

# **EXHIBIT B**

**ASSET PURCHASE AGREEMENT**

**BY AND AMONG**

**THE CATALYST CAPITAL GROUP INC.,**

**as the Purchaser,**

**SIMPLY WHEELZ LLC D/B/A ADVANTAGE RENT A CAR,**

**as the Seller,**

**and**

**FRANCHISE SERVICES OF NORTH AMERICA, INC.**

**Dated as of December 16, 2013**

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Exhibit C	Form of Bill of Sale for Seller Purchased Assets
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### **PURCHASER DISCLOSURE SCHEDULE**



Section 7.3(a)  
Section 7.3(b)

Conflicts  
Consents of Third Parties

## ASSET PURCHASE AGREEMENT

**ASSET PURCHASE AGREEMENT** (this "Agreement"), dated as of December 16, 2013 (the "Execution Date"), by and among The Catalyst Capital Group Inc., a Delaware corporation (the "Purchaser"), Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company ("Advantage", the "Seller" or the "Debtor"), and Franchise Services of North America, Inc., a Delaware corporation ("FSNA"). Each of the Purchaser, the Seller and FSNA is referred to individually herein as a "Party" and collectively as the "Parties." Certain capitalized terms used herein are defined in ARTICLE I.

### RECITALS

WHEREAS, the Seller has commenced a case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") by filing a voluntary petition for relief, Case No. 13-03332-ee (the "Seller Chapter 11 Case") with the United States Bankruptcy Court for the Southern District of Mississippi (the "Bankruptcy Court") on or about November 6, 2013 (the "Petition Date");

WHEREAS, prior to the entry of the Sale Procedures Order (as defined below), the Parties entered into a debtor-in-possession credit facility, pursuant to which the Purchaser or an Affiliate thereof agreed to provide a secured super-priority debtor-in-possession loan facility to the Debtor in an aggregate principal amount of up to \$46,000,000 pursuant to the DIP Order (as defined below) and the DIP Loan Documents (as defined below) (such credit facility, the "DIP Facility");

WHEREAS, the Seller has agreed to transfer to the Purchaser, and the Purchaser has agreed to purchase and assume, pursuant to Sections 363 and 365 of the Bankruptcy Code, the Seller Purchased Assets and the Seller Assumed Liabilities from the Seller, upon the terms and subject to the conditions contained in this Agreement, including obtaining an order of the Bankruptcy Court pursuant to Sections 105, 361, 362, 363, 364, 365, 507 and other applicable provisions of the Bankruptcy Code authorizing the Transactions (as defined below);

WHEREAS, the Seller is a wholly-owned subsidiary of FSNA;

WHEREAS, FSNA has agreed to transfer to the Purchaser, and the Purchaser has agreed to purchase and assume, the FSNA Purchased Assets and the FSNA Assumed Liabilities from FSNA, upon the terms and subject to the conditions contained in this Agreement; and

WHEREAS, the Parties acknowledge and agree that the purchase by the Purchaser of the Purchased Assets, and the assumption by the Purchaser of the Assumed Liabilities are being made at arm's length and in good faith and without intent to hinder, delay or defraud the respective creditors of the Seller and FSNA and Affiliates thereof.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained in this Agreement and for other good and

valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

## ARTICLE I.

### DEFINITIONS

1.1 Certain Definitions. For purposes of this Agreement, the following terms used in this Agreement shall have the respective meanings assigned to them below:

(a) “Accounts Receivable” means (i) any and all accounts receivable, trade accounts and other amounts (including overdue accounts receivable) owed to the Seller or FSNA relating to, or arising in connection with the operation and conduct of, the Business and any other rights of the Seller to payment from third parties and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of services rendered, in each case owing to the Seller, and any return of premiums or other funds relating to or arising from any Insurance Policies; (ii) all other accounts or notes receivable, credit receivables or book debts of the Seller and the full benefit of all security for such accounts or notes receivable arising in the conduct of the Business; and (iii) any and all claims, remedies or other rights relating to any of the foregoing, together with any interest or unpaid financing charges accrued thereon, in each case existing on the Execution Date or arising in the Ordinary Course of Business after the Execution Date and in each case that have not been satisfied or discharged prior to the close of business on the day immediately preceding the Closing Date or have not been written off or sent to collection in the Ordinary Course of Business prior to the close of business on the day immediately preceding the Closing Date (it being understood that the receipt of a check prior to the close of business on the day immediately preceding the Closing Date shall constitute satisfaction or discharge of the applicable account or note receivable to the extent of the payment represented thereby).

