buyer or its Affiliates in connection with the transactions contemplated by this Agreement and the other Transaction Documents are subject to the terms and conditions of that certain Confidentiality Agreement, dated as of July 14, 2016, by and between an Affiliate of Sellers and Dada Holdings, LLC, the terms of which are incorporated herein by reference (the "Confidentiality Agreement"). Notwithstanding anything to the contrary herein or in the Confidentiality Agreement, the Confidentiality Agreement shall automatically terminate at the Closing, except with respect to the Excluded Assets and Excluded Liabilities.

7.2 Operations Prior to the Closing Date.

Sellers covenant and agree that, (a) except (i) as expressly contemplated by this Agreement, (ii) as disclosed in Section 7.2 of the Disclosure Schedules, (iii) with the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), or (iv) as otherwise required by Legal Requirements and (b) to the extent not inconsistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, any orders entered by the Bankruptcy Court in the Bankruptcy Case, or as permitted under the DIP Agreements or DIP Order (including the "Budget" (as defined in the DIP Order), subject to the "Permitted Variances" (as defined in the DIP Agreements)), after the Execution Date and prior to the Closing Date, Sellers shall, and shall cause their Affiliates to:

(a) carry on the Business in the Ordinary Course of Business;

(b) use commercially reasonable efforts to maintain, preserve and protect the Acquired Assets in the condition in which they exist on the date hereof, except for ordinary wear and tear and except for replacements, modifications or maintenance in the Ordinary Course of Business;

(c) use commercially reasonable efforts to (i) keep available, in all material respects, the services of the employees of each Seller and (ii) preserve, in all material respects, its relationships with its customers and suppliers;

(d) (i) not transfer or otherwise dispose of any Acquired Assets, except for Inventory purchased, sold, used or otherwise disposed of in Ordinary Course of Business or the disposition of obsolete or surplus Equipment in the Ordinary Course of Business or (ii) mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance (other than a Permitted Encumbrance or an Encumbrances that will be released at the Closing in accordance with the Sale Order) on any Acquired Assets;

(e) not enter into any amendment to, or otherwise modify or cause the termination or lapse of, any Assumed Contracts;

(f) grant to any Buyer Employee any increase in compensation except in the Ordinary Course of Business and consistent with past practice; and

(g) not enter into any agreement or commitment to take any action prohibited by this Section 7.2.

7.3 Regulatory Matters; Cooperation.

(a) [Intentionally omitted.]

(b) Sellers, on the one hand, and Buyer, on the other hand, shall use commercially reasonable efforts to obtain (and Buyer shall cause its Affiliates to use commercially reasonable efforts to obtain), at the earliest practicable date, all necessary Governmental Authorizations and all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Authorities, if any), and Sellers shall make good faith efforts to timely transfer all Permits to Buyer, in each case relating to the Business, and take all reasonable steps as may be necessary to avoid any Proceeding by any Governmental Authority. In addition to such actions, Sellers, on the one hand, and Buyer, on the other hand, shall use commercially reasonable efforts to take (and Buyer shall cause its Affiliates to use commercially reasonable efforts to take), or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated hereby, including using commercially reasonable efforts to accomplish the following: (i) taking all reasonable acts necessary to cause the conditions precedent set forth in Article 9 and Article 10 to be satisfied; (ii) defending of any Proceedings challenging this Agreement or the consummation of the transaction contemplated hereby, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Authority vacated or reversed; (iii) taking all reasonable acts necessary in connection with meeting with any Governmental Authority regarding the transferring of the Permits held by any Seller; and (iv) executing and delivering any additional instruments necessary to consummate the transactions contemplated hereby and to fully carry out the purposes of this Agreement.

(c) Sellers, on the one hand, and Buyer, on the other hand, shall, (i) promptly inform each other of any communication from any Governmental Authority concerning this Agreement, the transactions contemplated hereby, and any filing, notification or request for approval and (ii) permit the other to review in advance any proposed written or material oral communication or information to be delivered or submitted to any such Governmental Authority in response thereto. In addition, none of Parties shall agree to participate in any meeting with any Governmental Authority in respect of any filings, investigation or other inquiry with respect to this Agreement or the transactions contemplated hereby, unless such Party consults with the other Parties in advance and, to the extent permitted by any such Governmental Authority, gives the other Parties the opportunity to attend and participate thereat, in each case to the maximum extent practicable. Subject to restrictions under any Legal Requirements, Buyer, on the one hand, and Sellers, on the other hand, shall furnish the other with copies of all correspondence, filings and communications (and memoranda setting forth the substance thereof) between it and its Affiliates and their respective Representatives, on the one hand, and the Governmental Authority or members of its staff, on the other hand, with respect to this Agreement, the transactions contemplated hereby (excluding documents and communications which are subject to preexisting confidentiality agreements or to the attorney-

client privilege or work product doctrine or which refer to valuation of the Business) or any such filing, notification or request for approval. Each Party shall also furnish the other Party with such necessary information and assistance as such other Party and its Affiliates may reasonably request in connection with their preparation of necessary filings, registration or submissions of information to the Governmental Authority in connection with this Agreement, the transactions contemplated hereby and any such filing, notification or request for approval.

(d) Without limiting the generality of Sections 7.3(b) and 7.3(c), Sellers shall, at Buyer's request, cooperate in good faith with Buyer to obtain all necessary Governmental Authorizations and agreements from the Government of Jamaica in connection with the consummation of the transactions contemplated hereby.

7.4 Notice of Developments.

Each Party shall promptly notify the other Party of, and furnish such other Party any information it may reasonably request with respect to, any event that would reasonably be expected to cause any of the conditions set forth in Article 9, with respect to Seller, or Article 10, with respect to Buyer, not to be fulfilled by the Outside Date.

7.5 Other Actions.

Buyer covenants and agrees that, except (w) as expressly contemplated by this Agreement, (x) with the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed), (y) as otherwise required by Legal Requirements or (z) to the extent not inconsistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or any orders entered by the Bankruptcy Court in the Bankruptcy Case, after the Execution Date and prior to the Closing Date, Buyer shall use commercially reasonable efforts not to take or agree to or commit to assist any other Person in taking any action (i) that would reasonably be expected to result in a failure of any of the conditions to the Closing or (ii) that would reasonably be expected to impair the ability of Buyer or Sellers to consummate the Closing in accordance with the terms hereof or to materially delay such consummation.

7.6 Financing.

Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to (a) consummate and obtain the Financing, including negotiating and entering into the Debt Financing Agreements upon the terms and conditions set forth in Schedule 6.6, and (b) deliver the Secured Notes pursuant to Sections 4.2(b) and 4.2(c).

7.7 Break-Up Fee and Expense Reimbursement.

Within two (2) Business Days following the Execution Date, Sellers shall make an appropriate filing with the Bankruptcy Court seeking an order approving a "break-up fee" of $645,000 and an "expense reimbursement" amount of $1,000,000 for which Sellers shall be liable under the circumstances set forth in Section 11.2(c) for reasonable documented out-of-pocket costs and expenses of Buyer (including reasonable, documented expenses of counsel,

investment bankers and other outside consultants, and other reasonable, documented legal expenses) related to negotiating this Agreement and investigating Sellers and the Acquired Assets.

ARTICLE 8

ADDITIONAL AGREEMENTS

8.1 Taxes.

(a) For purposes of Section 2.3(k), in the case of any Taxes with respect to the Acquired Assets that are payable with respect to any Tax period that begins before and ends after the Closing Date (a "Straddle Period"), the portion of any such Taxes that constitutes Post-Closing Taxes shall (i) in the case of property Taxes, ad valorem Taxes, Taxes imposed on a periodic basis and other similar Taxes, be the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period beginning on the day after the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period; and (ii) in the case of all other Taxes, be the amount of such Taxes for the entire Straddle Period less the amount of Taxes determined as if a separate return was filed for the period ending as of the end of the day on the Closing Date using a "closing of the books methodology;" provided, however, that for purposes of clause (ii), the portion of exemptions, allowances, or deductions that are calculated on an annual basis (including depreciation and amortization deductions) that shall be deemed to constitute Post-Closing Taxes shall be the portion of the number of days in each such period falling after the Closing Date.

(b) Sellers and Buyer agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Business and the Acquired Assets (including access to books and records and Tax Returns and related working papers dated before Closing) as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing authority, the prosecution or defense of any claims, suit or proceeding relating to any Tax. Notwithstanding the foregoing but subject in all respects to the Bidding Procedures Order, this Section 8.1 shall not require Sellers to permit any access to, or to disclose (i) any information that, in the reasonable, good faith judgment (after consultation with counsel, which may be in-house counsel) of Sellers, is reasonably likely to result in any violation of any Legal Requirement or any Contract to which any Seller (or any of its Affiliates) is a party or cause any privilege (including attorney-client privilege) or work product protection that any Seller (or any of its Affiliates) would be entitled to assert to be waived or (ii) if Sellers (or any of their Affiliates), on the one hand, and Buyer or any of its Subsidiaries, on the other hand, are adverse parties in a litigation, any information that is reasonably pertinent thereto; provided, that, in the case of clause (i), the Parties shall reasonably cooperate in seeking to find a way to allow disclosure of such information to the extent doing so (A) would not (in the good faith belief of Sellers (after consultation with counsel, which may be in-house counsel)) be reasonably likely to result in the violation of any such Legal Requirement or Contract or be reasonably likely to cause such privilege or work product protection to be undermined with respect to such information or (B) could reasonably (in the good faith belief of Sellers (after consultation with counsel, which

may be in-house counsel)) be managed through the use of customary "clean-room" arrangements pursuant to which non-employee Representatives of Buyer could be provided access to such information.

