

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

LVI INTERMEDIATE HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 20-11413 (KBO)

(Jointly Administered)

Related to Docket Nos. 65, 70, 209

Hearing Date: July 28, 2020 at 1:00 p.m.

**NOTICE OF ASSET PURCHASE AGREEMENT
AND CANCELLATION OF AUCTION**

On June 25, 2020, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an *Order (A) Approving Bid Procedures Relating to the Sale of All or Substantially All of the Assets of the Debtors, (B) Establishing Procedures in Connection With the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (C) Approving Notice Procedures, and (D) Granting Related Relief* (the “Bid Procedures Order”)² [Docket No. 209]. The Bid Procedures Order approved the bid procedures (the “Bid Procedures”) related to the sale of the Debtors’ assets.

PLEASE TAKE NOTICE that, pursuant to paragraphs 11, 17, and 22 of the Bid Procedures Order, individually and collectively, the Debtors have determined, in consultation with the Consultation Parties, and in their business judgment, that the Auction shall be cancelled in favor of a private sale to Kismet New Vision Holdings, LLC (the “Proposed Purchaser”), which had originally proposed what would have been a Qualified Bid to become the stalking horse bidder.

PLEASE TAKE FURTHER NOTICE that the Debtors’ decision to proceed with a private sale with the Proposed Purchaser was made after extensive negotiations with the Proposed Purchaser resulting in concessions and a materially improved bid from the proposed stalking horse bid, including an increase in purchase price and deposit, and modifications to the liquidated damages provisions, in exchange for cancellation of the Auction and presenting the proposed purchase agreement with the Proposed Purchaser at the Sale Hearing via a private sale.

¹ The Debtors in these cases, along with the last four digits of their respective federal taxpayer identification numbers are as follows: LVI Intermediate Holdings, Inc., (7674); Total Vision Institute, LLC (7571); QualSight, LLC (3866); The LASIK Vision Institute, LLC (7564); Cataract Vision Institute, LLC (7697); Healthcare Marketing Services, LLC (9982); Cataract Vision Institute Florida, LLC (3423); TLC Vision Center Holdings, LLC (5400); TLC Vision Centers, LLC (8271); TLC Whitten Laser Eye Associates, LLC (0182); TruVision, LLC (3399); TruVision Contacts, LLC (3399); Laser Eye Surgery, LLC (3448); TLC Laser Eye Centers (Refractive I), LLC (2702); TLC The Laser Center (Pittsburgh) L.L.C. (2881); TLC The Laser Center (Indiana) LLC (8456); TLC The Laser Center (Institute), LLC (0959); and LVI Missouri, LLC (7088). The Debtors’ executive headquarters are located at 1555 Palm Beach Lakes Blvd., Suite 600, West Palm Beach, Florida 33401.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Bid Procedures Order or Bid Procedures, as applicable.

PLEASE TAKE FURTHER NOTICE that the Bid Procedures are modified as follows, (i) the Auction scheduled for July 23, 2020 is cancelled, (ii) the deadline to file Auction Objections previously set for July 27, 2020 is no longer applicable, and (iii) the Debtors shall proceed to seek approval of a private sale of the Debtors' assets to the Proposed Purchaser at the Sale Hearing. A redacted copy of the proposed purchase agreement with the Proposed Purchaser is attached to the filed version of this notice as Exhibit A and is available on Donlin Recano & Company, Inc.'s dedicated website related to the Chapter 11 Cases (www.donlinrecano.com/lvi). All parties in receipt of this notice are directed to review the purchase agreement on the website.

PLEASE TAKE FURTHER NOTICE that all deadlines in the Bid Procedures Order (except the Auction Objections, which are now inapplicable), including the Sale Objection Deadline (**July 21, 2020 at 4:00 p.m.**), deadline to file objections to Adequate Assurance (**at the Sale Hearing**), and Contract Objection Deadline (**July 15, 2020 at 4:00 p.m.**) remain unchanged.

Dated: July 14, 2020

COLE SCHOTZ P.C.

/s/ G. David Dean

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EXHIBIT A

Asset Purchase Agreement

EXECUTION COPY

**AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT**

by and among

**LVI INTERMEDIATE HOLDINGS, INC.,
THE OTHER SELLERS NAMED HEREIN**

and

KISMET NEW VISION HOLDINGS, LLC

July 14, 2020

EXECUTION COPY

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Exhibit A	-	Acquired Entities
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Schedule A	

Disclosure Schedule

EXECUTION COPY

AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

This AMENDED AND RESTATED ASSET PURCHASE AGREEMENT (as amended or modified, this "Agreement") is entered into this July 14, 2020 and made effective as of July 9, 2020, to the fullest extent permitted by law, by and among LVI Intermediate Holdings, Inc., a Delaware corporation ("Intermediate"), The Lasik Vision Institute, LLC, a Delaware limited liability company ("LVI"), TLC Vision Center Holdings, LLC, a Delaware limited liability company ("TLC"), each of the other "Sellers" identified on the signature pages hereto (collectively with Intermediate, LVI and TLC, "Sellers" and each individually, a "Seller"), and Kismet New Vision Holdings, LLC, a Delaware limited liability company (together with its permitted successors, designees and assigns, "Buyer") and amends and restates in its entirety that certain Asset Purchase Agreement by and between Sellers and Buyers dated July 9, 2020. Sellers and Buyer are referred to collectively herein as the "Parties." Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in Article I.

WHEREAS, Sellers are debtors and debtors-in-possession under title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") in jointly administered bankruptcy cases under Chapter 11 of the Bankruptcy Code captioned *In re LVI Intermediate Holdings, Inc., Case No. 20-11413 (KBO)* (the "Chapter 11 Cases") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, Sellers are engaged in the business of overseeing and managing laser eye surgery providers (the "Business");

WHEREAS, Sellers wish to sell, transfer and assign to Buyer, and Buyer wishes to purchase, acquire and assume from Sellers, pursuant to Sections 105, 363, 365, and other applicable provisions of the Bankruptcy Code, the Acquired Assets and the Assumed Liabilities as of the Closing;

WHEREAS, Sellers filed a Sales Motion with the Bankruptcy Court to implement the transactions contemplated hereby, upon the terms and subject to the conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

**ARTICLE I
DEFINITIONS**

"503(b)(9) Claims" means any claims against the Sellers under 11 U.S.C. § 503(b)(9) timely filed and served pursuant to the applicable order of the Bankruptcy Court.

"Accounts Receivable" means (a) all accounts, accounts receivable, payment intangibles, rights to payment, notes, notes receivable, negotiable instruments, chattel paper, and vendor rebates of Sellers and (b) any security interest, claim, remedy or other right related to any of the foregoing.

“Acquired Assets” means all of Sellers’ right, title and interest in and to all of Sellers’ properties, assets and rights of every nature, kind and description, tangible and intangible, whether real, personal or mixed, whether accrued, contingent or otherwise, wherever situated or located, existing as of the Closing including the assets described in Section 2.1 hereof, including all rights to bring claims for past, present or future infringement of the Intellectual Property owned by Sellers; provided, however, that, notwithstanding the foregoing or anything contained in this Agreement to the contrary, the Acquired Assets shall not include any Excluded Assets.

“Acquired Entities” has the meaning set forth in Section 2.1(u) and Exhibit A hereto.

“Administrative Claim” means a Claim arising under sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code.

“Affiliate” when used with reference to another Person means any Person, directly or indirectly, through one or more intermediaries, Controlling, Controlled by, or under common Control with, such other Person.

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

“Alcon Contracts” means that certain Installment Loan Agreement dated June 10, 2019, by and between Alcon Vision, LLC and LVI Intermediate Holdings, Inc. dba Vision Group Holdings, and that certain Equipment Capital Lease Agreement dated March 27, 2015, by and between Alcon Laboratories, Inc., a division of Novartis, The Lasik Vision Institute, LLC and TLC Vision Center Holdings, LLC, as amended by the First Amendment to Equipment Capital Lease Agreement dated March 27, 2018, Second Amendment to Equipment Capital Lease Agreement dated November 1, 2018 and Third Amendment to Equipment Capital Lease Agreement dated October 9, 2019.

“Assignment and Assumption Agreement” has the meaning set forth in Section 2.8(a)ii.

“Assumed Contract List” has the meaning set forth in Section 2.6(a).

“Assumed Contracts” means those Leases and Non-Real Property Contracts designated to be assigned to and assumed by Buyer pursuant to Section 2.6 and section 365 of the Bankruptcy Code. For the avoidance of doubt, “Assumed Contracts” shall not include any Non-Real Property Contract or Lease that is excluded and rejected pursuant to Section 2.6.

“Assumed Liabilities” means solely those liabilities and obligations expressly enumerated on Schedule 2.3 attached hereto.

“Assumed Permits” means all Permits, but excluding all Permits to the extent solely related to any Excluded Asset (including any Lease that is not an Assumed Contract).

“Assumption Approval” has the meaning set forth in Section 2.6(c).

“Avoidance Actions” means any and all causes of action, lawsuits, claims, rights of recovery and other similar rights of any Seller, including avoidance claims or causes of action under Chapter 5 of the Bankruptcy Code relating to the Business and the Acquired Assets.

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

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

"Bill of Sale" has the meaning set forth in Section 2.8(a)i.

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

"Business Day" means any day other than a Saturday, a Sunday or a day on which banks located in New York, NY shall be authorized or required by Law to close.

"Buyer" has the meaning set forth in the preamble.

"Cash Payment" has the meaning set forth in Section 2.5(a)ii.

"Chapter 11 Cases" has the meaning set forth in the recitals.

"Claim" means a "claim" as defined in section 101(5) of the Bankruptcy Code, whether arising before or after the Petition Date.

"Closing" has the meaning set forth in Section 2.7.

"Closing Date" has the meaning set forth in Section 2.7.

"Closure Motion" has the meaning set forth on Schedule 2.2(i).

"COBRA" means Part 6 of Subtitle B of Title I of ERISA, Section 4980B of the IRC, and any similar state Law.

"Committee" means any official committee of unsecured creditors appointed in the Chapter 11 Cases.

"Confidentiality Agreement" means any applicable agreement governing confidentiality of the Sellers' information which has been executed by and between Buyer (or its Affiliates) and Sellers.

"Consent" means any approval, consent, ratification, permission, clearance, designation, qualification, waiver or authorization, or an order of the Bankruptcy Court that deems or renders unnecessary the same.

"Contemplated Transactions" means the sale by Sellers to Buyer, and the purchase by Buyer from Sellers, of the Acquired Assets, including the assumption, assignment and sale by Sellers to Buyer, and the acceptance by Buyer, of the Assumed Contracts and Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement and the Related Agreements.

"Continuing Centers" means any of Sellers' laser eye surgery centers with respect to which the associated Leases have been designated by Buyer as Assumed Contracts, as such center locations may be changed in accordance with Section 2.6(a) including but not limited to those

centers listed on the table titled “LVI TLC Center and Corporate Locations” set forth on Section 3.15 of the Disclosure Schedule.

“Contract” means any written or oral agreement, contract, lease, sublease, indenture, mortgage, instrument, guaranty, loan or credit agreement, note, bond, customer order, purchase order, sales order, sales agent agreement, supply agreement, development agreement, joint venture agreement, promotion agreement, license agreement, contribution agreement, partnership agreement or other arrangement, understanding, permission or commitment that, in each case, is legally-binding.

“Control” means, when used with reference to any Person, the power to direct the management or policies of such Person, directly or indirectly, by or through stock or other equity ownership, agency or otherwise, or pursuant to or in connection with any Contract; and the terms “Controlling” and “Controlled” shall have meanings correlative to the foregoing.

“Cure Amounts” has the meaning set forth in Section 2.6(b).

“Current Employees” means all employees of Sellers and Acquired Entities employed as of the day before the Closing Date (or as otherwise specified herein as the explicit context provides), whether active or not (including those on short-term disability, leave of absence, paid or unpaid, or long-term disability).

“Cure Cost Reduction Cap” means One Million Dollars (\$1,000,000).

“Decree” means any judgment, decree, ruling, decision, opinion, injunction, assessment, attachment, undertaking, award, charge, writ, executive order, judicial order, administrative order or any other order of any Governmental Entity.

“Disclosure Schedule” has the meaning set forth in Article III.

“Employee Benefit Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) and any other benefit or compensation plan, program, agreement or arrangement of any kind, in each case, maintained or contributed to by any Seller or for which any Seller may have liability as being an ERISA Affiliate, or in which any Seller participates or participated and that provides benefits to any Current Employee or Former Employee.

“Employee Plan” means any Employee Benefit Plan, Pension Plan (including any Pension Plan that is subject to Section 302 or Title IV of ERISA or IRC Section 412) or Health Plan, any other employee benefit arrangements or payroll practices (including severance pay, vacation pay, company awards, salary continuation for disability, sick leave, death benefit, hospitalization, welfare benefit, group or individual health, dental, medical, life, insurance, fringe benefit, deferred compensation, profit sharing, retirement, retiree medical, supplemental retirement, bonus or other incentive compensation, stock purchase, equity-based, stock option, stock appreciation rights, restricted stock and phantom stock arrangements or policies), and all other employment, termination, bonus, severance, change in control, collective bargaining or other similar plans, programs, contracts, or arrangements (whether written or unwritten), in each case, maintained, contributed to, or required to be contributed to by Sellers, any Acquired Entity or any ERISA Affiliate for the benefit of any Current Employee or Former Employee, director, officer or

independent contractor of Sellers or any Acquired Entity or under which Sellers or any Acquired Entity or any ERISA Affiliate has any liability.

"Equity Commitment Agreement" means that certain Equity Commitment Agreement effective as of the date hereof by and between Buyer and Buyer's parent company.

"Equity Securities" means, if a Person is a corporation, shares of capital stock of such corporation and, if a Person is a form of entity other than a corporation, ownership interests in such form of entity, whether membership interests or partnership interests.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with any Seller within the meaning of Section 414(b) or (c) of the IRC (and Sections 414(m) and (o) of the IRC for purposes of provisions relating to Section 412 of the Code).

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

"Excluded Avoidance Actions" means all Avoidance Actions other than the Included Avoidance Actions.

"Excluded Centers" means any laser eye surgery location that is the subject of the Closure Motion or any center location listed on Schedule 2.2(i).

"Excluded Contract" has the meaning set forth in Section 2.6(a).

"Excluded Claims" means all rights (including rights of set-off and rights of recoupment), refunds, claims, counterclaims, demands, causes of action and rights to collect damages of Sellers against third parties solely to the extent arising in respect of any Excluded Asset or Excluded Liability, and specifically does not include the claims of Sellers in the Ohio Litigation and the Florida Litigation.

"Excluded Employee" has the meaning set forth in Section 6.4(b).

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

"Excluded Taxes" means any and all (i) Taxes of any Sellers or their Affiliates; (ii) Taxes imposed on or arising in connection with the Business, the Acquired Assets, an Acquired Entity, the employees of any Seller or their Affiliates, and any withholding Taxes, in each case for any Pre-Closing Tax Period or allocable or apportioned to the portion of a Straddle Period ending on the Closing Date as provided herein; (iii) Taxes arising from a breach of covenant of, agreement, representation or warranty of any Seller in this Agreement; (iv) all deferred payroll Taxes and credits associated with wages paid or incurred of employees of the Sellers and Affiliates for any Pre-Closing Tax Period; and (v) all Taxes arising from any bulk sale provisions, or failure of any Seller to obtain, comply with, and deliver to Buyer any tax clearance or certificate of no tax due or similar document, (vi) and without duplication those Liabilities listed on Schedule 3.14.

"Final Order" means an order, judgment or other decree of the Bankruptcy Court that has not been vacated, reversed, modified, amended or stayed, and for which the time to further appeal or seek review or rehearing has expired with no appeal, review or rehearing having been filed or sought.

"Florida Litigation" means the litigation captioned *LVI Intermediate Holdings, Inc. d/b/a Vision Group Holdings, The LASIK Vision Institute, LLC and TLC Vision Centers, LLC v. LCA-Vision Inc. d/b/a LasikPlus*, United States District Court for Southern District of Florida Case No. 9:19-CV-81133.

"Former Employees" means all individuals who have been employed by the Sellers (or any of their predecessors) who are not Current Employees.

"GAAP" means United States generally accepted accounting principles.

"Governmental Entity" means any court, tribunal, arbitrator, authority, agency, commission, bureau, board, department, official, body or other instrumentality of the United States, any foreign country, or any domestic or foreign state, province, county, city, other political subdivision or any other similar body or organization exercising governmental or quasi-governmental power or authority.

"Health Plans" means all health plans including, but not limited to, health, dental, life, disability and long-term care insurance.

"Included Avoidance Actions" means all Avoidance Actions (i) against any counterparty to any Assumed Contract, (ii) against those non-Affiliate vendors or suppliers relating to the Acquired Assets that the Buyer elects to continue to engage, (iii) against any employees or non-Affiliate independent contractors of the Sellers employed or engaged by Buyer, or (iv) pursuant to vendors and manufactures' warranties, indemnities and guaranties in respect of machinery and equipment purchased by Buyer.

"Indebtedness" of any Person means, without duplication, (a) the principal of and premium (if any) in respect of (i) indebtedness of such Person for money borrowed and (ii) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, (b) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable for goods and services and other accrued current liabilities arising in the Ordinary Course of Business), (c) all obligations of such Person under leases required to be capitalized in accordance with GAAP, (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction, (e) the liquidation value of all redeemable preferred stock of such Person, (f) all obligations of the type referred to in clauses (a) through (e) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations, and (g) all obligations of the type referred to in clauses (a) through (f) of other Persons secured by any lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

“Insurance Policy” means each primary, excess and umbrella insurance policy, bond and other forms of insurance owned or held by or on behalf, or providing insurance coverage to the Business, Sellers and their operations, properties and assets, including, without limitation, to the extent applicable, all stop-loss insurance policies with respect to Sellers’ self-insured medical and/or dental insurance programs.

“Intellectual Property” means, collectively, in the United States and all countries or jurisdictions foreign thereto, (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all Patents, (b) all Trademarks, all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all moral rights, copyrights and other rights in any work of authorship, compilation, derivative work or mask work and all applications, registrations, and renewals in connection therewith, (d) all trade secrets and confidential business information (including confidential ideas, research and development, know-how, methods, formulas, compositions, production processes and techniques, technical and other data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) Software, (f) all other proprietary and intellectual property rights, (g) all copies and tangible embodiments of any of the foregoing (in whatever form or medium), (h) the exclusive right to display, perform, reproduce, make, use, sell, distribute, import, export and create derivative works or improvements based on any of the foregoing and (i) all income, royalties, damages and payments related to any of the foregoing (including damages and payments for past, present or future infringements, misappropriations or other conflicts with any intellectual property), and the right to sue and recover for past, present or future infringements, misappropriations or other conflict with any intellectual property.

“Intellectual Property Assignments” has the meaning set forth in Section 2.8(a)iii.

“Inventory” means all of Sellers’ now owned and hereafter acquired raw materials and work-in-process therefor and all of Sellers’ tangible property used in the operation of the Business or that are otherwise included in the Acquired Assets and are permitted to be sold and transferred under applicable Law.

“IRC” means the United States Internal Revenue Code of 1986, as amended.

“Law” means any federal, state, provincial, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance (including with respect to zoning or other land use matters), code, treaty, convention, rule, regulation, requirement, edict, directive, pronouncement, determination, proclamation or Decree of any Governmental Entity.

“Leased Real Property” means all leasehold or sub-leasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property of Sellers and Acquired Entities which is used in the Business.

“Leases” means all leases, subleases, licenses, concessions and other Contracts, including all amendments, extensions, renewals, guaranties and other agreements with respect thereto, in each case pursuant to which any Seller holds any Leased Real Property.

“Liabilities” means any Indebtedness, liabilities, demands, commitments or obligations of any nature whatsoever, whether accrued or unaccrued, absolute or contingent, direct or indirect, asserted or unasserted, fixed or unfixed, known or unknown, choate or inchoate, perfected or unperfected, liquidated or unliquidated, secured or unsecured, or otherwise, whether due or to become due, whether arising out of any Contract or tort and whether or not the same would be required by GAAP to be stated in financial statements or disclosed in the notes thereto.

“Lien” means any mortgage, deed of trust, hypothecation, contractual restriction, pledge, lien, encumbrance, interest, charge, security interest, put, call, other option, right of first refusal, right of first offer, servitude, right of way, easement, conditional sale or installment contract, finance lease involving substantially the same effect, security agreement or other encumbrance or restriction on the use, transfer or ownership of any property of any type (including real property, tangible property and intangible property and including any “Lien” as defined in the Bankruptcy Code).

“Litigation” means any action, cause of action, suit, claim, investigation, mediation, audit, grievance, demand, hearing or proceeding, whether civil, criminal, administrative or arbitral, whether at law or in equity and whether before any Governmental Entity or arbitrator.

“Material Adverse Effect” means any change, event, effect, development, condition, circumstance or occurrence (when taken together with all other changes, events, effects, developments, conditions, circumstances or occurrences), that (a) is materially adverse to the financial condition, value or results of operations of the Acquired Assets (taken as a whole) or the Business; provided, however, that no change, event, effect, development, condition, circumstance or occurrence related to any of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: (i) national or international business, economic, political or social conditions, including the engagement by the United States of America in hostilities, affecting (directly or indirectly) the industry in which the Business operates, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States of America or any of its territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States of America, except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (ii) financial, banking or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index), except to the extent that such change has a materially disproportionate adverse effect on Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (iii) compliance with this Agreement or any Related Agreement, including the taking of any action required hereby or thereby or the failure to take any action that is not permitted hereby or thereby; (iv) any changes directly attributable to the announcement of this Agreement or any Related Agreement; (v) any changes directly resulting from the selection of Buyer; (vi) resulting from any act of God or other force majeure event (including natural disasters); and (vii) SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemics or disease outbreaks (“COVID-19”) or any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, shut down, closure, sequester or any other Law, order, directive, guidelines or recommendations by any Governmental Entity in connection with or in response to COVID-19; or (vii) in the case

of Sellers or the Business, (A) the failure to meet or exceed any projection or forecast or (B) changes in the business or operations of Sellers or any of their respective Affiliates (including changes in credit terms offered by suppliers or financing sources) resulting from the announcement or the filing of the Chapter 11 Cases or Sellers' and their respective Affiliates' financial condition or Sellers' and certain of their respective Affiliates' status as debtors under Chapter 11 of the Bankruptcy Code or (b) would reasonably be expected to prevent, materially delay or materially impair to the ability of any Seller to consummate the transactions contemplated by this Agreement or the Related Agreements on the terms set forth herein and therein.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA and that is subject to Title IV of ERISA, to which any Seller or ERISA Affiliate makes or is obligated to make contributions, or during the preceding six plan years, has made or been obligated to make contributions.

"Non-Real Property Contracts" means the Contracts to which any Seller is a party other than the Leases.

"Offeree" has the meaning set forth in Section 6.4(a).

"Ohio Litigation" means the litigation captioned *LCA-Vision, Inc. dba LasikPlus and Columbus Eye Associates, Inc. v. LVI Intermediate Holdings, Inc. d/b/a Vision Group Holdings, The LASIK Vision Institute, LLC, TLC Vision Centers, LLC, Lasik MD, Inc., Mark Cohen, M.D., Avi Wallerstein, M.D. and Jason Greenberg*, Hamilton County Court of Common Pleas Case No. A1901821.

"Ordinary Course of Business" means the ordinary course of business of Sellers consistent with past custom and practice and subject to any modifications of such practice as a result of the filing of the Chapter 11 Cases.

"Parties" has the meaning set forth in the preamble.

"Patents" means all letters patent and pending applications for patents of the United States and all countries and jurisdictions foreign thereto and all reissues, reexamined patents, divisions, continuations, continuations-in-part, revisions, and extensions thereof.

"Pension Plan" means any employee pension benefit plan (as defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by a Seller or ERISA Affiliate or to which any Seller or ERISA Affiliate contributes or has an obligation to contribute, or has made contributions at any time during the preceding six plan years.

"Permit" means any franchise, approval, permit, license, order, registration, certificate, variance, Consent, exemption or similar right issued, granted, given or otherwise obtained from or by any Governmental Entity, under the authority thereof or pursuant to any applicable Law.

"Permitted Liens" means (a) Liens for Taxes not yet payable; (b) mechanics liens and similar liens for labor, materials or supplies provided with respect to real property incurred in the Ordinary Course of Business for amounts which are not delinquent and which secure only

Assumed Liabilities; (c) with respect to real property, zoning, building codes and other land use Laws regulating the use or occupancy of such real property or the activities conducted thereon which are imposed by any Governmental Entity having jurisdiction over such real property which are not violated by the current use or occupancy of such real property or the operation of the Business, except where any such violation would not, individually or in the aggregate, materially impair the use, operation or transfer of the affected property or the conduct of the Business thereon as it is currently being conducted; (d) easements, covenants, conditions, restrictions and other similar matters affecting title to real property and other encroachments and title and survey defects that do not or would not materially impair value or the use or occupancy of such real property or materially interfere with the operation of the Business at such real property; and (e) Liens in respect of any obligations as lessee under capitalized leases entered into in the Ordinary Course of Business and which secure obligations under the Assumed Contracts.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or any other entity, including any Governmental Entity or any group or syndicate of any of the foregoing.

“Petition Date” means May 29, 2020.

“Plan” means a plan of reorganization or liquidation proposed by the Sellers and/or the Committee.

“Pre-Closing Tax Period” means a taxable period of a Seller, Acquired Entity, or an Acquired Asset that begins before and ends on or before the Closing Date.

“Priority Claim” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code.

“Purchase Price” has the meaning set forth in Section 2.5.

“Records” means any and all books, records, information, ledgers, files, invoices, documents, work papers, financial records, correspondence, lists (including customer lists, supplier lists and mailing lists), plans (whether written, electronic or in any other medium), drawings, designs, specifications, creative materials, advertising and promotional materials, marketing plans, studies, reports, data and similar materials related to the Business in whatever medium or form maintained.

“Registered” means issued by, registered with, renewed by or the subject of a pending application before any Governmental Entity or domain name registrar.

“Related Agreements” means the Bill of Sale, the Assignment and Assumption Agreement and the Intellectual Property Assignments and any other instruments of transfer and conveyance as may be required under applicable Law to convey valid title of the Acquired Assets to Buyer.

“Related Party” means any officer, director, manager or direct or indirect equity holder of any Seller or Acquired Entity, or any other Affiliate of any Seller or Acquired Entity, or any member of the immediate family of the foregoing.

"Representative" of a Person means such Person's Subsidiaries and the officers, directors, managers, employees, advisors, representatives (including its legal counsel and its accountants) and agents of such Person or its Subsidiaries.

"Sale Order" means an order of the Bankruptcy Court entered in the Chapter 11 Cases that is acceptable to Buyer and Sellers.

"Seller" or **"Sellers"** has the meaning set forth in the preamble.

"Sellers' Knowledge" means, when referring to the "knowledge" of any Seller, or any similar phrase or qualification based on knowledge of any Seller, the actual knowledge of any of Lisa Melamed, Justin Potts and Ray Monteleone.

"Software" means all websites, computer software and firmware (including source code, executable code, data, databases, user interfaces and related documentation).

"Straddle Period" means a taxable period of the Business or with respect to any Acquired Asset that commences before the Closing Date and ends after the Closing Date. Taxes arising on or with respect to the Business, Acquired Assets, or any Employees of the Sellers or their Affiliates with respect to a Straddle Period shall be allocated and apportioned to a Pre-Closing Tax Period for the purposes of this Agreement in accordance with the following rule: (I) any property or ad valorem Taxes on the Business or Acquired Assets shall be apportioned to a Pre-Closing Tax Period based on the number of days in the taxable period ending on the Closing Date over the numbers of days in the whole taxable period, and (II) all other Taxes shall be apportioned to a Pre-Closing Tax Period to the extent incurred as if the Closing Date ended the taxable period.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or other persons performing similar functions with respect to such corporation) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof and for this purpose, a Person or Persons owns a majority ownership interest in such a business entity (other than a corporation) if such Person or Persons shall be allocated a majority of such business entity's gains or losses or shall be or control any managing director, managing member, or general partner of such business entity (other than a corporation). The term "Subsidiary" shall include all Subsidiaries of such Subsidiary.

"Tax" or **"Taxes"** means any United States federal, state or local or non-United States income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the IRC), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, real property, personal property, ad valorem, escheat, sales, use, liquor, cigarette, transfer, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, whether

computed on a separate or consolidated, unitary or combined basis or in any other manner, including any interest, penalty or addition thereto, whether or not disputed, and including any tax imposed as a result of being a transferee, successor or by contract.

“Tax Return” means any return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Trademarks” means, in the United States and all countries and jurisdictions foreign thereto, registered trademarks, registered service marks, trademark and service mark applications, unregistered trademarks and service marks, registered trade names and unregistered trade names, corporate names, fictitious names, registered trade dress and unregistered trade dress, logos, slogans, Internet domain names, rights in telephone numbers and text numbers and codes, and other indicia of source, origin, endorsement, sponsorship or certification, together with all translations, adaptations, derivations, combinations and renewals thereof.

“Transfer Tax” has the meaning set forth in Section 6.6.

“Transferred Employee” has the meaning set forth in Section 6.4(a).

“WARN Act” means the United States Worker Adjustment and Retraining Notification Act, or any similar applicable federal, state, provincial, local, municipal, foreign or other Law.

ARTICLE II PURCHASE AND SALE

Section 2.1 Purchase and Sale of Acquired Assets. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, on the terms and subject to the conditions set forth in this Agreement, at the Closing, Buyer shall purchase, acquire and accept from Sellers, and Sellers shall sell, transfer, assign, convey and deliver to Buyer, all of the Acquired Assets, free and clear of all Liens (other than Permitted Liens), for the consideration specified in Section 2.5. Without limiting the generality of the foregoing, the Acquired Assets shall include, without limitation, the following (except to the extent expressly included as an Excluded Asset):

- (a) all Accounts Receivable of Sellers as of the Closing;
- (b) all Inventory of Sellers as of the Closing, including all rights of Sellers to receive such Inventory, supplies and materials which are on order as of the Closing;
- (c) all Assumed Contracts that have been assumed by and assigned to Buyer pursuant to Section 2.6;
- (d) all Intellectual Property owned by Sellers and all of Sellers' rights to use other Intellectual Property;
- (e) all open purchase orders with suppliers for goods and services to be provided to the Business operations at the Continuing Centers;

(f) all items of machinery, equipment, supplies, furniture, fixtures, leasehold improvements (to the extent of Sellers' rights to any leasehold improvements under the Leases that are Assumed Contracts) owned by Sellers as of the Closing at the Continuing Centers, including the Seller's rights to all lasers located at the Continuing Centers, subject, however, solely with respect to any lasers covered by the Alcon Contracts, to the Alcon Contracts being included in the Assumed Contract List at the time of Closing (i.e. if the Alcon Contracts are not on the Assumed Contract List and are therefore rejected as of Closing, any lasers covered by the Alcon Contracts shall not be included in the Acquired Assets);

(g) all Records related to the Acquired Assets (including all medical records of patients of the Business provided such transfer is made in compliance with applicable regulatory requirements regarding the transfer of same, which the parties hereby agree to comply with Sections 6.1 and 6.2) and Assumed Liabilities, other than Records related to income Taxes of the Sellers;

(h) all goodwill associated with the Business or the Acquired Assets, including all goodwill associated with the Intellectual Property owned by Sellers and all rights under any confidentiality agreements executed by any third party for the benefit of any of Sellers to the extent relating to the Acquired Assets and/or the Assumed Liabilities (or any portion thereof);

(i) all rights of Sellers under non-disclosure or confidentiality, noncompete, or nonsolicitation agreements with Current Employees or Former Employees, directors, consultants, independent contractors and agents of any of Sellers;

(j) without limitation of clause (i), all rights of Sellers under non-disclosure or confidentiality agreements executed by any third party in favor of Sellers prior to the Closing;

(k) all of the Assumed Permits or all of the rights and benefits accruing under any Permits relating to the Continuing Centers;

(l) the amount of, and all rights to any, insurance proceeds received by any of Sellers after the date hereof in respect of (i) the loss, destruction or condemnation of any Acquired Assets occurring prior to, on or after the Closing or (ii) any Assumed Liabilities;

(m) all other rights, demands, claims, credits, allowances, rebates or other refunds (including any vendor or supplier rebates) and rights in respect of promotional allowances or rights of setoff and rights of recoupment of every kind and nature (whether or not known or unknown or contingent or non-contingent), other than against Sellers as of the Closing, including all deposits (including, without limitation, deposits in transit, customer deposits and security deposits (whether maintained in escrow or otherwise) for rent, electricity, telephone utilities, or otherwise), advances and prepayments;

(n) except for the Excluded Claims, all causes of action, lawsuits, judgments, claims, refunds, rights of recovery, rights of set-off, counterclaims, defenses, demands, warranty claims, rights to indemnification, contribution, advancement of expenses or reimbursement, or similar rights of any Seller (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, now existing or hereafter acquired, contingent or noncontingent) including all claims of Sellers in the Ohio Litigation and the Florida Litigation;

(o) all rights under or pursuant to all warranties, representations and guarantees made by suppliers, manufacturers, contractors and any other Person;

(p) the right to receive and retain mail relating to, Accounts Receivable payments and other communications of Sellers and the right to bill and receive payment for services performed but unbilled or unpaid as of the Closing;

(q) all telephone numbers, fax numbers, e-mail addresses, websites, URLs sms/text numbers, and internet domain names;

(r) without duplication of the above, all other current assets of Sellers as of the Closing;

(s) all rights under any surety bonds;

(t) all reversionary rights in cash collateral securing any letters of credit or similar instruments on the Sellers' behalf;

(u) all Equity Securities held by any Seller in the Persons listed under the heading "Acquired Entities" on Exhibit A hereto (the "Acquired Entities");

(v) all ad valorem Tax refunds and credits with respect to any Acquired Assets and any Transfer Taxes refunds or credits with respect to the Acquired Assets relating to the period of time after the Closing Date;

(w) all other assets that are related to or used in connection with the Acquired Assets or the Business (but excluding all of the Excluded Assets);

(x) the Included Avoidance Actions, which shall not be pursued by Buyer or assigned by Buyer to any third party; provided however, that the foregoing shall not prohibit Buyer from asserting such claims for purposes of set-off or recoupment purposes.

Notwithstanding anything herein to the contrary, Buyer may, from time to time until two (2) days prior to the Closing Date, amend the Acquired Assets so as to include additional assets in its sole and absolute discretion until the Closing, including, by way of example, equipment or machinery at an Excluded Center (except that Buyer may not add as an Acquired Asset anything specifically listed as an Excluded Asset below without the prior written consent of Sellers (except with respect to Section 2.2(c) below)); and provided that no such addition shall result in any adjustment to the Purchase Price. Furthermore, Buyer may, from time to time until two (2) days prior to the Closing

Date, remove any Acquired Asset from this Section 2.1 in its sole and absolute discretion and elect to treat such Contract, Permit, Equity Securities or other assets as an Excluded Asset.