8.2 Bulk Sales.

The Sale Order shall provide either that (a) Sellers have complied with the requirements of any Legal Requirement relating to bulk sales and transfer or (b) compliance with the Legal Requirements relating to bulk sales and transfers is not necessary or appropriate under the circumstances.

8.3 Payments Received.

Sellers, on the one hand, and Buyer, on the other hand, each agree that, after the Closing, each will hold and will promptly transfer and deliver to the other, from time to time as and when received by them, any cash, checks with appropriate endorsements (using commercially reasonable efforts not to convert such checks into cash) or other property that they may receive on or after the Closing which belongs to the other and will account to the other for all such receipts.

8.4 Assumed Contracts: Adequate Assurance and Performance.

Buyer shall, and shall cause its Affiliates to, use commercially reasonable efforts to provide adequate assurance of the future performance by Buyer of each Assumed Contract as required under Section 365 of the Bankruptcy Code. Buyer and Sellers agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code, such as furnishing timely requested and factually accurate affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Buyer's and Sellers' Representatives available to testify before the Bankruptcy Court.

8.5 Employee Matters

(a) Employees. As soon as practicable following the entry of the Sale Order, Buyer shall determine which Seller Employees and Specified Employees, if any, to offer employment to, in its sole discretion. Buyer shall set initial terms and conditions of employment, including wages, benefits, job duties and responsibilities and work assignment, provided that, from and after the Closing Date until the first (1st) anniversary thereof, Buyer shall provide, or cause to be provided, to each Buyer Employee base salary or base wages at an annual rate that is at least equal to the annual rate of the base salary or base wages that was provided to such Buyer Employee immediately prior to the Closing and (ii) employee benefits that are substantially comparable in the aggregate to the employee benefits made available to such Buyer Employee immediately prior to the Closing Date (excluding equity or equity based incentives, retention, change in control, sale bonus or similar arrangements). For the avoidance of doubt, nothing in the preceding sentence shall obligate Buyer to provide pension benefits pursuant to a defined benefit pension plan (other than pursuant to the Union Pension and OPEB Plans), provided that Buyer must take into account the value of any employee benefits provided under a defined

benefit pension plan provided to Seller Employees and Specified Employees prior to the Closing for purposes of determining the value of "substantially comparable" benefits per the preceding sentence. Nothing herein shall affect the Buyer's right or ability to amend, terminate, suspend, or freeze accruals under any employee benefit plan. Employees who are offered and accept such offers of employment with Buyer and further then actually commence employment with Buyer will become "Buyer Employees" after the Closing. Sellers shall terminate, or shall cause to be terminated, on or prior to the Closing Date the employment of all Employees who are offered and accept offers of employment with Buyer pursuant to this Section 8.5(a). Notwithstanding the foregoing, nothing herein will, after the Closing Date, impose on Buyer any obligation to retain any Buyer Employee in its employment for any amount of time or on any terms and conditions of employment. The employment of each such Buyer Employee with Buyer (including any Buyer Employee who may be on leave of absence) will commence immediately after the Closing Date. Except as otherwise required by Legal Requirement, specified in this Agreement, or otherwise agreed in writing by Buyer, Buyer shall not be obligated to provide any severance, separation pay, or other payments or benefits, including any key employee retention payments, to any Employee on account of any termination of such Employee's employment on or before the Closing Date, and such benefits (if any) shall remain Excluded Liabilities and obligations of Sellers.

(b) Access to Information. After the Execution Date, Sellers shall provide Buyer, its Affiliates, and their Representatives with reasonable access to the Employees and with information, including employee records and Benefit Plan data, reasonably requested by Buyer and such Affiliates, except as otherwise prohibited by Legal Requirements.

(c) Benefit Plans. To the extent that service is relevant for any purpose (including eligibility, vesting and accrual) under any employee benefit plan, program, policy or arrangement of Buyer or its Subsidiaries, Buyer shall credit (or cause to be credited) the Buyer Employees for service earned prior to the Closing with any Seller in addition to service earned with Buyer on and after the Closing to the extent such service was taken into account under a similar Benefit Plan of any Seller prior to Closing, and provided that such credit does not result in any duplication of benefits. To the extent the Buyer Employees and their eligible dependents enroll in any welfare benefit plan of Buyer or its Subsidiaries, subject to the terms of any such plan, Buyer shall undertake commercially reasonable efforts to waive, or cause such waiver of, any preexisting condition limitations applicable to such Buyer Employees to the extent that Buyer Employee's or eligible dependent's condition would not have operated as a preexisting condition under the applicable corresponding welfare benefit plan as maintained by the applicable Seller. In addition, subject to the terms of the applicable welfare benefit plan of Buyer or its Subsidiaries, Buyer shall undertake commercially reasonable efforts to (i) waive all waiting periods under such welfare benefit plan otherwise applicable to the Buyer Employees and their eligible dependents, other than waiting periods that are in effect with respect to such individuals as of the Closing to the extent not satisfied under Sellers' applicable Benefit Plans, and (ii) provide each Buyer Employee and his or her dependents with corresponding credit under such welfare benefit plan for any co-payments and deductibles paid by them under Sellers' applicable corresponding Benefit Plans during the portion of the respective plan year prior to the Closing. At any time and from time to time after the Execution Date, Sellers and Buyer shall use commercially reasonable efforts to take, or cause to be taken, any and all actions necessary to effectuate the terms of this Section 8.5(c). Prior to the Closing, Sellers shall reasonably cooperate

with Buyer and its Affiliates and give commercially reasonable assistance as Buyer may reasonably request in order to effectuate the foregoing.

(d) Payroll Taxes. For purposes of payroll taxes with respect to the Buyer Employees, Sellers shall treat the transactions contemplated by this Agreement, as a transaction described in Treasury Regulation Sections 31.3121(a)(1)-1(b)(2) and 31.3306(b)(1)-(b)(2) (i.e., Buyer shall be treated as a successor for payroll tax purposes); and as such, Sellers and Buyer shall report on a predecessor/successor basis as set forth under the "Standard Procedure" provided in Section 4 of Revenue Procedure 2004-53, 2004-2 C.B. 320.

(e) WARN Act. With respect to Buyer Employees, Buyer will have full responsibility under the WARN Act relating to any act or omission of Buyer after the Closing Date. With respect to the Employees, Sellers will have full responsibility under the WARN Act relating to any act or omission of Sellers prior to and on the Closing Date.

(f) CBAs. Notwithstanding anything in this Agreement to the contrary, immediately following the Closing, Buyer shall or shall cause its Affiliates to make an offer to the respective unions to adopt and assume the Collective Bargaining Agreements, each as listed on Section 5.10(a) of the Disclosure Schedules, on terms in effect as of the date of execution of this Agreement (as such terms may be amended as contemplated by Section 7.2 of the Disclosure Schedules). Except as set forth on Schedule 2.3(f), neither Buyer nor any of its Affiliates shall be required or deemed to assume any Liabilities thereunder arising based upon facts, acts or omissions occurring before the Closing except for any responsibility to ensure that the Union Pension and OPEB Plans required by such Collective Bargaining Agreements are funded as required by applicable Legal Requirements, which Buyer respectively shall assume.

(g) Union Pension and OPEB. Notwithstanding anything in this Agreement to the contrary, immediately following the Closing, Buyer shall or shall cause its Affiliates to (x) adopt and assume the Union Pension and OPEB Plans and any and all Liabilities thereunder whether arising before, on or after the Closing, and (y) accept the transfer of assets from the trusts funding the Union Pension and OPEB Plans, if any.

(h) No Third-Party Beneficiaries; Employment Status. All provisions contained in this Agreement with respect to employee benefit plans or compensation of Buyer Employees are included for the sole benefit of the respective parties hereto. Nothing contained herein (i) shall confer upon any former, current or future employee of any Seller or Buyer or any legal representative or beneficiary thereof any rights or remedies, including any right to employment or continued employment, of any nature, for any specified period; (ii) shall cause the employment status of any former, present or future Employee to be other than terminable at will; or (iii) shall confer any third party beneficiary rights upon any Buyer Employee or any dependent or beneficiary thereof or any heirs or assigns thereof.