Section 2.2 Excluded Assets. Notwithstanding Section 2.1, Buyer and Sellers expressly understand and agree that Buyer is not purchasing or acquiring, and Sellers are not selling or assigning, any of the following assets, properties and rights of Sellers (the “**Excluded Assets**”):

(a) all of Sellers’ certificates of incorporation and other organizational documents, qualifications to conduct business as a foreign entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, stock certificates and other documents solely relating to the organization, maintenance and existence of any Seller as a corporation, limited liability company or other entity;

(b) all Equity Securities of any Seller and any of their Subsidiaries (other than the Acquired Entities), including for the avoidance of doubt, Equity Securities of LVI Intermediate Holdings II, LLC, Sunglasses Intermediate Blocker, Inc., TLC Vision Capital, LLC and TLC Vision (Canada) Corp., which shall be Excluded Assets hereunder;

(c) all Leases (and related Leased Real Property) and Contracts, in each case, other than the Assumed Contracts;

(d) the Excluded Claims;

(e) any (1) Records that Sellers are required by Law to retain and (2) any Records or other documents relating to the Chapter 11 Cases that are protected by the attorney-client privilege;

(f) all Permits other than the Assumed Permits (or rights described in Section 2.1(k) above);

(g) all directors’ and officers’ liability insurance policies;

(h) the rights of Sellers under this Agreement and all cash and non-cash consideration payable or deliverable to Sellers under this Agreement;

(i) Income Tax Refunds and income Tax records of the Sellers;

(j) all cash, cash equivalents, credit card and financing receipts in transit prior to the Closing Date, bank deposits and similar cash items of Sellers, subject, in each case, to the provisions of Section 6.9;

(k) any unused retainers paid by the Sellers to any third party prior to the Closing (for professional services or otherwise) or any amounts remaining in any escrow or similar account used to fund the same;

- (l) the Excluded Avoidance Actions;
- (m) all Employee Plans (including all assets, trusts, insurance policies and administration service contracts related thereto); and
- (n) all rights to escrow deposits or to amounts held as a "holdback" in connection with the purchase or sale of any business, division or assets that are set forth on Schedule 2.2(n).

Section 2.3 Assumption of Assumed Liabilities. On the terms and subject to the conditions of this Agreement, at the Closing (or, with respect to Assumed Liabilities under Assumed Contracts or Assumed Permits that are assumed by Buyer after the Closing, such later date of assumption as provided in Sections 2.6), Buyer shall assume and become responsible for the Assumed Liabilities and no other Liabilities of Sellers or any of their Affiliates; provided, however, that the foregoing is subject to the payment of any applicable Cure Amounts pursuant to the terms hereof.

Section 2.4 Excluded Liabilities. Notwithstanding anything herein to the contrary, the Parties expressly acknowledge and agree that Buyer shall not assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any Liabilities of any Seller, whether existing on the Closing Date or arising thereafter, other than the Assumed Liabilities (all such Liabilities that Buyer is not assuming being referred to collectively as the "Excluded Liabilities"). For purposes of this Section 2.4, "a Seller" shall be deemed to include all Affiliates of such Seller (including but not limited to any Acquired Entities) and any predecessors to such Seller and any Person with respect to which such Seller is a successor-in-interest (including by operation of Law, merger, liquidation, consolidation, assignment, assumption or otherwise). For the avoidance of doubt and without limiting the generality of the foregoing, all of the following shall be Excluded Liabilities:

- (a) Excluded Taxes;
- (b) all Liabilities of the Sellers relating to legal services, accounting services, financial advisory services, investment banking services or any other professional services ("Professional Services") performed in connection with this Agreement and any of the transactions contemplated, hereby, and any claims for such Professional Services, whether arising before or after the Petition Date;
- (c) all Liabilities of any Seller relating to or arising from any collective bargaining agreement (including any related multi-employer pension plan);
- (d) all Liabilities relating to severance, retention and termination agreements with the Current Employees and all Former Employees, including, without limitation, any severance obligations under the Contracts listed on Schedule 2.6(a) related to the transactions contemplated herein;
- (e) all Liabilities arising out of, relating to, or with respect to any notice pay or benefits (including under COBRA) and claims under the WARN Act with respect to any Current Employee or any Former Employees;

(f) all Liabilities arising out of, relating to, or with respect to any Employee Plans;

(g) all Liabilities of a Seller in respect of Indebtedness (except to the extent of any Cure Amounts under any Assumed Contracts, and except with respect to any capitalized leases that are Assumed Contracts);

(h) all Liabilities arising in connection with any violation of any applicable Law relating to the period prior to the Closing by a Seller or any of its Affiliates;

(i) all Liabilities of Sellers under this Agreement and the Related Agreement and the transactions contemplated hereby or thereby (excluding all the Assumed Liabilities);

(j) draft or checks of Sellers outstanding on the Closing Date;

(k) all Liabilities of Sellers and any of their Affiliates pursuant to any pending Litigation as of the date hereof and as of the Closing Date, including, without limitation, the actions and proceedings (and all Liabilities related thereto) identified on Schedule 2.4(k) hereto and any Litigation listed in Section 3.8 of the Disclosure Schedule; and

(l) all Liabilities of Sellers incurred in connection with, or related to, the administration of the Chapter 11 Cases, including, without limitation, any accrued professional fees and expenses of attorneys, accountants, financial advisors and other professional advisors related to the Chapter 11 Cases.

Section 2.5 Consideration.

(a) In consideration of the sale of the Business and the Acquired Assets to Buyer, and in reliance upon the representations, warranties, covenants and agreements of Sellers set forth herein, and upon the terms and subject to the conditions set forth herein, the aggregate consideration for the sale and transfer of the Acquired Assets (the "Purchase Price") shall be composed of the following:

i. the payment of an amount in cash (the "Cure Amount Payment") equal to the Cure Amounts related to the Assumed Contracts; PLUS

ii. Thirty Five Million Dollars (\$35,000,000.00) (the "Cash Payment"); PLUS

iii. the assumption by Buyer of the Assumed Liabilities; MINUS

iv. an amount equal to the Cure Cost Reduction, if any, provided, however such amount shall not exceed the Cure Cost Reduction Cap.

(b) Buyer will make an earnest money deposit (the "Deposit") in the amount of Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) to an escrow agent

designated by Sellers. The Deposit shall be applied against payment of the Purchase Price on the Closing Date. Subject to the termination provisions set forth in Article IX, if this Agreement shall be (i) mutually terminated by the Parties pursuant to Section 9.1(a), or (ii) terminated by Buyer pursuant to Section 9.1(b), Section 9.1(d), Section 9.1(e), Section 9.1(f), Section 9.1(g), or Section 9.1(h) hereof, then the Deposit shall be returned to Buyer within two (2) Business Day after Sellers' receipt of Buyer's written request therefore. If this Agreement shall be terminated by the Sellers solely pursuant to Section 9.1(c) hereof by reason of Buyer breaching any representation, warranty or covenant contained herein, then Sellers shall retain the Deposit pending a determination of Buyer's ultimate liability (as determined by a final non-appealable judicial order, binding arbitration order, or the written agreement of Buyer), at which time Sellers shall have the right to apply the Deposit to the Sellers' actual damages due to the Buyer's breach, and all damages that Sellers may recover hereunder shall be limited to an aggregate amount of no more than Sixteen Million Five Hundred Thousand Dollars (\$16,500,000), inclusive of the Deposit (the "Liability Cap"); provided, however that the Liability Cap shall not apply to Buyer's fraud, intentional misrepresentation or willful misconduct. All of Buyer's obligations contained in this Section 2.5 shall be funded by Buyer's parent company pursuant to the terms of the Equity Commitment Agreement, which the Sellers are a third-party beneficiary of; provided, however, that Buyer acknowledges and agrees that a default by Buyer's parent company under the Equity Commitment Agreement shall in no way limit, waive or otherwise modify, in any instance, any of Buyer's obligations under this Agreement.

Section 2.6 Assumption and Assignment of Contracts; Acquired Entity Equity.

(a) Section 2.6(a) of the Disclosure Schedule (the "Assumed Contract List") sets forth a list of all Contracts to which a Seller is a party and which Buyer has designated to be included as an Assumed Contract, together with estimated Cure Amounts for each Assumed Contract ("Estimated Cure Amounts"). In addition to the Buyer's rights pursuant to Section 5.9, from and after the date hereof, until two (2) days prior to the Closing, Buyer shall be entitled to make additions and deletions to the Assumed Contract List by delivery of written notice to Sellers (which shall then serve notice on the non-debtor counterparties to each of the Contracts so added or deleted); provided that Buyer shall pay any net increase in the sum of Cure Amounts and non-debtor counterparties' Administrative Claims resulting directly from such designation of additional Assumed Contracts (the intent being that there will be no net negative effect on the bankruptcy estate due to a net increase in Cure Amounts and non-debtor counterparties' Administrative Claims resulting from any additional assumptions). Any such deleted Contract shall be deemed to no longer be an Assumed Contract and any such added Contract shall be deemed an Assumed Contract. Any Contract that is designated (or deemed to be designated) for exclusion and rejection pursuant to this Section 2.6(a) by virtue of being omitted from the Assumed Contract List on the Closing Date shall constitute an "Excluded Contract" as of the Closing Date.

(b) In connection with the assumption and assignment to Buyer of any Assumed Contract that is executory pursuant to this Section 2.6, the allowed cure amounts, if any (such amounts, the "Cure Amounts"), necessary to cure all monetary defaults, if any, and to pay all actual or pecuniary losses that have resulted from such

defaults under the Assumed Contracts, shall be paid by Buyer at the Closing as part of the Purchase Price in Section 2.5(a). For the avoidance of doubt and notwithstanding anything else contained herein to the contrary, in the event Buyer elects to delete certain Contracts from the Assumed Contract List pursuant to Section 2.6(a), Buyer shall not be responsible for payment of the Cure Amounts with respect to such Contracts, nor shall any Cure Amount with respect to such Contracts be included in the computation of the Purchase Price.

(c) Sellers shall use their respective reasonable best efforts to obtain an order of the Bankruptcy Court to assign the Assumed Contracts to Buyer (the "Assumption Approval") on the terms set forth in this Section 2.6. In the event Sellers are unable to assign any such Assumed Contract to Buyer pursuant to an order of the Bankruptcy Court, then the Parties shall use their commercially reasonable efforts to obtain, and to cooperate in obtaining, all Consents from Governmental Entities and third parties necessary to assume and assign such Assumed Contracts to Buyer, including, in the case of Buyer, paying any applicable Cure Amounts; provided, however, that (i) Sellers shall not incur any costs associated with the obligations hereunder that are not otherwise paid by Buyer and (ii) Sellers' obligations hereunder shall only continue until the Chapter 11 Cases are closed or dismissed.

(d) Buyer may, following review of documentation pertaining to the Acquired Entities, elect not to take title to such equity and, at its election, require the assets of the Acquired Entities be added to the Acquired Assets and Sellers shall cause the Acquired Entities to deliver such assets at Closing. If Buyer should so elect to acquire the assets of the Acquired Entities rather than the equity of the Acquired Entities, Sellers shall make commercially reasonable efforts to accommodate such election to the fullest extent possible. For the avoidance of doubt, the election afforded to Buyer under this Section 2.6(d) is not available with respect to those Acquired Entities designated as "Section 2.6(d) Election Excluded" on Exhibit A.

Section 2.7 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place remotely by electronic exchange of counterpart signature pages commencing at 11:00 a.m. local time on the date (the "Closing Date") that is the first Business Day after the date on which all conditions to the obligations of Sellers and Buyer to consummate the Contemplated Transactions set forth in Article VII (other than conditions with respect to actions Sellers and/or Buyer will take at the Closing itself, but subject to the satisfaction or waiver of those conditions at the Closing) have been satisfied or waived, or at such other time or on such other date as shall be mutually agreed upon by Sellers and Buyer prior thereto. The Closing shall be deemed to have occurred at 11:59 p.m. (prevailing Eastern time) on the Business Day prior to the Closing Date.

Section 2.8 Deliveries at Closing.

(a) At the Closing, Sellers shall deliver to Buyer the following documents and other items, duly executed by Sellers, as applicable:

i. one or more Bills of Sale substantially in the form of Exhibit B attached hereto ("Bill of Sale");

ii. one or more assignment and assumption agreements providing for the assignment of the Assumed Contracts from Sellers to Buyer and the assumption of such Assumed Contracts by Buyer in substantially in the form of Exhibit C attached hereto (each such agreement referred to herein as an "Assignment and Assumption Agreement");

iii. instruments of assignment substantially in the forms of Exhibit D, Exhibit E and Exhibit F attached hereto for each registered trademark, registered copyright and domain name, respectively, transferred or assigned hereby and for each pending application therefor (collectively, the "Intellectual Property Assignments");

iv. a duly executed IRS Form W-9 from each Seller and a non-foreign affidavit from each Seller dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under Treasury Regulations issued pursuant to Section 1445 of the IRC stating that such Seller is not a "foreign person" as defined in Section 1445 of the IRC;

v. a mutual release and covenant not to sue as between the Sellers on the one hand and LCA Vision, Inc. on the other in regard to the Ohio Litigation and the Florida Litigation, which release shall be binding upon Sellers and any successor thereto (including any plan administrators or trustees appointed in the Chapter 11 Cases or any converted case);

vi. the officer's certificate required by Section 7.1(f);

vii. a certified copy of the Sale Order;

viii. such other customary closing documents, instruments, certificates and agreements as may be reasonably requested or required by Buyer (excluding, for the avoidance of doubt, third party agreements or consents).

(b) At the Closing, Buyer shall deliver to Sellers, or the designated third-party recipients pursuant to Section 2.5, the following documents, cash amounts and other items, duly executed by Buyer, as applicable:

i. the Assignment and Assumption Agreement(s);

ii. the Cash Payment (as adjusted pursuant to Section 2.10(b), if applicable) and the Cure Amount Payment, each by wire transfer of immediately

available funds to one or more bank accounts designated by Sellers or the designated third-party recipients thereof (including to such other third party recipients as provided in Section 2.5(a)) in writing to Buyer;

iii. the officer's certificate required by Section 7.2(e); and

iv. such other customary closing documents, instruments, certificates and agreements as may be reasonably requested or required by Sellers excluding, for the avoidance of doubt, third party agreements or consents).

Section 2.9 Allocation. The Parties agree and intend that the transactions contemplated herein are intended to constitute a taxable asset acquisition for federal and state income Tax purposes and not as any "reorganization" within the meaning of Section 368 of the IRC. Within thirty (30) calendar days after the Closing Date, Buyer shall in good faith prepare an allocation of the Purchase Price (and all capitalized costs and other relevant items) among the Acquired Assets in accordance with Section 1060 of the IRC and the Treasury Regulations thereunder (and any similar provision of United States state or local or non-United States Law, as appropriate). Sellers shall have thirty (30) days following receipt of Buyer's proposed allocation to review and comment on such proposed allocation and Buyer shall consider such comments in good faith. Thereafter, Buyer shall provide Sellers with Buyer's final allocation schedule. Buyer and Sellers shall report, act and file Tax Returns (including Internal Revenue Service Form 8594) in all respects and for all purposes consistent with such allocation and this Section 2.9. Neither Buyer nor Sellers shall take any position (whether in audits, Tax Returns or otherwise) which is inconsistent with this Section 2.9 unless required to do so by a "determination" within the meaning of Section 1313 of the IRC to the contrary.

Section 2.10 Excluded Centers.

(a) As of the Closing, (i) any of Sellers' laser surgery center locations with respect to which the associated Leases have been designated by Buyer as Assumed Contracts in accordance with Section 2.6(a) shall be deemed to have been classified as Continuing Centers, and (ii) any of Sellers' laser surgery center locations with respect to which the associated Leases have been classified as Excluded Contracts in accordance with Section 2.6(a) shall be deemed to have been classified as Excluded Centers. If the actual Cure Costs (as determined by an order of the Bankruptcy Court) of the Assumed Contracts set forth on the Assumed Contract List as of the date of this Agreement (*see* bankruptcy docket no. 267) exceed the Estimated Cure Costs (defined above), as reduced by any removal or deletion of a Contract from the Assumed Contracts List following the date hereof, by more than \$250,000 in the aggregate, then the Purchase Price shall be reduced by the amount equal to (I) the actual Cure Costs, minus (II) the Estimated Cure Costs (as reduced by any removal or deletion of a Contract from the Assumed Contracts List following the date hereof), minus (III) \$250,000 (the "Cure Cost Reduction"). Subject to the Cure Cost Reduction Cap (as defined below), the Cash Payment due at Closing shall be reduced by the amount of the Cure Cost Reduction. For the avoidance of doubt,

i. Buyer remains entitled to delete Contracts from the Assumed Contract List as provided herein which will reduce the Estimated Cure Costs used

for purposes of determining the Cure Cost Reduction in accordance with this Section 2.10(b);

ii. The Estimated Cure Costs and Cure Cost Reduction relate only to the Assumed Contract List as of the date of this Agreement (*see* bankruptcy docket no. 267) and Buyer will be obligated to pay any additional Cure Costs related to any Assumed Contracts which are added after the date of this Agreement and such additional Cure Costs associated with such additions will not be included in the computation of the Cure Cost Reduction; and

Section 2.11 Proration.

(a) On the Closing Date, all monthly payments (including without limitation, rent, real estate taxes, maintenance charges, water and sewer charges and utility charges) for the month in which the Closing occurs under the Assumed Contracts (the "Monthly Prorated Charges") shall be apportioned and prorated between the Seller and the Purchaser as of the Closing Date with (i) the Purchaser bearing the expense of the Purchaser's proportionate share of each such Monthly Prorated Charge that shall be equal to the product obtained by multiplying (A) a fraction, the numerator being the amount of the applicable Monthly Prorated Charge under each Assumed Contracts and the denominator being the total number of days in the applicable billing period in which the Closing occurs, times (B) the number of days in such billing period following the day that immediately precedes the Closing Date, and (ii) the Seller bearing the remaining portion of such Monthly Prorated Charges.

(b) If any of the items subject to apportionment under the foregoing provision cannot be apportioned at the Closing because of the unavailability of the information necessary to compute such apportionment, or if any errors or omissions in computing apportionments at the Closing are discovered subsequent to such Closing, such item shall be reapportioned and such errors and omissions corrected as soon as practicable after the Closing Date (for a period of ninety (90) days after the Closing Date) and the proper party reimbursed.

ARTICLE III SELLERS' REPRESENTATIONS AND WARRANTIES.

Each of the Sellers jointly and severally represents and warrants to Buyer that except as set forth in the disclosure schedule accompanying this Agreement (the "Disclosure Schedule"):

Section 3.1 Organization of Sellers; Good Standing; Capitalization of Acquired Entities.

(a) Each Seller and Acquired Entity is duly organized, validly existing and, to the extent applicable, in good standing under the Laws of its state of formation and has all necessary power and authority to own, lease and operate its properties and to conduct its business in the manner in which its Business is currently being conducted. Each Seller and Acquired Entity has all requisite corporate or similar power and authority to own, lease and operate its assets and to carry on the Business as currently conducted.