8.6 Post-Closing Books and Records; Properties; and Personnel.

From and after the Closing Date for a period of three (3) years, Buyer shall provide Sellers (and their Representatives) with access, at reasonable times and in a manner so as not to unreasonably interfere with its normal business, to the assets, books, records, systems and

other property and any employees of Buyer so as to enable Sellers to prepare financial or court filings or reports, to respond to court orders, subpoenas or inquiries, investigations, audits or other proceedings of Governmental Authorities, to prosecute and defend Proceedings or for other like purposes, including Claims, objections and resolutions, and to enable Sellers to wind down the Business. During such three (3) year period, Sellers (and their Representatives) shall be permitted to make copies of any books and records described in this Section 8.6, subject to the confidentiality requirements set forth in Section 7.1. If Buyer desires to dispose of any such books and records, Buyer shall, thirty (30) days prior to such disposal, provide Sellers with a reasonable opportunity to remove or copy such records to be disposed of at Sellers' expense. For the avoidance of doubt, nothing in this Section 8.6 shall be seen as limiting the Parties' obligations under Section 8.1(b). All such information shall be governed by the terms of (and shall be considered "Confidential Information" under and as defined in) the Confidentiality Agreement.

8.7 Use of Name.

(a) Buyer agrees that, from and after the Closing, Buyer shall not use or employ any of the Retained Names and Marks; provided, however, that (i) for a period up to eighteen (18) months after the Closing, Buyer shall be entitled to use, solely in connection with the operation of the Business as operated in all material respects immediately prior to the Closing, all of its existing stocks of signs, letterheads, invoice stock, advertisements and promotional materials, inventory, packaging and other documents and materials included as part of the Acquired Assets ("Existing Stock") containing the Retained Names and Marks, provided that Buyer shall use commercially reasonable efforts to remove, or cease using the Retained Names and Marks (or in the case of advertisements, promotional materials, inventory and packaging, over-label or re-sticker such Existing Stock so as to conceal such Retained Names and Marks) as promptly as practicable after the Closing, and (ii) Buyer shall be entitled to use or employ any of the Retained Names and Marks to inform third parties (including customers and suppliers) that the Business (A) was formerly owned by a Seller and (B) is now owned by Buyer.

(b) Notwithstanding the sale, transfer and assignment of any Transferred Names and Marks, Buyer hereby grants back to Sellers and the other Debtors a limited, non-exclusive, non-transferable license to use the Transferred Names and Marks in connection with the continued operation of the business of Sellers and the other Debtors, and the administration of the Bankruptcy Case, from and after the Closing.

8.8 No Successor Liability.

The Parties intend that, except as included in the Assumed Liabilities, upon the Closing, Buyer shall not be deemed to: (a) be the successor of or successor employer (as described under COBRA and applicable regulations thereunder) to any Seller, including with respect to any Benefit Plan, (b) have, *de facto*, or otherwise, merged with or into any Seller; (c) be a mere continuation or substantial continuation of any Seller or the enterprise(s) of such Seller; or (d) be liable for any acts or omissions of any Seller in the conduct of the Business or arising under or related to the Acquired Assets other than as set forth in this Agreement. The Parties agree that the provisions substantially in the form of this Section 8.8 shall be reflected in the Sale Order.

8.9 Release from Credit Support Instruments.

At the Closing, the cash paid pursuant to Section 4.2(a) and the Good Faith Deposit shall be utilized to replace (in part) the cash collateral currently held by the ABL DIP Agent in respect of the credit support instrument set forth in Schedule 8.9 (the "Credit Support Instrument") and a like amount shall be released by the ABL DIP Agent and paid over to the Pre-Petition Term Agent to repay (in part) the outstanding obligations under the Pre-Petition Term Agreement. As soon as reasonably practicable, and in any event within twelve (12) months following the Closing, Buyer shall, or shall cause one or more of its Affiliates to, take or cause to be taken all actions necessary to (a) replace the balance of the cash collateral currently held by the ABL DIP Agent in respect of the Credit Support Instrument and (b) secure the unconditional release of any Seller or its Affiliates from the Credit Support Instrument, including effecting such release by providing guarantees, substitute letter(s) of credit or other credit support, and Buyer shall, or shall cause one or more of its Affiliates to, be substituted in all respects for any Seller or its Affiliate that is party to the Credit Support Instrument, so that the applicable Buyer or one or more of its Affiliates shall be solely responsible for the obligations of the Credit Support Instrument or its replacement.

ARTICLE 9

CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER TO CLOSE

The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to fulfillment, at or prior to the Closing, of each of the following conditions, any one or more of which may (to the extent legally permissible) be waived by Buyer in writing, in its sole and absolute discretion:

9.1 Accuracy of Representations.

The representations and warranties of Sellers set forth in Article 5 shall be true and correct in all respects (without giving effect to any qualification as to materiality or Material Adverse Effect) on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which are confined to a specified date shall speak only as of such date); provided, however, that in the event of a breach or inaccuracy of a representation or warranty (without giving effect to any qualification as to materiality or Material Adverse Effect), the condition set forth in this Section 9.1 shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together results in a Material Adverse Effect. Buyer shall have received a certificate of Sellers to such effect signed by a duly authorized officer of each Seller.

9.2 Sellers' Performance.

The covenants and agreements that Sellers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Buyer shall have received a certificate of Sellers to such effect signed by a duly authorized officer of each Seller.

9.3 No Order.

No Governmental Authority shall have enacted, issued, promulgated, decreed or entered any Order or Legal Requirement from and after the Execution Date, which is in effect and has the effect of prohibiting (or delaying beyond the Outside Date) the consummation of the transactions contemplated by this Agreement.

9.4 Sellers' Deliveries.

Each of the deliveries required to be made to Buyer pursuant to Section 4.3 shall have been so delivered.

9.5 Sale Order.

Subject to Section 2.5, the Bankruptcy Court shall have entered the Sale Order, and the Sale Order shall be in full force and effect and shall not have been reversed, stayed, vacated, terminated, modified or amended.

9.6 Assumed Contracts.

The Bankruptcy Court shall have approved and authorized, other than with respect to Cure Costs, the assumption and assignment of each Assumed Contract, except as would not materially and adversely affect the operation of the Business from and after the Closing.

9.7 Material Adverse Effect.

Since the Execution Date, no Material Adverse Effect shall have occurred.

9.8 Mining Lease and Levy.

The Mining Lease shall be in full force and effect with respect to Buyer, and the levy payable to the Government of Jamaica by NBL shall have been successfully re-negotiated.

9.9 Debt Financing.

Buyer shall have entered into the Debt Financing Agreements and the contemplated funding thereunder shall have been consummated.

9.10 Net Working Capital.

A minimum of thirty million Dollars ($30,000,000) of Net Working Capital shall be delivered to Buyer at the Closing.

ARTICLE 10

CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE

The obligations of Sellers to consummate the transactions contemplated by this Agreement are subject to fulfillment, at or prior to the Closing, of each of the following conditions, any one or more of which may (to the extent legally permissible) be waived by Sellers in writing, in their sole and absolute discretion:

10.1 Accuracy of Representations.

The representations and warranties of Buyer set forth in Article 6 shall be true and correct in all respects (without giving effect to any qualification as to materiality or Material Adverse Effect) on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which are confined to a specified date shall speak only as of such date); provided, however, that in the event of a breach or inaccuracy of a representation or warranty (without giving effect to any qualification as to materiality or Material Adverse Effect), the condition set forth in this Section 10.1 shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together results in a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement. Sellers shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer.

10.2 Buyer's Performance.

The covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects, and Sellers shall have received a certificate of Buyer to such effect signed by a duly authorized representative of Buyer.

10.3 No Order.

No Governmental Authority shall have enacted, issued, promulgated, decreed, or entered any Order or Legal Requirement from and after the Execution Date, which is in effect and has the effect of prohibiting (or delaying beyond the Outside Date) the consummation of the transactions contemplated by this Agreement.

10.4 Buyer's Deliveries.

Each of the deliveries required to be made to Sellers pursuant to Section 4.2 shall have been so delivered.

10.5 Sale Order. Subject to Section 2.5, the Bankruptcy Court shall have entered the Sale Order, and the Sale Order shall be in full force and effect and shall not have been reversed, stayed, vacated, terminated, modified or amended.

ARTICLE 11

TERMINATION

11.1 Termination Events.

Notwithstanding anything to the contrary in this Agreement, this Agreement may be terminated at any time prior to the Closing only as follows.

(a) by mutual written consent of Sellers and Buyer;

(b) by written notice from either Sellers or Buyer:

(i) if a Governmental Authority issues a final, non-appealable ruling or Order permanently restraining, enjoining or otherwise prohibiting consummation of the transactions contemplated hereby where such ruling or Order was not requested, encouraged or supported by any of the Parties;

(ii) if the Closing shall not have occurred on or prior to October 31, 2016 (the "Outside Date"); provided, however, that if Buyer is the "Backup Bidder" in the Auction (each as defined in the Bidding Procedures), Buyer's right to terminate this Agreement pursuant to this Section 11.1(b)(ii) shall be subject to the Bidding Procedures (and such extended date shall be deemed to be the "Outside Date" for all purposes hereunder); provided, further that the terminating Party under this Section 11.1(b)(ii) is not (at such time of termination) in breach of any representation, warranty, covenant or other agreement in this Agreement so as to cause any conditions to Closing not to be satisfied and shall not have been the proximate cause of the failure of the Closing to occur on or prior to the Outside Date;

(iii) if Sellers withdraw the Sale Motion;

(iv) if any Seller enters into one or more Alternative Transactions with one or more Persons other than Buyer or the Successful Bidder at the auction; or

(v) if Buyer is not the Successful Bidder or Backup Bidder at the auction.