(b) Each Seller and Acquired Entity is duly authorized to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership or operation of the Acquired Assets or the conduct of the Business requires such qualification, except for failures to be so authorized or be in such good standing, as would not, individually or in the aggregate, have a Material Adverse Effect.

(c) None of the Sellers has any Subsidiaries (other than other Sellers, TLC Vision Capital, LLC, LVI Intermediate Holdings II, LLC, Sunglasses Intermediate Blocker, Inc., TLC Vision Capital, LLC, TLC Vision (Canada) Corp., Laser Vision Center of Edina, LLC, Eau Claire Refractive, LLC, Providence Refractive LLC, Bismarck Refractive, LLC, TLC The Laser Center (Tri Cities), Inc., LASIK Management Jacksonville, LLC, LASIK Management Orlando, LLC, LASIK Management Tampa, LLC, LASIK Management Hackensack, LLC, LASIK Management Houston, LLC, LASIK Management Austin, LLC, LASIK Management Albany, LLC, LASIK Management Hartford, LLC, LASIK Management Indianapolis, LLC, LASIK Management Louisville, LLC, and LASIK Management Long Island, LLC).

(d) Section 3.1(d) of the Disclosure Schedules sets forth the entire authorized Equity Securities of the Acquired Entities and a complete and correct list of the issued and outstanding Equity Securities of the Acquired Entities, including the name of the record and beneficial owner thereof and the number of Equity Securities held thereby. All of the outstanding Equity Securities of each Acquired Entity have been duly authorized, validly issued and are fully paid and non-assessable. Except as set forth on Section 3.1(d) of the Disclosure Schedules, none of the Acquired Entities has any outstanding Equity Securities or other securities directly or indirectly convertible into or exchangeable for its Equity Securities, none of the Acquired Entities has any outstanding agreements, options, warrants or rights to directly or indirectly subscribe for or purchase, or that directly or indirectly require it to issue, transfer or sell, its Equity Securities or any securities directly or indirectly convertible into or exchangeable for its Equity Securities, and there are no agreements containing profit participation or phantom equity features with respect to any Acquired Entity. None of the Acquired Entities is subject to any obligation (contingent or otherwise) to redeem, repurchase or otherwise acquire or retire any of its Equity Securities or any warrants, options or other rights to acquire its Equity Securities. Except as set forth on Section 3.1(d) of the Disclosure Schedules, there are no voting agreements, voting trusts or other agreements, commitments or understandings with respect to the voting or transfer of Equity Securities or other securities of any Acquired Entity.

Section 3.2 Authorization of Transaction. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing:

(a) each Seller has all requisite corporate power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder; the execution, delivery and performance of this Agreement and all Related Agreements to which a Seller is a party have been duly authorized by such Seller and no other corporate action on the part of

any Seller is necessary to authorize this Agreement or the Related Agreements to which it is party or to consummate the Contemplated Transactions; and

(b) this Agreement has been duly and validly executed and delivered by each Seller, and, upon their execution and delivery in accordance with the terms of this Agreement, each of the Related Agreements to which any Seller is a party will have been duly and validly executed and delivered by each such Seller, as applicable. Assuming that this Agreement constitutes a valid and legally-binding obligation of Buyer, this Agreement constitutes the valid and legally-binding obligations of Sellers, enforceable against Sellers in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Assuming, to the extent that it is a party thereto, that each Related Agreement constitutes a valid and legally-binding obligation of Buyer, each Related Agreement to which any Seller is a party, when executed and delivered, constituted or will constitute the valid and legally-binding obligations of such Seller, as applicable, enforceable against Sellers, as applicable, in accordance with their respective terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

Section 3.3 Noncontravention; Consents and Approvals.

(a) Neither the execution and delivery of this Agreement, nor the consummation of the Contemplated Transactions (including the Assignments and Assumptions Agreements), will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, by-laws or other organizational documents of any Seller or Acquired Entity, (ii) violate any Law to which any Seller or Acquired Entity is, or its respective assets or properties are, subject, or (iii) subject to the entry of the Sale Order, conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Assumed Contract or any Contract to which an Acquired Entity is a party, and, in the case of clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, be material to the Business as a whole.

(b) Except as set forth in Section 3.3(b) of the Disclosure Schedule, subject to the Sale Order having been entered and still being in effect (and not subject to any stay pending appeal at the time of Closing), no Consent, notice or filing is required to be obtained by any Seller or Acquired Entity from, or to be given by any Seller or Acquired Entity to, or made by any Seller with, any Governmental Entity in connection with the execution, delivery and performance by any Seller of this Agreement or any Related Agreement. After giving effect to the Sale Order and any applicable order of the Bankruptcy Court authorizing the assignment and assumption of any Contract that is an Assumed Contract hereunder, no Consent, notice or filing is required to be obtained by any Seller or Acquired Entity from, or to be given by any Seller or

Acquired Entity to, or made by any Seller or Acquired Entity with, any Person that is not a Governmental Entity in connection with the execution, delivery and performance by any Seller of this Agreement or any Related Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, be material to the Business.

Section 3.4 Compliance with Laws. Sellers, the Acquired Entities and any of their respective Subsidiaries, whose assets or equity are being acquired, are in material compliance with and have not committed any material violation of any Laws applicable to the Business or the Acquired Assets, and no Seller or Acquired Entity has received any written notice, or, to Sellers' Knowledge, any other notice, within the past twelve months relating to violations or alleged violations or material defaults under any Law or any Permit, in each case, with respect to the Business.

Section 3.5 Title to Acquired Assets. Sellers, as of the Closing, have good and valid title to, or, in the case of leased assets, have good and valid leasehold interests in, the Acquired Assets, free and clear of all Liens (except for Permitted Liens), subject to entry of the Sale Order. At the Closing or such time as title is conveyed under Section 2.6, Sellers will convey, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, good and valid title to, or valid leasehold interests in, all of the Acquired Assets, free and clear of all Liens (except for Permitted Liens), to the fullest extent permissible under section 363(f) of the Bankruptcy Code and subject to the rights of licensees under section 365(n) of the Bankruptcy Code.

Section 3.6 Contracts. Section 3.6 of the Disclosure Schedule sets forth an accurate list, as of the date hereof, of all of the following Contracts to which a Seller or Acquired Entity is a party in a manner specifying which any Seller and/or Acquired Entity is party to any such Contracts (and Sellers have made available, or within one (1) day of the date hereof shall make available, to Buyer true and complete copies of all such Contracts):

(a) any Contract or Contracts, singly or in the aggregate, for the lease of personal property to or from any Person(s) providing for lease payments in excess of \$50,000 per annum;

(b) any Contract or Contracts, singly or in the aggregate for the purchase or sale of equipment, supplies, products or other personal property, the performance of which will extend over a period of more than six months after the Closing Date or involves consideration in excess of \$50,000 per annum;

(c) any Contract for services involving consideration in excess of \$50,000 per annum;

(d) any Contract that is a collective bargaining agreement;

(e) any material licenses of Intellectual Property to or from any Person (other than licenses for commercially-available, off-the-shelf or click-wrap software);

(f) any employment Contract as to which an employee is entitled to receive an annual salary in excess of \$50,000, and all material severance Contracts;

(g) any Contract prohibiting any Seller or Acquired Entity or any of their Affiliates from freely engaging in any material business or soliciting for employment, hiring or employing any Person;

(h) any Contract relating to Indebtedness;

(i) any Contract that involves the lease of real property or that obligates any Seller or Acquired Entity to purchase real property;

(j) any Contract that creates or governs a partnership, joint venture, strategic alliance or similar arrangement;

(k) any Contract (other than purchase orders entered into in the Ordinary Course of Business) with the twenty (20) largest suppliers of the Business, based on expenditures during the twelve (12) month period ended December 31, 2019;

(l) any Contract providing for indemnification by any Seller or Acquired Entity (other than standard terms and conditions of a Contract providing for the sale of products in the Ordinary Course of Business);

(m) any Contract related to the acquisition or sale by any Seller or Acquired Entity of any business, entity or division or material assets;

(n) each Contract with any Governmental Authority;

(o) each Contract that contains any fixed or indexed pricing, "most-favored nation" pricing or similar pricing terms or provisions regarding minimum volumes, volume discounts, or rebates;

(p) any management or professional services Contract, or purchase agreement, with any physician or medical practice (including all Purchase Agreements, dated as of March 1, 2019, entered into with a physician that provides for a "regional medical director" relationship with the Sellers (the "RMD Purchase Agreements"));

(q) any Contract with any optometrist or optometrist practice;

(r) any promissory note in favor of any Seller or Acquired Entity and any related Contracts;

(s) any Contract with any Related Party;

(t) any Insurance Policy; and

(u) each Contract not made in the Ordinary Course of Business or that is otherwise material.

With respect to each Contract listed on Section 3.6 of the Disclosure Schedule, such Contract is in full force and effect and constitutes the valid and legally-binding obligation of the applicable Seller or Acquired Entity and, to the Knowledge of Sellers, the counterparty thereto, enforceable against such Seller or Acquired Entity and the counterparty thereto in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

Section 3.7 Intellectual Property.

(a) Section 3.7 of the Disclosure Schedule sets forth a true and complete list of (i) all Registered Intellectual Property or Intellectual Property that is otherwise material to the Business, in each case, that is owned by any Seller or Acquired Entity and used in or related to the Business, (ii) all material Contracts pursuant to which any Seller or Acquired Entity obtains the right to use any Intellectual Property, and (iii) all material Contracts pursuant to which any Seller or Acquired Entity grants to any other Person the right to use any Intellectual Property. Sellers and the Acquired Entities own all such Registered Intellectual Property or material Intellectual Property free and clear of all Liens (except for Permitted Liens and subject to entry of the Sale Order), and all such Registered Intellectual Property is valid, subsisting and, to Sellers' Knowledge, enforceable, and is not subject to any outstanding Decree adversely affecting Sellers' use thereof or rights thereto. Sellers and the Acquired Entities have not granted any irrevocable or perpetual rights to any party in or to any such Intellectual Property, including, without limitation, the grant of irrevocable perpetual rights by any Sellers to the Acquired Entities.

(b) To Sellers' Knowledge and except as set forth on Section 3.7 of the Disclosure Schedule, none of the use of the Intellectual Property included in the Acquired Assets or owned by the Acquired Entities, the conduct of the Business as currently conducted, nor any of the products sold or services provided by Sellers or any of their Affiliates in connection therewith, infringes upon or otherwise violates the Intellectual Property of any other Person. To Sellers' Knowledge, no third party is infringing any Intellectual Property owned by any Seller or Acquired Entity and included in the Acquired Assets, including, without limitation, the use of Intellectual Property pursuant to any Contract listed on Section 3.6 of the Disclosure Schedule.

Section 3.8 Litigation. Section 3.8 of the Disclosure Schedule sets forth all material Litigation brought by or against any Seller or any Acquired Entity, and to Sellers' Knowledge, there is no other material Litigation threatened in writing against any Seller or Acquired Entity.

Section 3.9 Employees and Employment Matters. No Seller or Acquired Entity is a party to or bound by any collective bargaining agreement covering the Current Employees (as determined as of the date of this Agreement) or former employees of the Sellers, or Acquired Entities nor is there any ongoing strike, walkout, work stoppage, or other material collective bargaining dispute affecting any Seller or Acquired Entity with respect to the Business. To Sellers' Knowledge, there is no organizational effort being made or threatened by or on behalf of any labor

union with respect to the Current Employees (as determined as of the date of this Agreement). Within one (1) day of the date hereof, Sellers shall make available to Buyer a detailed list of all Current Employees (as of such date) that correlates to the Continuing Centers, Excluded Centers, and any other facilities operated by Sellers and their Affiliates in which such Current Employees fulfill their employment duties and indicates such Current Employee's active or inactive status (including those on short-term disability, leave of absence, paid or unpaid, or long-term disability).

Section 3.10 Employee Benefit Plans.

(a) Section 3.10 of the Disclosure Schedule lists each Employee Benefit Plan that Sellers or the Acquired Entities maintain or to which any Seller or Acquired Entity may have an obligation to contribute, including as a result of being an ERISA Affiliate, and specifically identifies which Sellers or Acquired Entities so maintain or have obligations to each such Employee Benefit Plan. With respect to each such Employee Benefit Plan:

i. such Employee Benefit Plan, if intended to meet the requirements of a "qualified plan" under Section 401(a) of the IRC, has received a favorable determination letter from the United States Internal Revenue Service or may rely on a favorable opinion letter issued by the United States Internal Revenue Service; and

ii. Sellers have made available to Buyer accurate summaries of all such Employee Benefit Plans.

(b) Each Employee Benefit Plan has been established, funded, maintained and administered in accordance with its terms and all applicable Laws, including ERISA and the IRC. As of the date hereof, there is no pending or, to Sellers' Knowledge, threatened, Litigation relating to the Employee Benefit Plans.

(c) No Seller or Acquired Entity has, or has had in the last six years, any liability to make contributions to any Pension Plan or Multiemployer Plan.

Section 3.11 Real Property.

(a) Neither Sellers nor any Acquired Entities own any real property.

(b) Section 3.11(b) of the Disclosure Schedule sets forth the address of each Leased Real Property, and a true and complete list of all Leases for such Leased Real Property. Sellers have made available to Buyer true and complete copies of such Leases, as amended through the date hereof.

Section 3.12 Permits. Section 3.12 of the Disclosure Schedule contains a list of all material Permits each Seller and the Acquired Entity holds as of the date hereof in connection with the operations of the Business. As of the date hereof, there is no Litigation pending or, to Sellers' Knowledge, threatened that seeks the revocation, cancellation, suspension, failure to renew or adverse modification of any Assumed Permits. To Sellers' Knowledge, all required filings with

respect to the Assumed Permits have been made and all required applications for renewal thereof have been filed.

Section 3.13 Brokers' Fees. Except for amounts due to Raymond James, no Seller or Acquired Entity has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Buyer could become liable or obligated to pay.

Section 3.14 Taxes. Except as set forth on Section 3.14 of the Disclosure Schedule:

(a) Each Seller and Acquired Entity has timely and duly filed all Tax Returns and Tax Returns that it was required to file (including by way of being a member of a consolidated, combined, or unitary tax group), and has paid all Taxes shown as due and payable on such Tax Returns and other Taxes due and owing, whether or not shown on a Tax Return. All such Tax Returns were true, correct, and complete in all material respects. Each Seller and Acquired Entity has withheld and paid over to the appropriate Tax authority all Taxes that it was required to withhold from amounts paid or owing to any employee, creditor or other third party and has obtained, and maintained in accordance with applicable Law, all required documentation to obtain any exemption from or reduction in rate for withholding.

(b) No Seller or Acquired Entity has waived any statute of limitations with respect to any Taxes or agreed to any extension of time with respect to any Tax assessment or deficiency that has not yet been resolved, in each case, with respect to the Business.

(c) No Seller or Acquired Entity has received written notice from any Governmental Entity that any audit or other examination of any Tax Return with respect to the Business is requested or presently in progress.

(d) No Seller or Acquired Entity has entered into, or has pending, with any Taxing authority any closing agreement, consent, letter ruling, determination letter, accounting method change, or other agreement with respect to its Taxes (and no other Person has entered into any such agreements, consents, or letter rulings on behalf of any Seller or Acquired Entity and no Governmental Entity has asserted against any Seller, any deficiency or claim for additional Taxes.

(e) There are no Liens for Taxes on any of the Acquired Assets, other than for property Taxes not yet due and payable.

(f) No Seller or Acquired Entity has received a written claim in the past six (6) years by any Governmental Entity in a jurisdiction where such Seller or Acquired Entity does not file Tax Returns that such Seller or Acquired Entity is or may be subject to Tax in that jurisdiction, in each case, with respect to the Business.

(g) No power of attorney currently in force has been granted by any Seller or Acquired Entity with respect to any Tax matter of a Seller or Acquired Entity or the Business and no power of attorney currently in force has been granted with respect to the Taxes of or related to the Business by any Acquired Asset.

(h) All compensation arrangements with any employee or other service provider to any Seller or Acquired Entity comply with, or are exempt from, IRC Section 409A and similar state and local laws, and no Seller or Acquired Entity has any obligation to make payment for, or indemnify, any Person for Taxes imposed by IRC Section 409A or any similar state or local law.

(i) No Acquired Asset is tax-exempt use property within the meaning of Section 168 of the IRC or subject to any lease that is a subject to Section 467 of the IRC or similar state law.

(j) Each Seller and Acquired Entity has properly obtained and maintained all exemption certificates and records necessary to comply with any excise, employment, withholding, license, sales, use, ad valorem, personal property, headcount, transfer, or similar Taxes and Buyer shall not have any liability with respect to any such Taxes of any Seller under Applicable Law.

(k) Buyer shall not be required to withhold any amount from the consideration payable under this Agreement to Sellers on account of Taxes of any Seller.

(l) Each Seller timely obtains and maintains all required documentation with respect to transfer pricing or intercompany pricing that is necessary to justify the arm's-length pricing standard of IRC section 482 to comply with IRC section 6662(e) to avoid penalties under Code section 6662 (or similar non-United States law).

(m) No Seller or Acquired Entity has deferred any payroll taxes with respect to any wages paid or incurred before the Closing Date.

(n) No Seller or Acquired Entity has participated or is participating in the transactions contemplated herein as part of a "listed transaction" or "reportable transaction" within the meaning of Treasury Regulation Section 1.6011-4(b), or any other similar transaction, structure, scheme or advice that was principally structured to avoid Taxes under applicable Law.

Section 3.15 Continuing Centers. Section 3.15 of the Disclosure Schedule sets forth all of the Continuing Centers and indicates which Continuing Centers, as of the date hereof, are currently open for business. The Acquired Assets and the Assumed Contracts as constituted on the date hereof are sufficient to permit Buyer to operate the Business at the Continuing Centers following the Closing (with exception of the Alcon Contracts to the extent no longer on the Assumed Contract List as of Closing) in substantially the same manner as conducted as of the date hereof (or, with respect to those Continuing Centers that have not opened, assuming such Continuing Centers were open and operated consistent with past experience).