(c) by written notice from Buyer in the event of any breach of, or failure to perform, by Sellers of any of their agreements, covenants, representations or warranties contained herein, the Bidding Procedures Order or in the Sale Order, which breach or failure to perform (A) would result in a condition set forth in Article 9 not to be satisfied and (B) cannot be cured (or was not cured) within ten (10) days after Buyer notifies Sellers of such breach in writing (or, if earlier, on or prior to the Outside Date); provided that Buyer shall not have a right of termination pursuant to this Section 11.1(c) if it is then in material breach of any of its agreements, covenants, representations or warranties contained herein or in the Sale Order;

(d) by written notice from Sellers in the event of any breach of, or failure to perform, by Buyer of any of its agreements, covenants, representations or warranties

contained herein or in the Sale Order, which breach or failure to perform (A) would result in a condition set forth in Article 10 not to be satisfied and (B) cannot be cured (and was not cured) within ten (10) days after Sellers notify Buyer of such breach in writing (or, if earlier, on or prior to the Outside Date); provided that Sellers shall not have a right of termination pursuant to this Section 11.1(d) if Sellers are then in material breach of any of their agreements, covenants, representations or warranties contained herein or in the Sale Order; provided further, that any purported termination of this Agreement by Buyer pursuant to Section 11.1(b)(ii) shall be deemed to be a termination by Seller pursuant to this Section 11.1(d) if Seller is entitled to terminate this Agreement pursuant to this Section 11.1(d) at the time of such purported termination;

(e) by written notice from Sellers if all of the conditions set forth in Article 9 shall have been satisfied (other than any condition the failure of which to be satisfied is attributable, in whole or in part, to a breach by Buyer of its representations, warranties, covenants or agreements contained herein and other than conditions that, by their nature, are to be satisfied at the Closing and which were, as of such date, capable of being satisfied), Seller is ready, willing and able to complete the Closing and Buyer has failed to consummate the Closing within five (5) Business Days of the date the Closing should have occurred pursuant to Section 4.1; provided that any purported termination of this Agreement by Buyer pursuant to Section 11.1(b)(ii) shall be deemed to be a termination by Sellers pursuant to this Section 11.1(e) if Sellers are entitled to terminate this Agreement pursuant to this Section 11.1(e) at the time of such termination; or

(f) by written notice from Buyer if all of the conditions set forth in Article 10 shall have been satisfied (other than any condition the failure of which to be satisfied is attributable, in whole or in part, to a breach by Seller of its representations, warranties, covenants or agreements contained herein and other than conditions that, by their nature, are to be satisfied at the Closing and which were, as of such date, capable of being satisfied), Buyer is ready, willing and able to complete the Closing and Sellers have failed to consummate the Closing within five (5) Business Days of the date the Closing should have occurred pursuant to Section 4.1; provided that any purported termination of this Agreement by Sellers pursuant to Section 11.1(b)(ii) shall be deemed to be a termination by Buyer pursuant to this Section 11.1(f) if Buyer is entitled to terminate this Agreement pursuant to this Section 11.1(f) at the time of such termination.

Each condition set forth in this Section 11.1 shall be considered separate and distinct from each other such condition. If more than one of the termination conditions set forth in this Section 11.1 are applicable, the applicable Party shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated.

11.2 Effect of Termination.

(a) In the event of termination of this Agreement by Buyer or Sellers pursuant to this Article 11, this Agreement shall become null and void and have no effect, and all rights and obligations of the Parties under this Agreement shall terminate without any Liability of any Party to any other Party; provided, that the provisions of Sections 7.1(c) (Access and Reports; Confidentiality), 13.9 (Expenses), 13.10 (Governing Law, Consent to Jurisdiction and

Venue; Jury Trial Waiver), 13.15 (No Liability) and this Section 11.2 (and, to the extent applicable to the interpretation or enforcement of such provisions, Article 1), shall expressly survive the termination of this Agreement.

(b) In the event that Sellers terminate (or are deemed to terminate) this Agreement pursuant to Section 11.1(d) or 11.1(e), Sellers shall keep the Good Faith Deposit provided by Buyer pursuant to the Bidding Procedures, provided, however, that in the case of a termination pursuant to Section 11.1(d), Sellers shall keep the Good Faith Deposit only if any such breach or failure to perform by Buyer results in Buyer failing to complete the Closing.

(c) (i) (A) In the event of a termination of this Agreement pursuant to Section 11.1(b)(iii), 11.1(b)(iv), 11.1(b)(v), 11.1(c) or 11.1(f) and (B) any Seller subsequently (1) executes a definitive agreement with respect to, and consummates, an Alternative Transaction within 180 days following such termination or (2) consummates an Alternative Transaction within 180 days following such termination, Buyer will be entitled to the Break-Up Fee and Expense Reimbursement, which will be paid within two (2) Business Days following, and out of Sellers' proceeds from, the consummation of such Alternative Transaction or (ii)(A) in the event of a termination of this Agreement pursuant to Section 11.1(b)(iii) and (B) Sellers subsequently confirm a plan of reorganization within 180 days following such termination, Buyer will be entitled to Expense Reimbursement, which will be paid within two (2) Business Days following the consummation of such plan of reorganization; provided, however, that in no event shall amounts be payable pursuant to both clause (i) and (ii). The Break-Up Fee and Expense Reimbursement payable hereunder shall constitute administrative priority expenses under Sections 503(b) and 507(a)(1) of the Bankruptcy Code.

(d) Each Party acknowledges that the agreements contained in this Section 11.2 are an integral part of the transactions contemplated by this Agreement, that without these agreements such Party would not have entered into this Agreement, and that any amounts payable pursuant to this Section 11.2 do not constitute a penalty.

(e) Notwithstanding anything to the contrary in this Agreement, (i) to the extent that all amounts, if any, due to Buyer pursuant to Section 11.2(c) have actually been paid to Buyer, Buyer shall not have any additional recourse against Sellers for any obligations or Liabilities relating to or arising from this Agreement, and such amounts shall be the sole and exclusive monetary remedy of Buyer and its Affiliates for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement herein of Sellers or the failure of the Closing to occur, and under no circumstances will Buyer be entitled to receive for any such loss both a grant of specific performance (to the extent permitted hereunder) and monetary damages or other monetary remedies, and (ii) to the extent that Sellers have retained the Good Faith Deposit pursuant to 11.2(b), Sellers shall not have any additional recourse against Buyer for any obligations or Liabilities relating to or arising from this Agreement, and such amounts shall be the sole and exclusive monetary remedy of Sellers and their Affiliates for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement herein of Buyer or the failure of the Closing to occur, and under no circumstances will Sellers be entitled to receive for any such loss both a grant of specific performance (to the extent permitted hereunder) and monetary damages or other monetary remedies.

ARTICLE 12

[INTENTIONALLY OMITTED]

ARTICLE 13

GENERAL PROVISIONS

13.1 Survival.

All covenants and agreements contained herein which by their terms are to be performed in whole or in part, or which prohibit actions, subsequent to the Closing shall, solely to the extent such covenants and agreements are to be performed, or prohibit actions, subsequent to the Closing, survive the Closing in accordance with their terms until fully performed or satisfied. All other covenants and agreements contained herein, and all representations and warranties contained herein or in any certificates delivered hereunder shall not survive the Closing and shall thereupon terminate, including any Proceedings for damages in respect of any breach thereof.

13.2 Confidentiality.

Following the Closing, each Seller agrees not to disclose any confidential or non-public information concerning the Acquired Assets, the Business, the negotiation or existence and terms of this Agreement or the business affairs of Buyer or the Assumed Liabilities ("Confidential Information") except disclosure of Confidential Information that (a) was or is lawfully obtained from a source that, to the Knowledge of such Seller, was not under an obligation of confidentiality to Buyer with respect to such information, (b) is independently developed by such Seller without violating any of its obligations under this Agreement, (c) is or becomes available to the public, (d) is or may be necessary to wind down any of Sellers' estates, or in connection with the enforcement of the rights of, or the defense of any Proceeding against or involving, any Seller, provided that the Confidential Information is afforded confidential treatment, (e) primarily relates to any Excluded Assets and/or Excluded Liabilities, or (f) is or may be necessary in connection with the Bankruptcy Case provided that the Confidential Information is afforded confidential treatment. Notwithstanding the foregoing, a Seller may disclose Confidential Information if such Seller believes (upon the advice of counsel) it is legally required to make such disclosure in order to comply with applicable law, regulation, rule or legal, judicial or administrative process (including any rule, regulation or policy statement of (i) any organized securities exchange, market or automated quotation system on which the Company's securities are listed or quoted, (ii) any self-regulatory organization of which a Party is a member or (iii) in connection with the Bankruptcy Case). If a Seller or any of its Representatives becomes required (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) or it becomes necessary in connection with the Bankruptcy Case to disclose any of the Confidential Information, such Seller or Representative shall use reasonable efforts to provide Buyer with prompt notice, to the extent allowed by law, rule and regulation, of such requirement. Each Seller agrees to disclose only

that portion of the Confidential Information which it believes in good faith it is necessary or required to disclose and to use reasonable efforts to obtain confidential treatment of such Confidential Information.