Section 3.16 Inventory. Section 3.16 of the Disclosure Schedule lists all Inventory as of May 31, 2020. The Inventory reflected in Section 3.16 of the Disclosure Schedule is merchantable and fit for the purpose for which it was procured or manufactured, and is not damaged, defective or obsolete, subject only to the reserve set forth reflected in Section 3.16 of the Disclosure Schedule (which reserves are adequate and were calculated on a basis consistent with GAAP). The Inventory consists of a quality and quantity usable and saleable in the Ordinary Course of Business at a level sufficient to maintain the requirements of the Business.

Section 3.17 Insurance. Section 3.17 of the Disclosure Schedule contains a description of each insurance policy maintained by Sellers with respect to the Acquired Assets and the Business (including policies providing property, casualty, liability and workers' compensation coverage). Each such insurance policy is in full force and effect, all insurance premiums due thereon have been paid in full when due and payable thereon up to and including the Closing Date and no notice of cancellation, termination, default or nonrenewal has been issued or received by Sellers with respect to any insurance policy. To Sellers' Knowledge, any occurrence that may reasonably be expected to give rise to a claim under any insurance policy maintained by Sellers has been reported to the appropriate insurance carrier.

Section 3.18 Financials. Sellers' consolidated detail balance sheets for the 13 month end periods of December 2018 through December 2019 are consistent with the summary consolidated balance sheets that was made available to Buyer in section 1.1.2.1 of the virtual data room; and (ii) Sellers' center-level profit-and-loss statements for the 24 months of January 2018 through December 2019 are consistent with the financial information for its material business segments made available to Buyer in section 1.1.3.1 of the virtual data room.

Section 3.19 No Other Representations or Warranties. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS ARTICLE III (AS QUALIFIED, AMENDED, SUPPLEMENTED AND MODIFIED BY THE DISCLOSURE SCHEDULE), NEITHER A SELLER NOR ANY OTHER PERSON MAKES (AND BUYER IS NOT RELYING UPON) ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO SELLERS, THE BUSINESS, THE ACQUIRED ASSETS (INCLUDING THE VALUE, CONDITION OR USE OF ANY ACQUIRED ASSET), THE ASSUMED LIABILITIES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AND SELLERS DISCLAIM ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY SELLERS, ANY AFFILIATE OF SELLERS OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS Section 2.10(a) (AS QUALIFIED, AMENDED, SUPPLEMENTED AND MODIFIED BY THE DISCLOSURE SCHEDULE), EACH SELLER (I) EXPRESSLY DISCLAIMS AND NEGATES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT COMMON LAW, BY STATUTE OR OTHERWISE, RELATING TO THE CONDITION OF THE ACQUIRED ASSETS (INCLUDING ANY IMPLIED OR EXPRESSED WARRANTY OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR OF THE PROBABLE SUCCESS OR PROFITABILITY OF THE OWNERSHIP, USE OR OPERATION OF THE BUSINESS OR THE ACQUIRED ASSETS BY BUYER AFTER THE CLOSING), AND (II) DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT OR INFORMATION MADE, COMMUNICATED OR FURNISHED (ORALLY OR IN WRITING) TO BUYER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO BUYER BY ANY DIRECTOR, OFFICER, EMPLOYEE, AGENT, CONSULTANT OR REPRESENTATIVE OF ANY SELLER OR ANY OF THEIR AFFILIATES). THE DISCLOSURE OF ANY MATTER OR ITEM IN THE DISCLOSURE SCHEDULE SHALL NOT BE DEEMED TO CONSTITUTE AN ACKNOWLEDGMENT

THAT ANY SUCH MATTER IS REQUIRED TO BE DISCLOSED OR IS MATERIAL OR THAT SUCH MATTER WOULD RESULT IN A MATERIAL ADVERSE EFFECT.

ARTICLE IV BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to Sellers as follows:

Section 4.1 Organization of Buyer. Buyer is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware and has all requisite power and authority to own, lease and operate its assets and to carry on its business as now being conducted.

Section 4.2 Authorization of Transaction.

(a) Buyer has full limited liability company power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder.

(b) The execution, delivery and performance of this Agreement and all other Related Agreements to which Buyer is a party have been duly authorized by Buyer, and no other limited liability company action on the part of Buyer is necessary to authorize this Agreement or the Related Agreements to which it is a party or to consummate the Contemplated Transactions.

(c) This Agreement has been duly and validly executed and delivered by Buyer, and, upon their execution and delivery in accordance with the terms of this Agreement, each of the Related Agreements to which Buyer is a party will have been duly and validly executed and delivered by Buyer. Assuming that this Agreement constitutes a valid and legally-binding obligation of Sellers, this Agreement constitutes a valid and legally-binding obligation of Buyer, enforceable against Buyer in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Assuming, to the extent that they are a party thereto, that each Related Agreement constitutes a valid and legally-binding obligation of Sellers, each Related Agreement to which Buyer is a party, when executed and delivered, constituted or will constitute the valid and legally-binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

Section 4.3 Noncontravention. Neither the execution and delivery of this Agreement, nor the consummation of the Contemplated Transactions (including the assignments and assumptions referred to in Article II) will (i) conflict with or result in a breach of the certificate of formation, limited liability company agreement, bylaws, or other organizational documents, of Buyer, (ii) subject to any consents required to be obtained from any Governmental Entity, violate any Law to which Buyer is, or its assets or properties are subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to

accelerate, terminate, modify or cancel, or require any notice under any Contract to which Buyer is a party or by which it is bound, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to prevent, materially delay or materially impair to the ability of Buyer to consummate the transactions contemplated by this Agreement or by the Related Agreements. Buyer is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Entity in order for the Parties to consummate the transactions contemplated by this Agreement or any of the Related Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, reasonably be expected to prevent, materially delay or materially impair to the ability of Buyer to consummate the transactions contemplated by this Agreement or by the Related Agreements.

Section 4.4 Adequate Assurances Regarding Executory Contracts. Buyer as of the Closing will be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts.

Section 4.5 Good Faith Purchaser. Buyer is a “good faith” purchaser, as such term is used in the Bankruptcy Code and the court decisions thereunder. Buyer is entitled to the protections of section 363(m) of the Bankruptcy Code with respect to all of the Acquired Assets. Buyer has negotiated and entered into this Agreement in good faith and without collusion or fraud of any kind.

Section 4.6 Brokers’ Fees. Neither Buyer nor any of its Affiliates has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which any Seller could become liable or obligated to pay.

Section 4.7 Financial Capacity. Buyer (a) has, and at all time through the Closing will have, the resources (including sufficient funds available to pay the Purchase Price and any other expenses and payments incurred by Buyer in connection with the transactions contemplated by this Agreement) and capabilities (financial or otherwise) to perform its obligations hereunder, and (b) will not have incurred any obligation, commitment, restriction or Liability of any kind, that would impair or adversely affect such resources and capabilities.

Section 4.8 Condition of Business. Buyer hereby acknowledges and agrees that notwithstanding anything expressed or implied herein to the contrary, except as expressly set forth in Article III of this Agreement, Sellers (including each of their directors, officers, employees, agents, shareholders, Affiliates, consultants, counsel, accountants and other representatives) make no express or implied representations or warranties whatsoever, including, without limitation, any representation or warranty as to physical condition or value of any of the Acquired Assets or the future profitability or future earnings performance of the Business. Except for the representations and warranties contained in Article III (as qualified, amended, supplemented and modified by the Disclosure Schedule), Buyer will accept the Acquired Assets and assume the Assumed Liabilities at the Closing “AS IS,” “WHERE IS” AND “WITH ALL FAULTS”.

ARTICLE V PRE-CLOSING COVENANTS

The Parties agree as follows with respect to the period between the execution of this Agreement and the Closing (except as otherwise expressly stated to apply to a different period):

Section 5.1 Certain Efforts; Cooperation.

(a) Each of the Parties shall use its commercially reasonable efforts, subject to the orders of the Bankruptcy Court, to make effective the transactions contemplated by this Agreement (including satisfaction, but not waiver, of the conditions to the obligations of the Parties to consummate the Contemplated Transactions set forth in Article VII), except as otherwise provided in Section 5.2. Without limiting the generality of the foregoing, each of the Parties shall use commercially reasonable efforts not to take any action, or permit any of its Subsidiaries to take any action, to materially diminish the ability of any other Party to consummate, or materially delay any other Party's ability to consummate, the transactions contemplated hereby, including taking any action that is intended or would reasonably be expected to result in any of the conditions to any other Party's obligations to consummate the transactions contemplated hereby set forth in Article VII to not be satisfied.

(b) On and after the Closing, Sellers and Buyer shall use their reasonable best efforts to take, or cause to be taken, all appropriate action, to do or cause to be done by Sellers and Buyer all things necessary under applicable Law, and to execute and deliver such documents, ancillary agreements and other papers as may be required to carry out the provisions of this Agreement and consummate and make effective the Contemplated Transactions, including in order to more effectively vest in Buyer all of Sellers' right, title and interest to the Acquired Assets, free and clear of all Liens (other than Permitted Liens expressly contemplated by the Sale Order).

Section 5.2 Notices and Consents.

(a) To the extent required by the Bankruptcy Code or the Bankruptcy Court, Sellers shall give any notices to third parties, and each Seller shall use its commercially reasonable efforts to obtain any third party Consents or sublicenses.

(b) Sellers and Buyer shall cooperate with one another (a) in promptly determining whether any filings are required to be made or consents, approvals, permits or authorizations are required to be obtained under any applicable Law in connection with this Agreement and the Contemplated Transactions and (b) in promptly making any such filings, furnishing information required in connection therewith and seeking to obtain timely any such consents, permits, authorizations, approvals or waivers.

(c) Subject to the terms and conditions set forth in this Agreement and applicable Law, Buyer and Sellers shall (A) promptly notify the other Party of any communication to that Party from any Governmental Entity in respect of any filing, investigation or inquiry concerning this Agreement or the Contemplated Transactions, (B) if practicable, permit the other Party the opportunity to review in advance all the

information relating to Sellers and their respective Subsidiaries or Buyer and its Affiliates, as the case may be, that appears in any filing made with, or written materials submitted to, any third party and/or any Governmental Entity in connection with the Agreement and the transactions contemplated by this Agreement and incorporate the other Party's reasonable comments, (C) not participate in any substantive meeting or discussion with any Governmental Entity in respect of any filing, investigation, or inquiry concerning this Agreement and the transactions contemplated by this Agreement unless it consults with the other Party in advance, and, to the extent permitted by such Governmental Entity, gives the other Party the opportunity to attend, and (D) furnish the other Party with copies of all correspondences, filings, and written communications between them and their Subsidiaries and Representatives, on the one hand, and any Governmental Entity or its respective staff, on the other hand, with respect to this Agreement and the transactions contemplated by this Agreement, provided, however, that any materials or information provided pursuant to any provision of this Section 5.2(c) may be redacted before being provided to the other Party (i) to remove references concerning the valuation of Buyer, Sellers, or any of their Subsidiaries, (ii) to remove details concerning financing arrangements, (iii) as necessary to comply with contractual arrangements, and (iv) as necessary to address reasonable privilege or confidentiality issues. Sellers and Buyer may, as each deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other under this Section 5.2(c) as "outside counsel only." Such materials and the information contained therein shall be given only to the outside legal counsel and any retained consultants or experts of the recipient and shall not be disclosed by such outside counsel to employees, officers or directors of the recipient, unless express written permission is obtained in advance from the source of the materials (Sellers or Buyer, as the case may be). Each of Sellers and Buyer shall promptly notify the other Party if such Party becomes aware that any third party has any objection to the Agreement on antitrust or anti-competitive grounds.

Section 5.3 [Reserved].

Section 5.4 Conduct of Business. Except as may have been required by the Bankruptcy Court, or as consented to in writing by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), from the date hereof until the Closing, Sellers shall use commercially reasonable efforts to: (i) operate the Business in all material respects in the Ordinary Course of Business (but taking into account the closure of Sellers' laser eye surgery centers caused by the Covid-19 pandemic), (ii) preserve in all material respects the Acquired Assets, (iii) pay all sales and use Taxes arising in respect of the operation of the Business from and after the date hereof through the Closing and (iv) timely pay vendors, employees and laser eye surgery center physicians in the Ordinary Course of Business. Without limiting the generality of the foregoing, except as expressly required or contemplated in this Agreement or as set forth on Schedule 5.4, or except with the prior written consent of the Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), from the date hereof until the Closing, Sellers shall not, and shall cause the Acquired Entities not to:

- (a) create or incur any Lien or fail to take action to discharge any involuntary Lien, against or in respect of any Acquired Assets, except for Liens in existence on the date hereof or Permitted Liens;
- (b) sell, lease (as lessor), transfer or otherwise dispose of any material assets (including any lasers), other than sales of Inventory in the Ordinary Course of Business;
- (c) permanently close any laser surgery centers of Seller (or take any actions in anticipation of closing such centers) listed on Section 3.15 of the Disclosure Schedule;
- (d) (i) grant or provide any severance or termination payments or benefits to any Current Employee, except, in the case of employees who are not officers, executives or senior management, in the Ordinary Course of Business consistent with past practice, (ii) increase in any material respect the compensation, bonus or pension, welfare, severance or other benefits of, pay any bonus to, or make any new equity awards to any Current Employee, except for increases in base salary in the Ordinary Course of Business consistent with past practice for employees who are not officers, executives or senior management, or (iii) establish, adopt, materially amend or terminate any Employee Benefit Plan or amend the terms of any outstanding equity-based awards;
- (e) make or rescind any material election relating to Taxes, settle or compromise any material claim, Litigation or controversy relating to Taxes, or except as may be required by applicable Law or GAAP, make any material change to any of its methods of Tax accounting, methods of reporting income or deductions for Tax or Tax accounting practice or policy from those employed in the preparation of its most recent Tax Returns;
- (f) enter into or agree to enter into any merger or consolidation with any corporation or other entity;
- (g) except in the Ordinary Course of Business, cancel or compromise any material Indebtedness or claim or waive or release any material right, in each case, that is Indebtedness or a claim or right that is an Acquired Asset or Assumed Liability;
- (h) create or incur any Indebtedness or other Liabilities other than in the Ordinary Course of Business;
- (i) declare, issue, make or pay any dividend or other distribution of assets to holders of its equity interests;
- (j) purchase, redeem or agree to purchase or redeem any of its equity interests, options, warrants or rights to purchase equity interests or securities of any kind convertible or exchangeable for equity interests;
- (k) license or otherwise permit any third party (including any acquirer of an Excluded Asset) to use any Intellectual Property of Sellers, including any Business Names; or

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(l) file any motion to pay any pre-Petition claims of any Person without the express written consent of Buyer.

Section 5.5 Notice of Developments. From the date hereof until the Closing Date, each of the Sellers (with respect to itself), as the case may be, shall promptly disclose to Buyer, on the one hand, and Buyer shall promptly disclose to Sellers, on the other hand, in writing (in the form of an updated Disclosure Schedule, if applicable) after attaining knowledge (as applicable to each of Sellers and Buyer) of any material failure of any of Sellers or Buyer to comply with or satisfy any of their respective covenants, conditions or agreements to be complied with or satisfied by it under this Agreement in any material respect; provided, however, that the delivery of any notice pursuant to this Section 5.5 shall not limit or otherwise affect the remedies available to the party receiving such notice under this Agreement.

Section 5.6 Access.

(a) Upon reasonable advance written request by Buyer, Sellers shall permit Buyer and its Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of Sellers, to all premises, properties, personnel, Records and Contracts related to the Business, in each case, for the sole purpose of evaluating the Business; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney-client privilege or any confidentiality obligation to which it is bound with respect thereto or take any action in violation of applicable Law. In addition, Sellers shall provide, or cause to be provided, to Buyer within two (2) Business Days hereof: (i) a detailed (trial balance level) balance sheet as of December 2018 and December 2019, (ii) Sellers' center level P&L statements for the 24 months January 2018 through December 2019 for each of Sellers' material business segments, and (iii) copies of all documents and information furnished or made available by Raymond James to other potential acquirers of the Business and/or the Acquired Assets.

(b) All information obtained pursuant to this Section 5.6 shall be subject to the terms and conditions of the Confidentiality Agreement, provided, however, that (i) use of such information for purposes of performing hereunder and preparing for the Closing, shall not constitute a violation of the Confidentiality Agreement and (ii) for the avoidance of doubt, Buyer remains obligated to maintain the confidentiality of information provided as contemplated in the Confidentiality Agreement. Similarly, Buyer may inform its key employees and affiliated physicians of this Agreement and the transactions contemplated herein notwithstanding anything to the contrary contained in the Confidentiality Agreement.

Section 5.7 Press Releases and Public Announcements. Prior to the Closing, neither of Buyer or Sellers shall issue any press release or make any public announcement relating to the sale of the Business by Sellers to Buyer without the prior written approval of each of Buyer and Sellers; provided, however, that each of Buyer and Sellers may make any public disclosure that it believes in good faith is required by applicable Law or court process (in which case the disclosing Party shall use its reasonable best efforts to advise the other prior to making the disclosure).

Section 5.8 Bulk Transfer Laws. Buyer acknowledges that Sellers will not comply with the provisions of any bulk transfer Laws of any jurisdiction in connection with the transactions contemplated by this Agreement (other than with respect to Taxes). The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets shall be free and clear of any Liens in the Acquired Assets, including any Liens arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order.

Section 5.9 Contracts.

(a) If prior to or following Closing it is discovered by Sellers or Buyer that a Contract should have been listed on Section 3.6 of the Disclosure Schedule but was not listed on Section 3.6 of the Disclosure Schedule, (any such Contract, a "Previously Omitted Contract"), Sellers or Buyer (as applicable) shall, promptly following the discovery thereof (but in no event later than two (2) Business Days following the discovery thereof), notify Buyer in writing of such Previously Omitted Contract and all proposed Cure Amounts (if any) for such Previously Omitted Contract. Buyer may thereafter either (x) 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 "Rejected", in which case such Previously Omitted Contract shall be deemed an Excluded Contract under Section 2.6, or (y) deliver written notice to Sellers, no later than the Closing, designating such Previously Omitted Contract as "Assumed", in which case such Previously Omitted Contract shall be deemed an Assumed Contract under Section 2.6 (provided that, for the avoidance of doubt, Buyer shall not be responsible for any costs related to any Contract that is rejected pursuant to clause (x) above, even if Buyer's rejection notice to Sellers for such Contract is after the Closing, to the extent that Buyer has complied with the timeframe set forth in such clause (x)).

(b) If Buyer designates a Previously Omitted Contract as "Assumed" in accordance with Section 5.9(a), (A) Schedule 2.6(a) shall be amended to include such Previously Omitted Contract and (B) Sellers shall serve a notice (the "Previously Omitted Contract Notice") on the counterparties to such Previously Omitted Contract notifying such counterparties of the proposed Cure Amounts with respect to such Previously Omitted Contract and Sellers' intention to assume and assign such Previously Omitted Contract in accordance with this Section 5.9 with no adjustment to the Purchase Price. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with seven (7) days to object, in writing to the Sellers and Buyer, to the Cure Amount and the assumption, assignment and sale of the Previously Omitted Contract. If the counterparties, Sellers and Buyer are unable to reach a consensual resolution with respect to the objection, Sellers will seek an expedited hearing before the Bankruptcy Court to determine the Cure Amounts and approve the assumption, assignment and sale. If no objection is timely served on Sellers and Buyer, Sellers shall obtain an Order of the Bankruptcy Court fixing the Cure Amounts and approving the assumption of the Previously Omitted Contract.

Section 5.10 Counterparties. Sellers shall, following the written request thereof by Buyer, seek and use commercially reasonable efforts to arrange meetings and telephone conferences with, material suppliers and vendors, independent contractors, optometrists, licensors and surgeons of Sellers ("Counterparties") as may be reasonably requested by Buyer and necessary

and appropriate for Buyer to coordinate transition of such suppliers following the Closing. For the avoidance of doubt, Buyer shall be permitted to contact any Counterparties in connection with or pertaining to any matter; provided, however, that during the period from the date hereof until the Closing, (i) Buyer shall give prior notice to Sellers and (ii) Sellers shall be permitted, but shall not be obligated, to attend and participate in any meeting or telephone conference with such Counterparties to the extent reasonably requested. Notwithstanding the foregoing, if Buyer intends to discuss prospective or post-Closing business relationships involving confidential business information regarding Buyer's and its Affiliates' prospective business plans and operations with such Counterparties, then

(a) Buyer may limit the participation of Sellers in any such meeting or telephone conference with Counterparties to representatives of Raymond James if the Counterparty identified for such meeting or telephone conference is singly material to the operations and financial condition of the Business; provided, however, that any representatives of Raymond James must provide Buyer with written assurances to keep confidential all business information regarding Buyer's and its Affiliates' prospective business plans and operations so disclosed in such meetings or telephone conferences as a condition precedent to participating in such meeting or telephone conference; and

(b) With regard to any single doctor or other medical professional, Buyer may preclude any participation of Sellers in such meetings or telephone conferences to the extent such meeting or telephone conferences relate to post-Closing business relationships.

ARTICLE VI OTHER COVENANTS.

The Parties agree as follows with respect to the period from and after the Closing:

Section 6.1 Cooperation. Each of the Parties shall cooperate with each other, and shall use their commercially reasonable efforts to cause their respective Representatives to cooperate with each other, to provide an orderly transition of the Acquired Assets and Assumed Liabilities from Sellers to Buyer and to minimize the disruption to the Business resulting from the Contemplated Transactions.

Section 6.2 Further Assurances. In case at any time from and after the Closing any further action is necessary or reasonably required to carry out the purposes of this Agreement, subject to the terms and conditions of this Agreement and the terms and conditions of the Sale Order, at any Party's request and sole cost and expense, each Party shall take such further action (including the execution and delivery to any other Party of such other reasonable instruments of sale, transfer, conveyance, assignment, assumption and confirmation and providing materials and information) as another Party may reasonably request as shall be necessary to transfer, convey and assign to Buyer all of the Acquired Assets, to confirm Buyer's assumption of the Assumed Liabilities and to confirm Sellers' retention of the Excluded Assets and Excluded Liabilities. Without limiting the generality of this Section 6.2, to the extent that either Buyer or Sellers discovers any additional assets or properties which should have been transferred or assigned to Buyer as Acquired Assets but were not so transferred or assigned, each such additional asset or

property shall be deemed an Acquired Asset for all purposes and Buyer and Sellers shall cooperate and execute and deliver any instruments of transfer or assignment necessary to transfer and assign such asset or property to Buyer.

Section 6.3 Availability of Business Records. For a period of twelve months after the Closing, Buyer shall promptly provide to Sellers and their respective Representatives (after reasonable notice and during normal business hours and without charge to Sellers) access to all Records included in the Acquired Assets for periods prior to the Closing to the extent such access is necessary in order for Sellers (as applicable) to comply with applicable Law or any contract to which it is a party, for liquidation, winding up or Tax reporting and so long as such access is subject to an obligation of confidentiality, and shall preserve such Records until the latest of (i) twelve months after the Closing Date, (ii) the required retention period for all government contact information, records or documents (solely for such information which such requirement applies), or (iii) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases. Prior to destroying any Records included in the Acquired Assets for periods prior to the Closing during the twelve month period described herein, Buyer shall notify Sellers thirty (30) days in advance of any such proposed destruction of its intent to destroy such Records, and Buyer shall permit Sellers to retain such Records, at Sellers' cost and expense. With respect to any Litigation and claims that are Excluded Liabilities, Buyer shall render all reasonable assistance that Sellers may request in defending or prosecuting such Litigation or claim at Sellers' expense and (upon comfort that Buyer's expenses will be appropriately paid or reimbursed to it) shall make reasonably available to Sellers such personnel as are most knowledgeable about the matter in question.

Section 6.4 Employee Matters.

(a) Each Seller shall, effective as of the day prior to the Closing Date, discharge all Current Employees as of such date. Prior to the Closing, Buyer shall offer (or cause a designee of Buyer to offer) to employ such Current Employees as it elects, in its sole discretion, (i) to operate the Continuing Centers, with employment commencing as of the Closing Date (ii) to be employed in the Buyer's corporate offices with employment commencing on the Closing Date, or (iii) as otherwise proposed by Buyer. For purposes of this Agreement, each Current Employee who receives such an offer of employment shall be referred to as an "Offeree." Prior to the Closing Date, Buyer will provide Sellers with a schedule setting forth a list of the names of all Offerees. Each Offeree who accepts such offer prior to the Closing shall be referred to herein as a "Transferred Employee." Sellers shall promptly pay when due any deferred payroll Taxes associated with wages incurred or paid prior to the Closing Date. Each offer to an Offeree shall be on such terms as is acceptable to the Buyer.

(b) Each Current Employee of Sellers who is not a Transferred Employee shall be referred to herein as an "Excluded Employee."

(c) Following the date of this Agreement,

i. Sellers shall allow Buyer or any of its Representatives reasonable access upon reasonable advance notice to meet with and interview the Current Employees (as of the date of this Agreement through the Closing Date) who are

members of executive management and other employees and physicians operating in the Sellers' laser centers as reasonably requested during normal business hours; *provided, however*, that such access shall not unduly interfere with the operation of the Business prior to the Closing;

ii. Sellers shall not, nor shall any Seller authorize or direct or give express permission to any Affiliate, officer, director or employee of any Seller or any Affiliate, to (A) interfere with Buyer's or its Representatives' rights under Section 6.4(a) to make offers of employment to any Offeree, or (B) solicit or encourage any Offeree not to accept, or to reject, any such offer of employment; and

iii. Sellers shall provide reasonable cooperation and information to Buyer or the relevant Representative as reasonably requested by Buyer or such Representative with respect to its determination of appropriate terms and conditions of employment for any Offeree.

(d) Notwithstanding anything in this Agreement to the contrary and unless otherwise agreed to by Sellers and Buyer,

i. Sellers shall process the payroll for and pay, or cause to be paid, the base wages, base salary, bonuses, severance obligations and benefits that are due and payable on or prior to the Closing Date with respect to all Current Employees. Sellers shall withhold and remit all applicable payroll taxes as required by Law on or prior to the Closing Date with respect to all such Current Employees as of such date. Each Seller and Acquired Entity shall deposit with, or pay, the applicable taxing authority any deferred payroll Taxes associated with wages incurred or paid prior to the Closing Date and any other Taxes on or with respect to the Acquired Assets with respect to the Pre-Closing Tax Period that were permitted to be deferred under applicable law; and

ii. Buyer shall process the payroll for and shall pay, or cause to be paid, base wages, base salary and benefits that accrue after the Closing Date with respect to all Transferred Employees. Buyer shall withhold and remit all applicable payroll taxes as required by Law after the Closing Date with respect to Transferred Employees.

(e) Nothing contained herein shall be construed as requiring, and neither Sellers nor any of their Affiliates shall take any affirmative action that would have the effect of requiring, Buyer to continue any specific employee benefit plan or to continue the employment of any specific person. Nothing in this Agreement is intended to establish, create or amend, nor shall anything in this Agreement be construed as establishing, creating or amending, any employee benefit plan, practice or program of Buyer, any of its Affiliates or any of Sellers' Employee Benefit Plans, nor shall anything in this Agreement create or be construed as creating any contract of employment or as conferring upon any Transferred Employee or upon any other person, other than the parties to this Agreement in accordance

with its terms, any rights to enforce any provisions of this Agreement under ERISA or otherwise.

Section 6.5 Recording of Intellectual Property Assignments. All of the Intellectual Property Assignments shall be assigned and transferred by Seller and recorded and filed by Buyer with the appropriate Governmental Entities as promptly as practicable following the Closing.

Section 6.6 Transfer Taxes. To the extent not exempt under section 1146 of the Bankruptcy Code or otherwise addressed herein, Buyer shall pay any stamp, documentary, registration, transfer or similar Tax (each, a "Transfer Tax") imposed under any applicable Law on the transfer of the Acquired Assets contemplated by this Agreement. Sellers and Buyer shall cooperate to timely prepare and timely file any Tax Returns required to be filed with respect such Transfer Taxes, and shall provide such other assistance including exemption or resale certificates as allowable to reduce any such Transfer Taxes.

Section 6.7 Wage Reporting. Buyer and Sellers agree to utilize, or cause their respective Affiliates to utilize, the standard procedure set forth in Internal Revenue Service Revenue Procedure 2004-53 with respect to wage reporting.

Section 6.8 Insurance Policies.

(a) To the extent that the rights under any current or prior Insurance Policy are not transferable to Buyer at the Closing in accordance with the terms thereof, each Seller, as applicable, shall hold such Insurance Policy for the benefit of Buyer, shall reasonably cooperate with Buyer (at Buyer's cost and expense) in pursuing any claims thereunder, and shall pay over to Buyer promptly any insurance proceeds paid or recovered thereunder with respect to the Acquired Assets or the Assumed Liabilities. In the event Buyer determines to purchase replacement coverage with respect to any such Insurance Policy, Sellers shall reasonably cooperate with Buyer to terminate such Insurance Policy to the extent only applicable to the Acquired Assets, and Sellers shall, at the option of Buyer, promptly pay over to Buyer any refunded or returned insurance premiums received by any Sellers in connection therewith (or, if applicable, Buyer's pro rata portion thereof) or cause such premiums to be applied by the applicable carrier to the replacement coverage arranged by Buyer.

(b) To the extent that any current or prior Insurance Policy of any Seller relates to the Acquired Assets or Assumed Liabilities and the Excluded Assets or the Excluded Liabilities, and such Insurance Policy is transferred to Buyer at the Closing, Buyer shall hold such Insurance Policy with respect to the Excluded Assets or Excluded Liabilities, as applicable, for the benefit of Sellers, shall reasonably cooperate with Sellers in pursuing any claims thereunder, and shall pay over to Sellers promptly any insurance proceeds paid or recovered thereunder solely with respect to the Excluded Assets or the Excluded Liabilities.

(c) Notwithstanding subparagraphs (a) and (b) above, nothing in this Article or Agreement shall transfer any directors and officers' liability insurance policies relating to the Sellers to the Buyer.

Section 6.9 Collection of Accounts Receivable.

(a) As of the Closing Date, each Seller hereby (i) authorizes Buyer to (x) open any and all mail addressed to any Seller relating to the Business or the Acquired Assets and delivered to the offices of the Business or otherwise to Buyer if received on or after the Closing Date and (y) contact any third party about payments owed on account of the Business and direct payment to be so made to Buyer and (ii) appoints Buyer or its attorney-in-fact to endorse, cash and deposit any monies, checks or negotiable instruments received by Buyer after the Closing Date with respect to Accounts Receivable that are Acquired Assets or accounts receivable relating to work performed by Buyer after the Closing, as the case may be, made payable or endorsed to any Seller or Seller's order, for Buyer's own account.

(b) As of the Closing Date, each Seller agrees that any monies, checks or negotiable instruments received by any Seller after the Closing Date with respect to Accounts Receivable that are Acquired Assets or accounts receivable relating to work performed by Buyer after the Closing, as the case may be, shall be held in trust by such Seller for Buyer's benefit and account, and promptly upon receipt by any Seller of any such payment (but in any event within five (5) Business Days of such receipt), such Seller shall pay over to Buyer or its designee the amount of such payments. In addition, Buyer agrees that, after the Closing, it shall hold and shall promptly transfer and deliver to Sellers, from time to time as and when received by Buyer or its Subsidiaries, any cash, checks with appropriate endorsements, or other property that Buyer or its Subsidiaries may receive on or after the Closing, in each case solely to the extent that such constitutes Excluded Assets.

(c) As of the Closing Date, Buyer shall have the sole authority to bill and collect Accounts Receivable that are Acquired Assets and accounts receivable relating to work performed by Buyer after the Closing.

Section 6.10 Use of Name and Marks. Neither Sellers nor any of their Affiliates shall use, license or permit any third party to use, any name, slogan, logo or trademark which is similar or deceptively similar to any of the names, trademarks or service marks (including the Business Names) included in the Intellectual Property included in the Acquired Assets.

Section 6.11 Data Privacy Protection. Buyer agrees to comply with Section 363(b)(1) of the Bankruptcy Code with respect to Sellers' privacy policy as in effect on the Petition Date.

Section 6.12 Name Change. Within ten (10) Business Days after the Closing, Sellers shall take steps necessary to effect a change in any of their or their Affiliates' corporate names to remove "LVI", "Total Vision Institute", "LASIK Vision Institute", "Cataract Vision Institute", "QualSight", "TLC Vision", "TLC Laser Eye Center", "TruVision" or "LASIK Management" from such names (the "Business Names"). As all Intellectual Property of Sellers are Acquired Assets, Sellers agrees after Closing to cease use of any service marks, trademarks, trade names, logos, emblems, signs or insignia related to the Intellectual Property owned by Sellers prior to Closing (including the Business Names) and, immediately after Closing, to cease holding themselves out

as having any affiliation with the Business (other than for the arrangements under this Agreement and the Related Agreements).

Section 6.13 Payment of Liabilities. At or prior to Closing, or out of the proceeds paid at Closing, Sellers shall pay the following:

(a) Trade payables of Sellers to the extent arising in respect of the Acquired Assets that were (x) incurred after the Petition Date and (y) not yet due and payable (other than those owing for professional services to retained professionals in the Chapter 11 Cases);

(b) All payroll liabilities for Current Employees that are post-petition Administrative Claims incurred in the Ordinary Course of Business accrued between the last payroll date immediately preceding the Closing Date and the Closing Date;

(c) 503(b)(9) Claims set forth on Section 2.3 of the Disclosure Schedule, in each case to the extent allowed by the Bankruptcy Court; and provided that such amounts may be paid other than in a lump-sum to the extent so agreed with the applicable claimants; and

(d) Claims for post-petition stub-rent under Leases that are Excluded Contracts pursuant to section 503(b) of the Bankruptcy Code.

Section 6.14 Transition Services. Sellers shall provide transition services at Buyer's sole cost and expense for up to sixty days following closing for purposes of maintaining continuity in the Business and as reasonably directed by Buyer in various functional areas, including treasury management, accounting, IT, real estate management, and continued access to facilities subject to Leases that are not Assumed Contracts to remove and secure all Acquired Assets. Sellers and Buyer shall agree upon any anticipated transition services to be provided by Sellers (and the cost to be paid by Buyer without any obligation of Sellers to fund such amounts directly unless such funds are provided by Buyer to Sellers for such purposes in advance) no later than two (2) days prior to Closing.

ARTICLE VII BANKRUPTCY COURT MATTERS

Section 7.1 Sale Order. The Sale Order shall be entered by the Bankruptcy Court. The Sale Order shall, among other things, (i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Sellers of this Agreement, (B) the sale of the Acquired Assets to Buyer on the terms set forth herein and free and clear of all Liens (other than Permitted Liens and, to the extent of the Seller's acquisition of the equity interests of Subsidiaries), and (C) the performance by Sellers of their obligations under this Agreement; (ii) authorize and empower Sellers to assume and assign to Buyer the Assumed Contracts; and (iii) find that Buyer is a "good faith" buyer within the meaning of Section 363(m) of the Bankruptcy Code, not a successor to Sellers and grant Buyer the protections of Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes,

among others, of (a) demonstrating that Buyer is a “good faith” purchaser under Section 363(m) of the Bankruptcy Code, and (b) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code. Filing of this Agreement and accompanying pleadings with the Bankruptcy Court shall be subject to Buyer’s prior review and written consent, not to be unreasonably withheld.

Section 7.2 Nonsolicitation.

(a) Until such time as this Agreement shall be terminated pursuant to Section 9.1 or the Closing occurs, no Seller or its representatives shall directly or indirectly solicit, initiate, encourage or entertain any inquiries or proposals from, discuss or negotiate with, provide any nonpublic information to or consider the merits of any inquiries or proposals from any Person (other than Buyer) relating to any business combination transaction involving any Seller or Acquired Entity, including the sale the sale of Seller’s business or any of the Acquired Assets (other than in the Ordinary Course of Business), and Sellers shall cut off all access to any third parties other than Buyer and its representatives to its virtual data room. Buyer acknowledges that Sellers have, prior to the execution hereof, solicited offers from multiple third parties for the purchase of its assets and that such past activity does not constitute a violation of Sellers’ obligations hereunder.