13.3 Public Announcements.

From the Execution Date to the Closing, unless otherwise required by applicable Legal Requirement or by obligations of Buyer or Sellers or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange, Buyer, on the one hand, and Sellers, on the other hand, shall consult with each other before issuing any press release or otherwise making any public statement with respect to this Agreement or the transactions contemplated hereby and shall not issue any such release or make any such statement without the prior written consent of the other (such consent not to be unreasonably withheld, conditioned or delayed). From and after the Closing, except to the extent necessary or required (a) by the Bankruptcy Court or (b) in connection with the Bankruptcy Case or the Sale Motion, the Parties may make public statements with respect to this Agreement or the transactions contemplated hereby so long as such announcements do not disclose the specific terms or conditions of this Agreement except where such terms and conditions have already been disclosed as required by Legal Requirement or by obligations of Buyer or Sellers or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange; provided, that the issuing party shall use its commercially reasonable efforts to consult with the other party with respect to the text thereof to the extent practicable.

13.4 Notices.

All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by overnight courier or facsimile transmission:

(a) If to Sellers, then to:

Noranda Aluminum Holding Corporation
801 Crescent Centre Drive
Suite 600
Franklin, TN 37067
Attn: Gail Lehman
Facsimile: (615) 771-8892

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

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attn: Steven J. Williams
Elizabeth R. McColm
Facsimile: (212) 757-3990

(b) If to Buyer:

New Day Aluminum LLC
c/o DaDa Holdings, LLC
2400 East Commercial Blvd., Suite 810
Ft. Lauderdale, FL 33308

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

Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601
Attn: Bruce A. Toth

or to such other Person or address as any party shall specify by notice in writing to the other party. All such notices, requests, demands, waivers and communications shall be deemed to have been received on the date on which so personally-delivered or faxed or delivered by overnight courier.

13.5 Waiver.

Neither the failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement shall operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power, or privilege shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by Legal Requirements, (a) no waiver that may be given by a Party shall be applicable except in the specific instance for which it is given, and (b) no notice to or demand on one Party shall be deemed to be a waiver of any right of the Party giving such notice or demand to take further action without notice or demand.

13.6 Entire Agreement; Amendment; Disclosure Schedules.

(a) This Agreement (including the Disclosure Schedules and the Exhibits), the Sale Order, the Bidding Procedures Order, the Confidentiality Agreement and the other Transaction Documents supersede all prior agreements between Buyer, on the one hand, and Sellers, on the other hand, with respect to its subject matter and constitute a complete and exclusive statement of the terms of the agreements between Buyer, on the one hand, and Sellers, on the other hand, with respect to their subject matter. This Agreement may not be amended, modified or supplemented except by a written agreement executed by each of the Parties.

(b) The section number headings in the Disclosure Schedule correspond to the section numbers in this Agreement and any information disclosed in any section of the Disclosure Schedule shall be deemed to be disclosed and incorporated into any other section of the Disclosure Schedule to the extent that it would be reasonably apparent on the face of such disclosure that such matter is applicable to such other section of the Disclosure Schedule, whether or not there is a cross-reference to such other section. Disclosure of any fact or item in any section of the Disclosure Schedule shall not necessarily mean that such item is in fact material or is required to be disclosed and such disclosure shall not constitute an admission of liability.

13.7 Assignment.

This Agreement, and the rights, interests and obligations hereunder, shall not be assigned by any Party by operation of law or otherwise without the express written consent of all of the other Parties (which consent may be granted or withheld in the sole discretion of such other Party) and any assignment in contravention of this Section 13.7 shall be null and void *ab initio;* provided, however, that, from and after the Closing, Sellers may assign (without consent) their respective rights and interests hereunder (including, for the avoidance of doubt, Sellers' rights under Section 3.2) to the Pre-Petition Term Agent. Upon such assignment, the Pre-Petition Term Agent may fully exercise all the rights and remedies of each assigning Seller under this Agreement, which rights include all rights, and rights of enforcement, regarding any and all rights, claims and causes of action of such assigning Seller against Buyer arising directly or indirectly in whole or in part from any breach or violation of this Agreement, provided, however, that any such assignment under this Section 13.7 shall not relieve Sellers of their respective obligations under Section 2.3. Notwithstanding anything to the contrary in this Section 13.7, Buyer may assign (without consent) all or a portion of its rights under this Agreement to one or more of its wholly-owned subsidiaries, provided, however, that no such assignment shall relieve Buyer of any of its obligations hereunder.

13.8 Severability.

The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible; and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability.

13.9 Expenses.

Except as otherwise expressly provided in this Agreement, including Section 11.2, whether or not the transactions contemplated by this Agreement are consummated, the Parties shall bear their own respective expenses (including all compensation and expenses of counsel, financial advisors, consultants, actuaries and independent accountants) incurred in connection with this Agreement and the transactions contemplated hereby.

13.10 Governing Law; Consent to Jurisdiction and Venue; Jury Trial Waiver.

(a) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other law that would make the laws of any other jurisdiction other than the State of New York applicable hereto.

(b) Without limitation of any Party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby and (ii) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Proceeding; provided, however, that, if the Bankruptcy Case has been closed pursuant to Section 350(a) of the Bankruptcy Code, all Proceedings arising out of or relating to this Agreement shall be heard and determined in a New York state court or a federal court sitting in the State of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Proceeding. The Parties consent to service of process by mail (in accordance with Section 13.4) or any other manner permitted by law.

(c) THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SELLERS, BUYER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.

13.11 Counterparts.

This Agreement and any amendment hereto may be executed in counterparts, each of which shall be deemed to be an original of this Agreement or such amendment and all of which, when taken together, shall constitute one and the same instrument. Notwithstanding anything to the contrary in Section 13.4, delivery of an executed counterpart of a signature page to this Agreement or any amendment hereto by telecopier, facsimile or email attachment that contains a portable document format (.pdf) file of an executed signature shall be effective as delivery of a manually executed counterpart of this Agreement or such amendment, as applicable.

13.12 Parties in Interest; Third Party Beneficiaries; No Amendment.

This Agreement and the other Transaction Documents shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. This Agreement and the other Transaction Documents are for the sole benefit of the Parties and their permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind. Notwithstanding anything to the contrary, nothing in this Agreement shall constitute an amendment to any Benefit Plan.

13.13 Remedies.

Neither the exercise of nor the failure to exercise a right of set-off or to give notice of a claim under this Agreement will constitute an election of remedies or limit Sellers or

Buyer in any manner in the enforcement of any other remedies that may be available to any of them, whether at law or in equity.

13.14 Specific Performance.

Each Party recognizes that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by them in accordance with the terms hereof or were otherwise breached, and that monetary damages alone would not be adequate to compensate the non-breaching Party or Parties for their injuries. Accordingly, a non-breaching Party shall be entitled to injunctive relief to enforce the terms and provisions of this Agreement. If any Proceeding is brought by the non-breaching Party or Parties to enforce any of the terms or provisions of this Agreement pursuant to this Section 13.14, the Party in breach shall waive the defense that there is an adequate remedy at law. Each Party agrees to waive any requirement for the security or posting of any bond in connection with any Proceeding seeking specific performance of such terms or provisions and that the only permitted objection that it may raise in response to any action for specific performance of such terms or provisions is that it contests the existence of a breach or threatened breach of such provisions. The rights set forth in this Section 13.14 shall be in addition to any other rights which a Party may have at law or in equity pursuant to this Agreement.

13.15 No Liability.

No past, present or future director, officer, employee, incorporator, member, partner or equityholder or other Affiliates of the Parties shall have any liability for any obligations or liabilities of Sellers or Buyer, as applicable, under this Agreement or any agreement entered into in connection herewith of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby. Any claim or cause of action based upon, arising out of, or related to this Agreement or any agreement, document or instrument contemplated hereby may only be brought against Persons that are expressly named as parties hereto or thereto, and then only with respect to the specific obligations set forth herein or therein. Other than the Parties, no other party shall have any liability or obligation for any of the representations, warranties, covenants, agreements, obligations or liabilities of any party under this Agreement or the agreements, documents or instruments contemplated hereby or of or for any Proceeding based on, in respect of, or by reason of, the transactions contemplated hereby or thereby (including the breach, termination or failure to consummate such transactions), in each case whether based on contract, tort, fraud, strict liability, other Legal Requirements or otherwise and whether by piercing the corporate veil, by a claim by or on behalf of a Party or another Person or otherwise.

[*Signature pages follow.*]

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be executed and delivered by their duly authorized representatives, all as of the Execution Date.

NEW DAY ALUMINUM LLC

By: _____
Name: ROBERT W. ERICSON
Title: EXECUTIVE VICE PRESIDENT

NORANDA ALUMINA LLC

By: _____
Name:
Title:

NORANDA BAUXITE LIMITED

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be executed and delivered by their duly authorized representatives, all as of the Execution Date.