(b) Notwithstanding paragraph (a) above, to the extent that all of the Sellers’ board of directors and/or governing bodies collectively determine that any unsolicited offer received subsequent to the date hereof by Sellers or their representatives is a Superior Offer, then Sellers may review and respond to such offer. For the purposes hereof, “Superior Offer” shall mean shall mean an unsolicited, bona fide written offer made by a third party to acquire, directly or indirectly, by any means, all or substantially all of the assets of the Sellers on terms that the Sellers’ board of directors and/or governing bodies collectively have in good faith concluded (after the receipt of advice of its outside legal counsel and its financial adviser), taking into account all aspects of such acquisition proposal, including, among other things, all legal, financial, regulatory and other aspects of the offer including the conditionality of and contingencies related to such proposal, the expected timing and risk of completion, the identity of the person making such proposal, contingent liabilities owing to Buyer as a result of any breach of this Agreement, if applicable, and such other factors that are deemed relevant by the Sellers’ board of directors and/or governing bodies in good faith, would if consummated result in a transaction that is materially more favorable to the Sellers’ bankruptcy estates than the transactions contemplated by this Agreement.

(c) Sellers shall notify Buyer in writing of any such inquiry or proposal within twenty-four (24) hours of receipt or awareness of the same by any Seller. Additionally, Sellers shall inform Buyer of the ultimate determination by the Sellers’ board of directors and/or governing bodies regarding any proposal constituting a Superior Offer.

Section 7.3 Bankruptcy Filings. Sellers agree to diligently prosecute the entry of the Sale Order. Sellers shall comply with all notice requirements (i) of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, or (ii) imposed by the Sale Order, in each case, in connection with any pleading, notice or motion to be filed in connection herewith.

ARTICLE VIII CONDITIONS TO CLOSING

Section 8.1 Conditions to Buyer's Obligations. Subject to Section 8.3, Buyer's obligation to consummate the Contemplated Transactions in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(a) as of the Closing (in each case, except for any representation or warranty that is expressly made as of a specified date, in which case as of such specified date), (i) each representation or warranty contained in Section 3.1, Section 3.2 or Section 3.3 shall be true and correct in all material respects, and (ii) each other representation or warranty set forth in Section 2.10(a) shall be true and correct in all respects, except where the failure of such representations and warranties referred to in this clause (ii) to be true and correct, individually or in the aggregate with other such failures, has not had, and would not reasonably be expected to have, a Material Adverse Effect; provided, however, that for purposes of determining the accuracy of representations and warranties referred to in clause (ii) for purposes of this condition, all qualifications as to "materiality" and "Material Adverse Effect" contained in such representations and warranties shall be disregarded;

(b) Sellers shall have performed and complied with their covenants and agreements hereunder to the extent required to be performed prior to the Closing in all material respects; and Sellers shall have caused the documents, instruments and payments required by Section 2.8(a) to be delivered to Sellers (or tendered subject only to Closing)

(c) no Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(d) the Sale Order shall have become a Final Order (unless this condition has been waived in writing by Buyer);

(e) all parties other than Buyer shall have complied in all material respects with the terms of that certain letter agreement between LBC Credit Partners III, L.P., as agent for the senior secured lenders of the Sellers, to Buyer of even date herewith.

(f) the amount of the Cure Cost Reduction shall not exceed the Cure Cost Reduction Cap; provided, however, that the foregoing condition shall be deemed satisfied if Sellers elect to pay at Closing the amount of the Cure Cost Reduction which is in excess of the Cure Cost Reduction Cap.

(g) Sellers shall have delivered a certificate from an authorized officer of Sellers to the effect that each of the conditions specified in Section 8.1(a), Section 8.1(b) and Section 7.1(e) has been satisfied.

Section 8.2 Conditions to Sellers' Obligations. Subject to Section 8.3, Sellers' obligation to consummate the Contemplated Transactions in connection with the Closing are subject to satisfaction or waiver of the following conditions:

- (a) as of the Closing (in each case, except for any representation or warranty that is expressly made as of a specified date, in which case as of such specified date), (i) each representation or warranty contained in Section 4.1, Section 4.2 or Section 4.3 shall be true and correct in all material respects, and (ii) each other representation or warranty set forth in Article IV shall be true and correct in all respects, except where the failure of such representations and warranties referred to in this clause (ii) to be true and correct, individually or in the aggregate with other such failures, would not reasonably be expected to materially prevent, restrict or delay the consummation of the Contemplated Transactions or by any Related Agreement; provided, however, that for purposes of determining the accuracy of representations and warranties referred to in clause (ii) for purposes of this condition, all qualifications as to "materiality" and "Material Adverse Effect" contained in such representations and warranties shall be disregarded;
- (b) Buyer shall have performed and complied with its covenants and agreements hereunder to the extent required to be performed prior to the Closing in all material respects, and Buyer shall have caused the documents, instruments and payments required by Section 2.8(b) to be delivered to Sellers (or tendered subject only to Closing);
- (c) no Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;
- (d) the Sale Order shall have become a Final Order (unless waived by Buyer);
- (e) Buyer shall have delivered a certificate from an authorized officer of Buyer to the effect that each of the conditions specified in Section 8.2(a) and Section 8.2(b) has been satisfied.

Section 8.3 No Frustration of Closing Conditions. Neither Buyer nor Sellers may rely on the failure of any condition to its obligation to consummate the Contemplated Transactions set forth in Section 8.1 or Section 8.2, as the case may be, to be satisfied if such failure was caused by such Party's failure to use its reasonable best efforts or commercially reasonable efforts, as applicable, with respect to those matters contemplated by the applicable Sections of this Agreement to satisfy the conditions to the consummation of the Contemplated Transactions or other breach of a representation, warranty or covenant hereunder.

ARTICLE IX TERMINATION.

Section 9.1 Termination of Agreement. This Agreement may be terminated and the Contemplated Transactions abandoned at any time prior to the Closing:

(a) by the mutual written consent of Buyer, on the one hand, and Sellers, on the other hand;

(b) by Buyer by giving written notice to Sellers at any time prior to Closing in the event (i) (x) Sellers have materially breached any representation, warranty or covenant contained in this Agreement, Buyer has notified Sellers in writing of the breach, and the breach is incapable of being cured or has continued without cure for a period of fifteen (15) Business Days after the notice of the breach, and (y) such breach renders any condition set forth in Section 8.1 incapable of being satisfied by the Closing and (ii) Buyer has not materially breached any provision of this Agreement;

(c) by Sellers by giving written notice to Buyer at any time prior to Closing in the event (i) (x) Buyer has materially breached any representation, warranty or covenant contained in this Agreement, Sellers have notified Buyer in writing of the breach, and the breach is incapable of being cured or has continued without cure for a period of fifteen (15) Business Days after the notice of the breach, and (y) such breach renders any condition set forth in Section 8.2 incapable of being satisfied by the Closing and (ii) Sellers have not materially breached any provision of this Agreement;

(d) by Buyer, on the one hand, or Sellers, on the other hand, if the Closing shall not have occurred by August 31, 2020; provided, however, that (i) Buyer shall not have the right to terminate this Agreement under this Section 9.1(d) or Section 9.1(b) if, at the time of such termination, Sellers would then be entitled to terminate this agreement pursuant to Section 9.1(c) (subject only to delivery of notice and the opportunity to cure, if curable, required by Section 9.1(c)), and (ii) Sellers shall not have the right to terminate this Agreement under this Section 9.1(d) or Section 9.1(c) if, at the time of such termination, Buyer would then be entitled to terminate this agreement pursuant to Section 9.1(b) (subject only to delivery of notice and the opportunity to cure, if curable, required by Section 9.1(b));

(e) by Buyer if an order granting a stay pending appeal of the Sale Order is granted which delays Closing for more than 30 days;

(f) by Buyer if, prior to the Closing, any Seller seeks to have the Bankruptcy Court enter an order dismissing, or converting the Chapter 11 Cases into a case under Chapter 7 of the Bankruptcy Code or appointing a trustee in the Chapter 11 Cases or appointing a responsible officer or an examiner with enlarged powers relating to the operation of Sellers' business (beyond those set forth in Section 1106(a)(3) or (4) of the Bankruptcy Code) under Bankruptcy Code Section 1106(b), or such an order of dismissal, conversion or appointment is entered for any reason;

(g) by Buyer if a Chapter 11 plan is filed in the Chapter 11 Cases; or

(h) automatically and without any action or notice by Sellers to Buyer, or Buyer to Sellers, immediately upon the issuance of a final and non-appealable Order, decree, or ruling by a Governmental Authority to permanently restrain, enjoin or otherwise prohibit the Closing.

Section 9.2 Procedure Upon Termination. In the event of a valid termination and abandonment by Buyer, on the one hand, or Sellers, on the other hand, or both, pursuant to Section 9.1, written notice thereof shall forthwith be given to the other Party or Parties, and this Agreement shall terminate and the Contemplated Transactions shall be abandoned, without further action by Buyer or Sellers.

Section 9.3 Effect of Termination.

(a) If any Party terminates this Agreement pursuant to Section 9.1, then all rights and obligations of the Parties hereunder shall terminate upon such termination and shall become null and void (except that Article I (Definitions), Section 2.5(b), Article X (Miscellaneous), and this Article IX (Termination) shall survive any such termination) and no Party shall have any Liability to any other Party with respect to the transactions contemplated by this Agreement, as applicable, except as otherwise expressly set forth in this Agreement.

(b) Except as otherwise expressly set forth in this Agreement, nothing herein shall relieve any Party from Liability for any breach of covenant occurring prior to any termination of this Agreement.

(c) The Confidentiality Agreement shall survive any termination of this Agreement and nothing in this Section 9.3 shall relieve Buyer or Sellers of their respective obligations under a Confidentiality Agreement except as contemplated herein.

(d) If the Agreement is terminated pursuant to Section 9.1(h) by virtue of the Bankruptcy Court's decision not to approve the execution, delivery and performance by Sellers of this Agreement (for any reason, including, without limitation, the existence of a Superior Offer), then Sellers shall, at Buyer's election, immediately designate Buyer as a stalking horse bidder pursuant to the terms of a new asset purchase agreement between Sellers and Buyer on substantively the same terms hereof subject to the following modifications and additional provisos (the "Alternate Auction APA"):

i. Section 2.5(a)(ii) shall be amended and restated to read as follows:

a cash payment in the amount of Thirty Three Million Dollars (\$33,000,000.00) (the "Cash Payment"); and

ii. Article VII of the Alternate Auction APA shall be amended and restated to contain the provisions in substantially the form set forth on Schedule 9.3(d).

ARTICLE X MISCELLANEOUS.

Section 10.1 Expenses. Except as otherwise provided in this Agreement or a Related Agreement, Sellers and Buyer shall bear their own expenses, including attorneys' fees, incurred in connection with the negotiation and execution of this Agreement, the Related Agreements and each other agreement, document and instrument contemplated by this Agreement and the consummation of the Contemplated Transactions. For the avoidance of doubt, all expenses of Raymond James are the responsibility of Seller and Buyer has no liability with respect thereto.

Section 10.2 Entire Agreement. This Agreement constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements or representations (whether written or oral) by or among the Parties, written or oral, with respect to the subject matter hereof, except for the Related Agreements.

Section 10.3 Incorporation of Schedules, Exhibits and Disclosure Schedule. The schedules, appendices and exhibits to this Agreement, the documents and other information made available in the Disclosure Schedule are incorporated herein by reference and made a part hereof.

Section 10.4 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party except as expressly provided herein. No waiver of any breach of this Agreement shall be construed as an implied amendment or agreement to amend or modify any provision of this Agreement. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation or breach of warranty or covenant. No conditions, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of this Agreement shall be binding unless this Agreement is amended or modified in writing pursuant to the first sentence of this Section 10.4 except as expressly provided herein. Except where a specific period for action or inaction is provided herein, no delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

Section 10.5 Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. None of the Parties may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of all Parties; provided, however, that Buyer shall be permitted to assign any of its rights hereunder to one or more of its Affiliates, as designated by Buyer in writing to Sellers; provided, however, Buyer shall remain liable for all of its obligations under this Agreement after any such assignment.

Section 10.6 Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing except as expressly provided herein. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given (i) when delivered personally to the recipient; (ii) one (1) Business Day after being sent to the recipient by reputable overnight

courier service (charges prepaid); (iii) when sent by email (with written confirmation of transmission); or (iv) three (3) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to any Sellers, then to:

LVI Intermediate Holdings, Inc.
1555 Palm Beach Lakes Boulevard, Suite 600
West Palm Beach, Florida 33401
Attention: Lisa Melamed, Chief Executive Officer and President
Email: LMelamed@vgroupholdings.com

with a copy to:

Cole Schotz P.C.
500 Delaware Avenue, Suite 1410
Wilmington, DE 19801
Attention: David Dean, Esq.
Email: DDean@coleschotz.com

If to Buyer, then to:

Kismet New Vision Holdings, LLC
c/o Wood & Lamping, LLC
600 Vine Street
Suite 2500
Cincinnati, Ohio 45202
Attention: Chief Executive Officer

with copies (which shall not constitute notice) to:

Wood & Lamping LLP
600 Vine Street
Suite 2500
Cincinnati, Ohio 45202
Attention: Robert M. M. Shaffer
Email: rmshaffer@woodlamping.com

Any Party may change the mailing address or email address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner set forth in this Section 10.6.

Section 10.7 Governing Law; Jurisdiction. This Agreement shall in all aspects be governed by and construed in accordance with the internal Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware

or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware, and the obligations, rights and remedies of the Parties shall be determined in accordance with such Laws. The Parties agree that any Litigation one Party commences against any other Party pursuant to this Agreement shall be brought exclusively in the Bankruptcy Court; provided that if the Bankruptcy Court is unwilling or unable to hear any such Litigation, then the courts of the State of Delaware, sitting in New Castle County, Delaware, and the federal courts of the United States of America sitting in New Castle County, Delaware, shall have exclusive jurisdiction over such Litigation.

Section 10.8 Consent to Service of Process. Each of the Parties hereby consents to process being served by any Party, respectively, in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 10.6.

Section 10.9 WAIVERS OF JURY TRIAL. EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE RELATED AGREEMENTS OR THE CONTEMPLATED TRANSACTIONS OR THEREBY.

Section 10.10 Severability. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, 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, nor shall such invalidity or unenforceability in any one jurisdiction affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 10.11 No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

Section 10.12 No Survival of Representations, Warranties and Agreements. None of the Parties' representations, warranties, covenants and other agreements in this Agreement, including any rights of the other Party or any third party arising out of any breach of such representations, warranties, covenants and other agreements, shall survive the Closing, except for (i) those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Closing, (ii) this Article X, and (iii) all defined terms set forth in Article I that are referenced in the foregoing provisions referred to in clauses (i) and (ii) above. Construction. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice versa. The word "including" and "include" and other words of similar import shall be deemed to be followed by the phrase "without limitation." The words "herein," "hereto" and "hereby," and other words of similar import refer

to this Agreement as a whole and not to any particular Article, Section or other subdivision of this Agreement. Unless expressly stated in connection therewith or the context otherwise requires, the phrase "relating to the Business" and other words of similar import shall be deemed to mean "relating to the operation of the Business as conducted as of the date hereof." Except as otherwise provided herein, references to Articles, Sections, clauses, subclauses, subparagraphs, Schedules, Exhibits, Appendices and the Disclosure Schedule herein are references to Articles, Sections, clauses, subclauses, subparagraphs, Schedules, Appendices, Exhibits and the Disclosure Schedule of this Agreement. Any reference herein to any Law (or any provision thereof) shall include such Law (or any provision thereof) and any rule or regulation promulgated thereunder, in each case, including any successor thereto, and as it may be amended, modified or supplemented from time to time. Any reference herein to "dollars" or "\$" means United States dollars.

Section 10.13 Computation of Time. In computing any period of time prescribed by or allowed with respect to any provision of this Agreement that relates to Sellers or the Chapter 11 Cases, the provisions of rule 9006(a) of the Federal Rules of Bankruptcy Procedure shall apply.

Section 10.14 Mutual Drafting. Each of the Parties has participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Section 10.15 Disclosure Schedule. All capitalized terms not defined in the Disclosure Schedule shall have the meanings ascribed to them in this Agreement. The representations and warranties of Sellers in this Agreement are made and given, and the covenants are agreed to, subject to the applicable disclosures and exceptions set forth in the Disclosure Schedule. The disclosure of any matter in any section of the Disclosure Schedule shall be deemed to be a disclosure with respect to any other sections of the Disclosure Schedule to which such disclosed matter reasonably relates, but only to the extent that such relationship is readily apparent on the face of the disclosure contained in the Disclosure Schedule. The listing of any matter shall expressly not be deemed to constitute an admission by Sellers, or to otherwise imply, that any such matter is material, is required to be disclosed under this Agreement or falls within relevant minimum thresholds or materiality standards set forth in this Agreement. No disclosure in the Disclosure Schedule relating to any possible breach or violation of any Contract or law shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. All attachments to the Disclosure Schedule are incorporated by reference into the Disclosure Schedule in which they are directly referenced.

Section 10.16 Headings; Table of Contents. The section headings and the table of contents contained in this Agreement and the Disclosure Schedule are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 10.17 Counterparts; Facsimile and Email Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement or any counterpart may be executed and delivered by facsimile or email with scan attachment copies, each of which shall be deemed an original.

Section 10.18 Time of Essence. Time is of the essence of this Agreement.