NEW DAY ALUMINUM LLC

By:_____
Name:
Title:

NORANDA ALUMINA LLC

By: Dale W. Boyles
Name: Dale W. Boyles
Title: Chief Financial Officer

NORANDA BAUXITE LIMITED

By: Dale W. Boyles
Name: Dale W. Boyles
Title: Chief Financial Officer

Exhibit A

Accounting Standards

"Accounting Standards" means the accounting standards, principles, policies, procedures, categorizations, definitions, methods, practices and techniques to be applied in the preparation of (a) the Pre-Closing Statement and (b) the Closing Statement, which are in accordance with GAAP, applied on a consistent basis with the preparation of the December 31, 2015 audited consolidated balance sheet for the Bauxite and Alumina segments of Noranda Aluminum Holding Corporation, except for the following adjustments:

1. Accounts 22020, 22010, and 22131 shall be increased to include balances that relate to employees that have been offered employment by Buyer that are not included in the Bauxite and Alumina segments and decreased to remove balances that relate to Bauxite and Alumina segment employees that have not been offered employment by Buyer.

For illustrative purposes only, attached as Exhibit A to Schedule 1.1(b) is a sample Net Working Capital calculation.

Schedule 1.1(c)

Secured Notes

(See attached.)

Summary of Terms and Conditions of the Note

This Summary of Terms and Conditions outlines certain terms and conditions of the Note and shall be attached as Schedule 1.1(c) to that certain Asset Purchase Agreement (together with all schedules and exhibits thereto, the "Acquisition Agreement") between New Day Aluminum LLC, Noranda Alumina LLC and Noranda Bauxite Limited. The acquisition of the assets referred to in the Acquisition Agreement shall be referred to herein as the "Acquisition".

Borrower:	The Borrower under the Bridge Facility.
Guarantors:	The Guarantors under the Bridge Facility.
Notes Agent:	Cortland Capital Market Services LLC ("Cortland") will act as sole and exclusive administrative agent (in such capacity, the "Notes Agent") for the Holders (as defined below) and will perform the duties customarily associated with such role.
Collateral Agent:	Cortland will act as sole and exclusive collateral agent (in such capacity, the "Collateral Agent") for the Holders and will perform the duties customarily associated with such role.
Holders:	Certain funds managed, advised or sub-advised by Credit Suisse Asset Management ("CSAM"), Hotchkis and Wiley Value Opportunities Fund ("Hotchkis") and Guggenheim Partners Investment Management, LLC ("Guggenheim"), the Prepetition Agent (as defined below), on behalf of the Prepetition Term Lenders (as defined below), a representative for the Committee (as defined below) and Noranda Bauxite Limited (or its assignee or successor) (each, a "Holder" and, collectively, the "Holders").
Amount of the Note:	An aggregate of $33.0 million (as such amount may be adjusted pursuant to Section 3.2 of the Acquisition Agreement) senior secured second lien note (the "Note"). $21.5 million (as such amount may be adjusted pursuant to Section 3.2 of the Acquisition Agreement) of the Note is being issued as consideration for the Acquisition and $11.5 million of the Note is being issued as part of an investment unit.
Closing Date:	The Closing Date under the Bridge Facility.
Maturity:	Fourth anniversary of the Closing Date.
Amortization:	None.
Interest Rate:	The Note will bear interest at a rate of 10.0%, 4.0% of which shall be payable in cash and 6.0% of which shall be payable in kind by adding such interest to the unpaid principal amount of the Note on each interest payment date.

Default Interest: Upon the occurrence and during the continuance of any default or event of default, interest on amounts not paid when due will accrue at a rate of 2.0% *per annum* plus the rate otherwise applicable to such amounts and will be payable on demand (the "Default Interest Rate").

Interest Payments: Quarterly and upon such mandatory and voluntary prepayment on the principal amount prepaid, in each case payable in arrears and computed on the basis of a 360-day year.

Voluntary Prepayments: Subject to the provisions of the Bridge Facility and the Intercreditor Agreement, the Note may be prepaid in whole or in part without premium or penalty upon 1 business day's prior written notice.

Mandatory Prepayments: Subject to the provisions of the Bridge Facility and the Intercreditor Agreement, the Borrower will make the following mandatory prepayments:

1. Asset Sales: Prepayments in an amount equal to 100.0% of the net cash proceeds of the sale or other disposition of property or assets of Holdings, the Borrower or any of its subsidiaries in excess of $250,000 in the aggregate (including the sale by the Borrower of any equity interests in any of its subsidiaries and the issuance by any such subsidiary of any equity interests) payable no later than the business day following the date of receipt, other than net cash proceeds of sales or other dispositions of assets in the ordinary course of business and net cash proceeds that are reinvested (or committed to be reinvested) in other long term assets useful in the business of the Borrower or any of its subsidiaries within 180 days of such sale or disposition or, if so committed within such period, reinvested within 90 days thereafter.

2. Insurance Proceeds: Prepayments in an amount equal to 100.0% of the net cash proceeds of insurance or condemnation proceeds in excess of $250,000 in the aggregate paid on account of any loss of any property or assets of Holdings, the Borrower or any of its subsidiaries payable no later than the business day following the date of receipt, other than net cash proceeds that are reinvested (or committed to be reinvested) in other long term assets useful in the business of the Borrower or any of its subsidiaries (or used to replace damaged or destroyed assets) within 180 days of such sale or disposition or, if so committed within such period, reinvested within 90 days thereafter.

3. Incurrence of Indebtedness: Prepayments in an amount equal to 100.0% of the net cash proceeds received from the incurrence of indebtedness by Holdings, the Borrower or any of its subsidiaries (other than certain indebtedness otherwise permitted under the Loan Documents) payable no later than the business day following the date of receipt.

	All mandatory prepayments will be applied without penalty or premium in accordance with the Section entitled "Waterfall" below.
Waterfall:	All optional prepayments, mandatory prepayments and distributions after an Event of Default, will be applied: (a) first, up to $21.5 million (as such amount may be adjusted pursuant to Section 3.2 of the Acquisition Agreement) plus accrued and unpaid interest thereon, of which (x) 90% shall be paid to the lenders (the "Prepetition Term Lenders") under that certain Credit Agreement, dated as of February 29, 2012, by and among Noranda Aluminum Acquisition Corporation, as the borrower, Noranda Aluminum Holding Corporation, the lenders party thereto from time to time and Bank of America, N.A., as administrative agent (the "Prepetition Agent") and the members of the statutory committee of unsecured creditors (the "Committee"); provided that (i) 90% of such cash proceeds shall be paid to the Prepetition Term Lenders and (ii) 10% of such cash proceeds shall be paid to the Committee and (y) 10% shall be paid to Noranda Bauxite Limited; and (b) second, to the Holders that are the Lenders to the Bridge Facility, one-third to CSAM, one-third to Hotchkis and one-third to Guggenheim.
Collateral:	The same as for the Bridge Facility. The security interests securing the Note will be second and junior in priority to the security interests securing the Bridge Facility and any related guarantees and, after the ABL Execution Date, will be third and junior in priority to the security interests securing the ABL Facility and the Bridge Facility and any related guarantees. The priority of the security interests and related creditor rights between the Bridge Facility and the Note will be set forth in the Intercreditor Agreement (as defined in Exhibit A).
Representations and Warranties:	The same as for the Bridge Facility.
Covenants:	The affirmative, negative and financial covenants contained in the Note shall be substantially similar to those contained in the Bridge Facility.
Events of Default:	The events of default contained in the Note shall be substantially similar to those contained in the Bridge Facility.
Conditions Precedent to the Closing Date:	The Closing Date will be subject only to (i) the conditions set forth in Exhibit C, (ii) the accuracy of representations and warranties and (iii) the absence of any default or event of default.
Assignments and Participations:	The Holders may assign all or, in an amount of not less than $250,000, any part of their respective interests in the Note to their affiliates or one or more banks, financial institutions or other entities that are

Eligible Assignees (to be defined in the Loan Documents, but to exclude (x) assignments and participations to the Borrower and its Subsidiaries and to DaDa Holdings LLC, its affiliates and related parties and (y) certain other competitors of the Borrower identified by the Borrower prior to the Closing Date) which are acceptable to the Notes Agent and (unless any default or event of default is continuing or such assignment is to a Holder or an Affiliate thereof) the Borrower; provided, that such bank, financial institution or other entity shall be deemed acceptable to the Borrower if the Borrower does not otherwise reject such bank, financial institution or other entity within 5 business days of the date on which approval is requested; provided that assignments made to another Holder, an affiliate of a Holder or of an Agent will not be subject to the above minimum assignment amount and consent requirements. Prior to any assignment by CSAM, Hotchkis or Guggenheim (each an "Initial Holder") other than any assignment made to an affiliate of such Initial Holder, such Initial Holder shall provide each other Initial Holder a right of first offer to purchase the Loans and each other Initial Holder shall have 5 business days after notice of such assignment to exercise such option.