[SIGNATURE PAGES FOLLOW]

**SIGNATURE PAGE TO
ASSET PURCHASE AGREEMENT**

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


SELLERS:

LVI INTERMEDIATE HOLDINGS, INC.
THE LASIK VISION INSTITUTE, LLC
TLC VISION CENTER HOLDINGS, LLC
TOTAL VISION INSTITUTE, LLC
QUALSIGHT, LLC
CATARACT VISION INSTITUTE, LLC
HEALTHCARE MARKETING SERVICES, LLC
CATARACT VISION INSTITUTE FLORIDA, LLC
TLC WHITTEN LASER EYE ASSOCIATES, LLC
TLC VISION CENTERS, LLC
TRUVISION, LLC
TRUVISION CONTACTS, LLC
LASER EYE SURGERY, LLC
TLC LASER EYE CENTERS (REFRACTIVE I), LLC
TLC THE LASER CENTER (PITTSBURGH) L.L.C.
TLC THE LASER CENTER (INDIANA) LLC
TLC THE LASER CENTER (INSTITUTE), LLC
LVI MISSOURI, LLC

By: _____
Name:
Title:

BUYER:

KISMET NEW VISION HOLDINGS, LLC

By: 
Name: CRAIG P. R. JOFFE
Title: PRINCIPAL



**SIGNATURE PAGE TO
ASSET PURCHASE AGREEMENT**

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

SELLERS:

LVI INTERMEDIATE HOLDINGS, INC.
THE LASIK VISION INSTITUTE, LLC
TLC VISION CENTER HOLDINGS, LLC
TOTAL VISION INSTITUTE, LLC
QUALSIGHT, LLC
CATARACT VISION INSTITUTE, LLC
HEALTHCARE MARKETING SERVICES, LLC
CATARACT VISION INSTITUTE FLORIDA, LLC
TLC WHITTEN LASER EYE ASSOCIATES, LLC
TLC VISION CENTERS, LLC
TRUVISION, LLC
TRUVISION CONTACTS, LLC
LASER EYE SURGERY, LLC
TLC LASER EYE CENTERS (REFRACTIVE I), LLC
TLC THE LASER CENTER (PITTSBURGH) L.L.C.
TLC THE LASER CENTER (INDIANA) LLC
TLC THE LASER CENTER (INSTITUTE), LLC
LVI MISSOURI, LLC

By: 
Lisa Melamed (Jul 6, 2020 20:14 EDT)
Name: Lisa Melamed
Title: Chief Executive Officer and President

BUYER:

KISMET NEW VISION HOLDINGS, LLC

By: _____
Name: _____
Title: _____

Signature: 
Lisa Melamed (Jul 6, 2020 20:14 EDT)
Email: lmelamed@vgroupholdings.com
Title: CEO
Company: Vision Group Holdings

EXHIBIT A

Acquired Entities

LASIK Management Jacksonville, LLC
LASIK Management Orlando, LLC
LASIK Management Tampa, LLC
LASIK Management Hackensack, LLC
LASIK Management Houston, LLC
LASIK Management Austin, LLC
LASIK Management Albany, LLC
LASIK Management Hartford, LLC
LASIK Management Indianapolis, LLC
LASIK Management Louisville, LLC,
LASIK Management Long Island, LLC

Acquired Entities that are Section 2.6(d) Election Excluded:

Eau Claire Refractive, LLC
Providence Refractive LLC
Bismarck Refractive, LLC
TLC The Laser Center (Tri Cities), Inc.
Laser Vision Center of Edina, LLC

CF

EXHIBIT B

Form of Bill of Sale

To be in form and substance reasonably satisfactory to the Parties.

CH

EXHIBIT C

Form of Assignment and Assumption Agreement

To be in form and substance reasonably satisfactory to the Parties.

CS

EXHIBIT D

Form of Trademark Assignment Agreement

To be in form and substance reasonably satisfactory to the Parties.

CS

EXHIBIT E

Form of Copyright Assignment Agreement

To be in form and substance reasonably satisfactory to the Parties.

CO

EXHIBIT F

Form of Domain Name Assignment Agreement

To be in form and substance reasonably satisfactory to the Parties.

cmg

SCHEDULE 2.2(i)**Excluded Centers**

Those centers set forth below which are the subject of that certain Amended Omnibus Motion for Entry of an Order (i) Authorizing Rejection of Certain Unexpired Leases *Nunc Pro Tunc* to the Petition Date and (ii) Granting Related Relief, captioned In re: LVI Intermediate Holdings, Inc., et al., Case No. 20-11413 (KBO), filed with the United States Bankruptcy Court for the District of Delaware (the "Closure Motion").

Center No. // Property Name	Property Address
LVI049 Portland	Five Centerpointe Dr., Ste 390 Lake Oswego, OR 97035
LVI083 Des Moines	1225 Jordan Creek Pkwy Ste 104 Des Moines, IA 50266
LVI092 Little Rock	10800 Financial Centre Pkwy., Ste. 280 Little Rock, AR 72211
LVI094 Charleston	1801 Old Trolley Rd., Ste 201 Summerville, SC 29485
LVI087 Omaha	310 Regency Pkwy., Ste 115 Omaha, NE 68114
LVI096 Honolulu	1001 Bishop Street, Ste 700 Honolulu, HI 96813
Atlantic Eye Murrells Inlet	3911-A Hwy 17 Bypass Murrells Inlet, SC 29576
LVI099 McAllen	1400 E. Expressway 83, Ste 145 McAllen, TX 78503
LVI103 Hamden	2313 Whitney Avenue, Ste 1B Hamden, CT 06518
LVI102 Stockton	2575 Grand Canal Blvd., Ste 101 Stockton, CA 95207
LVI105 Columbia	1021 Pinnacle Point, Ste 120 Columbia, SC 29223
LVI107 Norwalk	40 Richards Avenue Norwalk, CT 06854
LVI108 Boulder	363 Centennial Parkway Louisville, CO 80027

LVI111 Mishawaka	1736 E. Day Road Mishawaka, IN 46545
LVI110 Orem	898 North 1200 West Orem, UT 84057
TLC TriCities	2913 Boones Creek Road Johnson City, TN 37615
LVI046 Bellevue	11245 SE 6th Street Bellevue, WA 98004
LVI114 Duluth	3235 Satellite Boulevard Duluth, GA 30096
LVI055 Kansas City	8500 W 110th St., Ste 200 Overland Park, KS 66210
TLC Greenville	30 Patewood Drive, Bldg. 1, Ste 140 Greenville, SC 29615
San Diego, CA	8989 Rio San Diego, Drive San Diego, CA
Tampa, FL	3030 N. Rocky Point Drive West Tampa, FL
St. Louis, MO	425 N. New Ballas Road Creve Coeur, MO
Plymouth, PA	600 W. Germantown Pike Plymouth Meeting, PA
Lubbock, TX	5307 West Loop 289 Lubbock, TX

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SCHEDULE 2.2(n)

Holdback Amounts

None.

CH

SCHEDULE 2.3

Assumed Liabilities

1. Liabilities under the Assumed Contracts (including Cure Amounts) and the Assumed Permits, in each case, other than any Liabilities to the extent based on any actions of any Seller in breach of such Assumed Contracts and/or Assumed Permits, in each case (i) for which all necessary consents and/or Bankruptcy Court approval to transfer have been obtained and (ii) arising and relating solely to the period from and after the Closing and not arising out of any breach or default thereof or any activities prior to the Closing.

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SCHEDULE 2.6(a)

Assumed Contracts

1. The Lease Agreements set forth on **Schedule 3.11(b)** and the Continuing Center Lease Agreements set forth on **Schedule 3.15** (without duplication) are incorporated herein by reference. The aggregate cure amount under the Lease Agreements is \$1,736,407, which amount constitutes the approximate amount of rent payments for the months of April and May, 2020.
2. The Equipment Leases set forth in subsection (a) of **Schedule 3.6** are incorporated herein by reference. Approximate cure costs listed below:

[Alcon Laboratories, Inc.: \$8,774,694 (aggregate)]
Dell Financial Services: \$28,421
Cisco Systems Capital Corporation: \$28,185
3. The License Agreements set forth in subsection (e) of **Schedule 3.6** are incorporated herein by reference.
4. The vendor agreements set forth below, together with all vendor agreements set forth in subsection (b) of **Schedule 3.6**, which are incorporated herein by reference.
 1. United Healthcare / Spectera, Inc.
 2. Century Link
 3. Davis Vision
 4. UGA Finance
 5. Synchrony Bank
 6. World Travel Service, Inc.
 7. Amobee f/k/a Frontline Direct Inc
 8. SJL Staffing
 9. GlobalWide Media
 10. Stericycle
 11. Iron Mountain
 12. Concur
 13. Yelp!
 14. Madrivo Media
 15. FedEx
 16. Sterling
 17. Citrix
 18. E-BIZSOFT.COM Inc.
 19. MD Medical Marketing
 20. Tableau Software Inc.
 21. Microsoft Great Plains Dynamics
 22. IMedicWare
 23. Management Plus

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Approximate cure costs for all vendor contracts:

Vendor	Cure Cost
Spectera	\$708,330
Davis Vision Inc	\$562,000
Century Link	\$301,363
Citrix	\$240,223
Staples Business	\$239,337
Henry Schein	\$206,499
Amobee f/k/a Frontline Direct Inc	\$187,904
MICROSOFT CORPORATE	\$106,200
NEUSTAR INFO SERVICES INC	\$72,317
Granite Telecommunications	\$45,503
SJL	\$35,342
B&L	\$29,634
GlobalWide Media	\$29,315
ZOHO CORPORATION	\$25,820
Oculus	\$22,999
SteriCycle	\$21,565
Iron Mountain - Records Management	\$21,556
Advanced Knowledge Networks Inc	\$19,843
New England Document Systems	\$18,612
Yelp	\$17,680
Concur	\$16,107
Madrivo Media	\$14,523
E-BIZSOFT.COM INC	\$13,138
ENVISION INFOSOFT PVT. LTD	\$12,380
Canon - HR	\$11,091
Guardian Alarm	\$9,926
TierPoint	\$8,083
Verizon Business	\$7,928
NOBLE SYSTEMS	\$7,893
Optizmo	\$7,200
AMEX	\$6,519
Adobe (Sign)	\$6,000
MEDIA6DEGREES INC	\$5,863
AMO - J&J	\$5,178
RELIANT TECHNOLOGY LLC	\$4,269
Resco Mobile CRM	\$3,180
COVENANT TECHNOLOGY GROUP LLC	\$2,500
Johnson & Johnson Vision	\$1,754
CROWN CASTLE FIBER LLC	\$1,680
Pitney Bowes	\$749

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Level 3 Communications, LLC	\$727
Fusion LLC	\$665
Enterprise Fleet Management	\$634
Sterling	\$186
MicroSpecialties	\$154
David M. Whiting	\$125
D-TECH NORTH LLC	\$79

5. Employment Contracts and/or arrangements with the KEIP Employees, including the Letter Agreement dated February 1, 2019, by and between LVI Intermediate Holdings, Inc. and Lisa Melamed
6. Agreement with Paladin Global Partners (Ray Monteleone, Interim CFO)
7. Offer Letter dated August 29, 2017, by and between Vision Group Holdings and David Tripp
8. Offer Letter dated October 27, 2016, by and between LVI Intermediate Holdings, Inc. and Tom Piteo
9. Letter Agreement dated November 6, 2015, by and between Vision Group Holdings and Linck Bascomb
10. Offer Letter dated April 9, 2018, by and between Vision Group Holdings and David Benson
11. Letter Agreement dated November 6, 2015, by and between Vision Group Holdings and Juan Bojorquez
12. Offer Letter dated August 17, 2010, by and between The Lasik Vision Institute, LLC and Jonathan Simmons
13. [Installment Loan Agreement dated June 10, 2019, by and between Alcon Vision, LLC and Vision Group Holdings]
14. The JV Agreements set forth in subsection (j) of **Schedule 3.6** are incorporated herein by reference.
15. The Permits set forth on **Schedule 3.12** are incorporated herein by reference.
16. The RMD Agreements set forth in subsection (p) of **Schedule 3.6** are incorporated herein by reference.
17. Surgeon Trainer Agreement dated February 25, 2019, by and between The Lasik Vision Institute, LLC and Jeffrey Machat, M.D.
18. Medial Director Agreement dated January 1, 2003, by and between TLC The Laser Center (Northeast), Inc. and Santiago J. Villazon
19. Medical Director Agreement dated August 1, 2008, by and between TLC Vision (USA) Corporation and Mark G. Speaker, M.D., as amended by those certain Amendments to Medical Director Agreement dated October 1, 2010 and October 3, 2014, respectively

20. Consultant Agreement dated July 20, 2007, by and between TLC Laser Eye Centers (Refractive 1), Inc. and Lee Hofer, M.D.
21. Medical Director Agreement dated March 31, 2008, by and between TLC Vision (USA) Corporation and Eric Donnenfeld, M.D.
22. Medical Director Agreement dated August 19, 2011, by and between TLC Vision Centers, Inc. and Andrew E. Holzman, M.D.
23. Medical Director and Services Agreement dated August 1, 2014, by and between TLC Vision Centers, LLC and Refractive Surgery Specialists, LLC, as amended by the Amendment to Medical Director and Services Agreement dated September 22, 2014
24. Medical Director Agreement dated August 1, 2008, by and between TLC Vision (USA) Corporation and Jodi Abramson M.D., as amended by the Amendment to Medical Director Agreement dated October 1, 2010 and the Second Amendment to Medical Director Agreement dated October 3, 2014
25. Practice Services Agreement dated May 1, 2003, by and between TLC The Laser Center (Institute) Inc., Aran Eye Associates and Albert Aran, MD.
26. The Professional Services Agreements, Management Services Agreements, MSFAAs, ICAs, Facility Access Agreements, Facility Lease Agreements, and Physician Arrangements set forth in subsection (p) of **Section 3.6** are incorporated herein by reference.

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SCHEDULE 5.4

Conduct of Business

None.

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SCHEDULE 9.3(d)**Alternate Auction APA Article VII Provisions****ARTICLE VII
BANKRUPTCY COURT MATTERS**

Section 7.1 Approval of Bid Protections and Overbid Protection. Subject to the entry of an order approving Buyer and this Agreement as the Stalking Horse Agreement (the "Stalking Horse Order") by the Bankruptcy Court, in consideration for Buyer having expended considerable time and expense in connection with this Agreement and the negotiation hereof and the identification and quantification of assets of Sellers, Sellers shall pay to Buyer promptly, upon the entry of an order of the Bankruptcy Court approving any sale, transfer or other disposition of all or any substantial portion of the Acquired Assets to any person or entity (or persons or entities) other than Buyer, in any transaction or series of transactions (an "Alternative Transaction") (i) an amount not to exceed \$500,000.00 for the reimbursement of reasonable out-of-pocket costs and expenses actually incurred by Buyer in connection with the transactions contemplated by this Agreement, and (ii) and the payment of a break-up fee equal to three percent of the amount set forth in Section 2.1(a)(ii) (collectively, the "Bid Protections"). Buyer shall provide Seller with documentation, reasonably acceptable to Seller, evidencing such costs and expenses. In addition, the Stalking Horse Order shall provide for an initial overbid protection in the amount of the Bid Protections and minimum bid increments thereafter of \$250,000. The obligations of the Sellers to pay the Bid Protections (i) shall be entitled to administrative expense claim status under Sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code, (ii) shall not be subordinate to any other administrative expense claim against the Sellers, other than any adequate protection order in existence at the time the Bid Protections are approved, and (iii) shall survive the termination of this Agreement in connection with an Alternative Transaction. The Stalking Horse Order shall approve the Bid Protections as set forth in this paragraph.

Section 7.2 Competing Bid and Other Matters.

(a) No later than _____ 2020, Sellers shall file with the Bankruptcy Court an application or motion seeking approval of the form of this Agreement (a true and complete copy of which shall be attached to such application or motion without schedules) and the Sellers' authority to enter into this Agreement (the "Stalking Horse Approval Motion").

(b) This Agreement and the transactions contemplated hereby are subject to Sellers' absolute right and ability to consider higher or better competing bids with respect to the Business and a material portion of the Acquired Assets pursuant to the Bidding Procedures Order and Stalking Horse Order. Following completion of the auction, if Buyer is the Prevailing Bidder (as defined below), Sellers shall not initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person other than Buyer in connection with any sale or other disposition of the Acquired Assets. In addition, unless otherwise directed by the Bankruptcy Court, Sellers shall not after completion of the Auction respond to or pursue any proposed Alternative Transaction or perform any other

acts related thereto. Notwithstanding anything contained herein to the contrary, in no event shall Sellers be prohibited prior to Buyer becoming the Prevailing Bidder from reviewing and responding to any offers not directly solicited by Sellers.

(c) If an auction is conducted, and Buyer is not the prevailing party at the conclusion of such auction (such prevailing party, the "Prevailing Bidder"), Buyer shall, if its bid is determined to be the next highest bid, serve as a back-up bidder (the "Back-up Bidder") and keep Buyer's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the auction) open and irrevocable until the earlier of (i) 5:00 p.m. (prevailing Eastern time) on the date which is 14 days after the date of the Sale Hearing (the "Outside Back-up Date"); provided, however, that notwithstanding the foregoing, in no event shall the Outside Back-up Date be later than _____, 2020 or (ii) the date of closing of an Alternative Transaction with the Prevailing Bidder. Following the Sale Hearing and prior to the Outside Back-up Date, if the Prevailing Bidder fails to consummate the applicable Alternative Transaction as a result of a breach or failure to perform on the part of such Prevailing Bidder, the Back-up Bidder will be deemed to have the new prevailing bid, and Sellers will be authorized, without further order of the Bankruptcy Court, to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the auction) with the Back-up Bidder.

(d) The Sellers shall promptly serve true and correct copies of the Stalking Horse Approval Motion and all related pleadings in accordance with the Bidding Procedures Order, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules for the Bankruptcy Court and any other applicable order of the Bankruptcy Court.

Section 7.3 Sale Order. The Sale Order shall be entered by the Bankruptcy Court. The Sale Order shall, among other things, (i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Sellers of this Agreement, (B) the sale of the Acquired Assets to Buyer on the terms set forth herein and free and clear of all Liens (other than Permitted Liens), and (C) the performance by Sellers of their obligations under this Agreement; (ii) authorize and empower Sellers to assume and assign to Buyer the Assumed Contracts; and (iii) find that Buyer is a "good faith" buyer within the meaning of Section 363(m) of the Bankruptcy Code, not a successor to Sellers and grant Buyer the protections of Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (a) demonstrating that Buyer is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code, and (b) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code.

Section 7.4 Bankruptcy Filings. Sellers agree to diligently prosecute the entry of the Bidding Procedures Order and the Sale Order. Sellers shall comply with all notice requirements (i) of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, or (ii) imposed by the

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Sale Order, in each case, in connection with any pleading, notice or motion to be filed in connection herewith.

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SCHEDULE A

SEE ATTACHED

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