Amendments and Required Holders:

No amendment, modification, termination or waiver of any provision of the Loan Documents will be effective without the written approval of Holders holding more than 50.0% of the aggregate amount of the then outstanding amounts under the Note (collectively, the "Required Holders"), except that the consent of each Holder adversely affected thereby will be required with respect to, among other things, matters relating to reduction of stated interest rates other than waiver of Default Interest, extension of maturity, pro rata payment and sharing provisions, certain collateral issues and the definition of Required Holders. The Holders agree that if the United States Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court") or another court of competent jurisdiction enters an order with respect to, or there is a settlement by the Prepetition Agent (at the direction of the requisite Prepetition Term Lenders) with, a lienholder of the Gramercy, Louisiana facility whereby such lienholder is granted a senior lien and a right to any portion of the Note, the Notes Agent will amend the Note (which amendment will not require the consent of any Holders) to join such lienholder as a Holder of the Note and provide such lienholder rights to cash proceeds pursuant to the "Waterfall" as set out in such order or agreed in such settlement; provided that in no event will the Borrower or any of its affiliates be obligated to pay or provide any other or additional consideration to any Seller (as defined in the Acquisition Agreement), any Holder, or any such lienholder.

Indemnity and Expenses:

The Note will provide customary and appropriate provisions relating to indemnity and related matters in a form acceptable to the Holders. Noranda Aluminum Holding Corporation (as debtor) will pay the reasonable out-of-pocket expenses of the Agents and the Holders associated with the preparation, negotiation, execution, delivery of the

	Loan Documents. The Borrower will pay (i) reasonable out-of-pocket expenses of the Agents associated with the administration of the Loan Documents and the reasonable out-of-pocket expenses of the Holders and the Agents associated with any amendment or waiver with respect thereto (including the reasonable fees, disbursements and other charges of counsel and the charges of electronic loan administration platforms) and (ii) all documented out-of-pocket expenses of the Agents and the Holders (including the reasonable fees, disbursements and other charges of counsel) in connection with the enforcement of the Loan Documents or in any bankruptcy case or insolvency proceeding.
Governing Law and Jurisdiction:	The Note will provide that the Borrower and the Guarantors will submit to the exclusive jurisdiction and venue of the federal and state courts of the County and State of New York (except to the extent the Collateral Agent requires submission to any other jurisdiction in connection with the exercise of any rights under any security document or the enforcement of any judgment) and will waive any right to trial by jury. New York law will govern the Loan Documents, except with respect to certain security documents where applicable local law is necessary for enforceability or perfection.
Counsel to the Holders:	Weil, Gotshal & Manges LLP.

Schedule 6.6

Terms of Bridge Debt Financing

(See attached.)

Summary of Terms and Conditions of the Bridge Facility

This Summary of Terms and Conditions outlines certain terms and conditions of the Bridge Facility and shall be attached as Schedule 6.6 to that certain Asset Purchase Agreement (together with all schedules and exhibits thereto, the "Acquisition Agreement") between New Day Aluminum LLC, Noranda Alumina LLC and Noranda Bauxite Limited. The acquisition of the assets referred to in the Acquisition Agreement shall be referred to herein as the "Acquisition".

Borrower:	New Day Aluminum LLC, a Delaware limited liability company (the "Borrower").
Guarantors:	All obligations under the Bridge Facility will be unconditionally guaranteed (the "Guarantees") by New Day Aluminum Holdings LLC, a Delaware limited liability company ("Holdings"), Gramercy Holdings I LLC, a Delaware limited liability company, NBL LLC, a Delaware limited liability company, and each of the Borrower's existing and subsequently acquired or organized direct or indirect domestic subsidiaries (collectively, the "Guarantors").
Administrative Agent:	Cortland Capital Market Services LLC ("Cortland") will act as sole and exclusive administrative agent (in such capacity, the "Administrative Agent") for the Lenders and will perform the duties customarily associated with such role.
Collateral Agent:	Cortland will act as sole and exclusive collateral agent (in such capacity, the "Collateral Agent") for the Lenders and will perform the duties customarily associated with such role.
Lenders:	Certain funds managed, advised or sub-advised by Credit Suisse Asset Management ("CSAM"), Hotchkis and Wiley Value Opportunities Fund ("Hotchkis") and Guggenheim Partners Investment Management, LLC ("Guggenheim") (each, a "Lender" and, collectively, the "Lenders").
Purpose/Use of Proceeds:	The proceeds of the Bridge Facility will be used to provide for the ongoing working capital requirements of the Borrower and its subsidiaries and for general corporate purposes.
Amount of Bridge Facility:	An aggregate of $9.84 million of senior secured first lien term loan facility consisting of: (a) a $6.0 million tranche 1 term loan facility ("Tranche 1"); and (b) a $3.84 million tranche 2 term loan facility ("Tranche 2" and, together with Tranche 1, the "Bridge Facility"). Each of Tranche 1 and Tranche 2 are referred to herein as a "Tranche".

	The Bridge Facility is part of an investment unit, which consists of the Bridge Facility (*i.e.,* the $6.0 million Tranche 1 and the $3.84 million Tranche 2), $11.5 million of the Note and a 1% membership interest in Holdings. Accordingly, the $10 million being provided to the Borrower in respect of this investment unit shall be allocated, and treated consistently by the parties, as $2.8million allocated to the $6 million Tranche 1, $1.775 million allocated to the $3.84 million Tranche 2, $5.35 allocated to the $11.5 million of the Note and $75,000 allocated to the 1% membership interest.
Initial Investment:	On the Closing Date, the Tranche 2 Lenders will make an approximately $160,000 investment in Holdings in exchange for 1% of the membership interests of Holdings (the "Initial Membership Interests") on a fully-diluted basis, after taking into account all membership interests issuable pursuant to the management incentive plan of Holdings (such basis, "Fully-Diluted Basis"). On the Closing Date, Holdings shall adopt a limited liability company agreement providing for the terms set forth in the Summary of Principal Terms and Conditions attached hereto as Annex 1.
Availability:	One drawing may be made under each Tranche of the Bridge Facility on the Closing Date.
Closing Date:	The date on or before October 31, 2016 on which the borrowings under the Bridge Facility are made (the "Closing Date").
Maturities:	The maturity date (the "Maturity Date") of (x) Tranche 1, shall be the earlier of (i) the first anniversary of the Closing Date and (ii) the date on which the Borrower enters into the ABL Credit Agreement (as defined below) and (y) Tranche 2, shall be the first anniversary of the Closing Date.
Amortization:	None.
Interest Rate:	The loans under the Bridge Facility will bear interest at 8.00% *per annum* payable in cash.
Default Interest:	Upon the occurrence and during the continuance of any default or event of default, interest on amounts not paid when due will accrue at a rate of 2.0% *per annum* plus the rate otherwise applicable to such amounts and will be payable on demand (the "Default Interest Rate").
Interest Payments:	Quarterly, upon each mandatory and voluntary prepayment on the principal amount prepaid and upon conversion of Tranche 2 into membership interests pursuant to the Section entitled "Conversion" below, in each case payable in arrears and computed on the basis of a 360-day year.
Voluntary Prepayments:	Tranche 1 may be prepaid in whole or in part without premium or penalty upon prior written notice of at least 1 business day. Voluntary

prepayments of Tranche 1 may not be reborrowed. Tranche 2 may not be voluntarily prepaid.

Mandatory Prepayments: The Borrower will make the following mandatory prepayments with respect to Tranche 1:

1. Asset Sales: Prepayments in an amount equal to 100.0% of the net cash proceeds of the sale or other disposition of property or assets of Holdings, the Borrower or any of its subsidiaries in excess of $250,000 in the aggregate (including the sale by the Borrower of any equity interests in any of its subsidiaries and the issuance by any such subsidiary of any equity interests) payable no later than the business day following the date of receipt, other than net cash proceeds of sales or other dispositions of assets in the ordinary course of business and net cash proceeds that are reinvested (or committed to be reinvested) in other long term assets useful in the business of the Borrower or any of its subsidiaries within 180 days of such sale or disposition or, if so committed within such period, reinvested within 90 days thereafter.

2. Insurance Proceeds: Prepayments in an amount equal to 100.0% of the net cash proceeds of insurance or condemnation proceeds in excess of $250,000 in the aggregate paid on account of any loss of any property or assets of Holdings, the Borrower or any of its subsidiaries payable no later than the business day following the date of receipt, other than net cash proceeds that are reinvested (or committed to be reinvested) in other long term assets useful in the business of the Borrower or any of its subsidiaries (or used to replace damaged or destroyed assets) within 180 days of such sale or disposition or, if so committed within such period, reinvested within 90 days thereafter.

3. Incurrence of Indebtedness: Prepayments in an amount equal to 100.0% of (x) the net cash proceeds received from the incurrence of indebtedness by Holdings, the Borrower or any of its subsidiaries (other than indebtedness otherwise permitted under the Loan Documents) payable no later than the business day following the date of receipt and (y) the Minimum Availability (as defined below).

All mandatory prepayments will be applied without penalty or premium among the Tranche 1 Lenders on a *pro rata* basis. No mandatory prepayments will be required with respect to Tranche 2.

Conversion: For so long as any amounts are outstanding under Tranche 2, the Lenders under Tranche 2 shall have the right to exchange all or any portion of the outstanding principal amount under Tranche 2 into newly issued membership interests of Holdings directly from Holdings. The exchange rate will be based on a ratio such that if all of

the outstanding principal amount under Tranche 2 is exchanged, the Lenders under Tranche 2 will receive, together with the Initial Membership Interests, 20% of the membership interests of Holdings on a Fully Diluted Basis. The conversion is intended to be treated as a contribution of Tranche 2 under Section 721 of the Internal Revenue Code.

Collateral: The obligations of the Borrower and the Guarantors under the Bridge Facility and each Guarantee will be secured by perfected first priority security interests in all tangible and intangible assets, including without limitation all personal, real and mixed property of the Borrower and the Guarantors (subject to customary and limited exceptions to be mutually agreed). In addition, the Bridge Facility will be secured by a first priority security interest in all intercompany debt and in 100.0% of the capital stock of the Borrower and each subsidiary of the Borrower, which pledge, in the case of any foreign subsidiary, will be limited to 100.0% of the non-voting stock (if any) and 65.0% of the voting stock of such foreign subsidiary to the extent the pledge of any greater percentage would reasonably be expected to result in material adverse tax consequences to the Borrower (collectively, the "Pledged Collateral"). On the date of execution of the ABL Credit Agreement (the "ABL Execution Date"), the Bridge Facility shall have (x) a second priority security interest in all personal property of the Borrower and the Guarantors consisting of accounts receivable, inventory, bank accounts (subject to customary and limited exceptions to be mutually agreed and excluding any proceeds of Bridge Facility Priority Collateral (as defined below)) and intellectual property to the extent attached to or necessary to sell the foregoing, and cash and cash proceeds of the foregoing (the "ABL Priority Collateral") and (y) a first priority security interest in the Pledged Collateral, all plant, material owned real property and equipment of the Borrower and the Guarantors and all other personal property of the Borrower and the Guarantors not constituting ABL Priority Collateral (the "Bridge Facility Priority Collateral"). The priority of the security interests and related creditor rights between the Bridge Facility and the ABL Credit Agreement will be set forth in an intercreditor agreement on terms and conditions acceptable to the Lenders and the lenders providing the ABL Credit Agreement. All security arrangements will be in form and substance satisfactory to the Administrative Agent and will be perfected on the Closing Date and none of the Collateral will be subject to any other liens or encumbrances, subject to customary and limited exceptions to be mutually agreed upon and other than the second priority security interests in favor of the secured parties under the $33.0 million senior secured second lien note (the "Note") and, after the ABL Execution Date, the first priority security interests in favor of the lenders to the ABL Facility with respect to the ABL Priority Collateral and the third priority security interests in favor of the Notes Agent. The security interests securing the Bridge Facility will be first and senior in priority to the security interests securing the Note and any related guaranties, and the security interests securing the Note will be second and junior

	in priority to the security interests securing the Bridge Facility and the Guarantees, subject to permitted liens. The priority of the security interests and related creditor rights between the Bridge Facility and the Note will be set forth in an intercreditor agreement (the "Intercreditor Agreement") on terms and conditions acceptable to the Lenders.
Representations and Warranties:	Subject to customary and limited exceptions and qualifications to be mutually agreed, the Bridge Facility will contain the following representations and warranties by the Borrower and the Guarantors, all in form and substance reasonably satisfactory to the Lenders: organization, requisite power and authority, qualification; equity interests and ownership; due authorization; no conflict; governmental consents; binding obligation; historical financial statements; projections; no material adverse change; adverse proceedings, etc.; payment of taxes; properties; environmental matters; no defaults; governmental regulation; margin stock and status under Investment Company Act; employee and labor matters; solvency; disclosure; Patriot Act; intellectual property; and security documents.
Covenants:	Subject to customary and limited exceptions and qualifications to be mutually agreed, the Bridge Facility will contain the following affirmative, negative and financial covenants by the Borrower and the Guarantors, all in form and substance reasonably satisfactory to the Lenders: Affirmative covenants: financial statements and other reports; existence; payment of taxes and claims; maintenance of properties; insurance; books and records, inspections; compliance with laws; environmental; subsidiaries; additional material real estate assets; additional collateral; and further assurances. Negative covenants: indebtedness (which shall permit the Borrower to enter into a credit agreement (the "ABL Credit Agreement") for a new asset-based revolving credit facility (the "ABL Facility") not to exceed $45.0 million, which ABL Credit Agreement shall provide for "availability" of at least $10.0 million (the "Minimum Availability"); liens (which shall permit the ABL Facility); no further negative pledges; restricted junior payments; restrictions on subsidiary distributions; investments; fundamental changes, disposition of assets, acquisitions; disposal of subsidiary interests; sales and lease-backs; transactions with shareholders and affiliates; conduct of business; permitted activities of Holdings; amendments or waivers of organizational documents (to the extent adverse to the interests of the Lenders), related documents and certain indebtedness; and fiscal year. Financial covenants: None.
Events of Default:	The Bridge Facility will include the following events of default (and, as appropriate, cure and grace periods), all in form and substance

	reasonably satisfactory to the Lenders: failure to make payments when due; default under material indebtedness; breach of certain covenants; breach of representations, etc.; other defaults under Loan Documents; involuntary bankruptcy; voluntary bankruptcy; judgments and attachments; dissolution; employee benefit plans; "Change of Control" (to be defined as mutually agreed upon); guaranties, security documents and other Loan Documents; and failure of subordinated indebtedness to be subordinated.
Conditions Precedent to Initial Borrowing:	The several obligation of each Lender to make, or cause an affiliate to make, loans under the Bridge Facility on the Closing Date will be subject only to (i) the conditions set forth or referred to in Exhibit C, (ii) the accuracy of representations and warranties and (iii) the absence of any default or event of default.
Assignments and Participations:	The Lenders may assign all of their loans under either Tranche of the Bridge Facility, or a part of their loans and commitments in an amount of not less than $100,000 to their affiliates or one or more banks, financial institutions or other entities that are Eligible Assignees (to be defined in the Loan Documents, but to exclude (x) assignments and participations to the Borrower and its Subsidiaries and to DaDa Holdings LLC, its affiliates and related parties and (y) certain other competitors of the Borrower identified by the Borrower prior to the Closing Date) which are acceptable to the Administrative Agent and (unless any default or event of default is continuing or such assignment is to a Lender or an Affiliate thereof) the Borrower; provided, that such bank, financial institution or other entity shall be deemed acceptable to the Borrower if the Borrower does not otherwise reject such bank, financial institution or other entity within 5 business days of the date on which approval is requested; provided, that assignments made to another Lender, an affiliate of a Lender or of an Agent will not be subject to the above minimum assignment amount and consent requirements. Prior to any assignment by CSAM, Hotchkis or Guggenheim (each an "Initial Lender") other than any assignment made to an affiliate of such Initial Lender, such Initial Lender shall provide each other Initial Lender a right of first offer to purchase the Loans and each other Initial Lender shall have 5 business days after notice of such assignment to exercise such option.

Amendments and Required Lenders:	No amendment, modification, termination or waiver of any provision of the Loan Documents will be effective without the written approval of Lenders holding more than 50.0% of the aggregate amount of the funded and unfunded commitments under the Term Facility (collectively, the "Required Lenders"), except that: the consent of each Lender adversely affected thereby will be required with respect to, among other things, matters relating to reduction of stated interest rates other than waiver of Default Interest, extension of maturity, pro rata payment and sharing provisions, certain collateral issues and the definition of Required Lenders; provided that, changes in the allocation of mandatory prepayments and commitment reductions between Tranches or changes otherwise affecting Lenders in one Tranche differently than Lenders in another Tranche will require the approval of the Lenders holding the majority of loans or commitments under each Tranche which is adversely affected thereby.
Indemnity and Expenses:	The Bridge Facility will provide customary and appropriate provisions relating to indemnity and related matters in a form acceptable to the Lenders. Noranda Aluminum Holding Corporation (as debtor) will pay the reasonable out-of-pocket expenses of the Agents and the Lenders associated with the preparation, negotiation, execution, delivery of the Loan Documents. The Borrower will pay (i) reasonable out-of-pocket expenses of the Agents associated with the administration of the Loan Documents and the reasonable out-of-pocket expenses of the Lenders and the Agents associated with any amendment or waiver with respect thereto (including the reasonable fees, disbursements and other charges of counsel and the charges of electronic loan administration platforms) and (ii) all documented out-of-pocket expenses of the Agents and the Lenders (including the reasonable fees, disbursements and other charges of counsel) in connection with the enforcement of the Loan Documents or in any bankruptcy case or insolvency proceeding.
Governing Law and Jurisdiction:	The Bridge Facility will provide that the Borrower and the Guarantors will submit to the exclusive jurisdiction and venue of the federal and state courts of the County and State of New York (except to the extent the Collateral Agent requires submission to any other jurisdiction in connection with the exercise of any rights under any security document or the enforcement of any judgment) and will waive any right to trial by jury. New York law will govern the Loan Documents, except with respect to certain security documents where applicable local law is necessary for enforceability or perfection.
Counsel to the Lenders:	Weil, Gotshal & Manges LLP.