(b) “Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

(c) “Airport Authority” means the Person with the authority, whatever the basis (i.e., regulatory, statutory or contractual), to enter into an Airport Concession Agreement.

(d) “Airport Concession” means a Car Rental Facility serving an airport pursuant to an Airport Concession Agreement between a Person and an Airport Authority and, with respect to such Car Rental Facility, all Assets used in the Operation Of A Car Rental Facility and all Assets Associated therewith.

(e) “Airport Concession Agreements” means (a) each agreement between a Person and an Airport Authority setting forth the terms and conditions for operating any aspect of an Airport Concession, including all agreements which constitute Assets Associated used in the Operation Of A Car Rental Facility or (b) each agreement between two or more Persons subleasing or sublicensing such agreements referred to in the preceding clause (a) of this definition.

(f) “Alternative Transaction” means the consummation of (i) a transaction or series of related transactions pursuant to which the Seller accepts, whether in accordance with the Bidding Procedures (as defined in the Sale Procedures Order) or otherwise, a bid for all or a material portion of the Purchased Assets or any group of assets that includes all or a material portion of the Purchased Assets from a Person other than the Purchaser (or an Affiliate of the Purchaser), (ii) a plan of reorganization that does not contemplate the sale of the Purchased Assets to the Purchaser (or an Affiliate of the Purchaser) in accordance with the terms hereof, or (iii) any direct or indirect financing, refinancing, acquisition, sale, liquidation, divestiture (including by merger, acquisition or other business combination involving the Debtor), public offering, recapitalization, business combination or reorganization, whether in one transaction or a series of related transactions, of or involving or implicating all or a material part of any of the Purchased Assets or the Assumed Liabilities other than the Transactions. The first such transaction in a series of related transactions described above shall be deemed the Alternative Transaction for purposes of Section 4.8.

(g) “Assets” when used in connection with the phrase “Operation Of A Car Rental Facility” shall have the meaning given such term in the FTC Consent Decree.

(h) “Assets Associated” when used in connection with the phrase “Operation Of A Car Rental Facility” shall have the meaning given such term in the FTC Consent Decree but excluding any rights that have not been transferred by Hertz to the Seller as of the Closing Date.

(i) “Assumed Airport Concession Agreements” means all Airport Concession Agreements to which the Seller or FSNA or any of their respective Affiliates is a party, as set forth on Schedule 1.1(i) and as may be amended by the Purchaser from time to time pursuant to Section 2.7.

(j) “Assumed Contracts” means all Contracts of the Seller set forth on Schedule 1.1(j), as may be amended by the Purchaser from time to time pursuant to Section 2.7, and including the Assumed Executory Contracts and the Assumed Airport Concession Agreements.

(k) “Assumed Executory Contracts” means those Executory Contracts that the Purchaser elects to assume, as set forth on Schedule 1.1(k), as may be amended by the Purchaser from time to time pursuant to Section 2.7.

(l) “Assumed Hertz Contracts” means all Assumed Contracts to which Hertz is a party.

(m) “Assumed Liabilities” means, collectively, the Seller Assumed Liabilities and the FSNA Assumed Liabilities.

(n) “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure.

(o) “Bid Protections” means the bid protections implemented for the benefit of the Purchaser, including the Breakup Fee. The Bid Protections shall be approved in the Sale Procedures Order.

(p) “Breakup Fee” means an amount in cash equal to \$3,000,000.

(q) “Business” means (x) the business of acquiring, selling, leasing, renting, financing or refinancing motor vehicles, (y) operating retail motor vehicle rental facilities and (z) any business or activities incidental or related to such businesses, in each case, as heretofore conducted or operated by the Seller.

(r) “Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or obligated to close under applicable Laws.

(s) “Car Rental Facility” means a facility or facilities at which a rental vehicle is picked up and/or returned.

(t) “Cash and Cash Equivalents” means all of the Seller’s cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances (excluding any amounts payable to third parties for outstanding checks), marketable securities, certificates of deposits, time deposits, bankers’ acceptances, commercial paper and government securities and other cash equivalents.

(u) “Code” means the Internal Revenue Code of 1986, as amended.

(v) “Consent” means any consent, waiver, approval, order or authorization of, or registration, declaration or filing with or notice to, any Governmental Body or other Person.

(w) “Contract” means any written or oral contract, purchase order, service order, sales order, indenture, note, bond, lease, license, commitment or instrument or other agreement, arrangement or commitment that is binding upon a Person or its property under applicable Law, as well as any Seller Plan or any Insurance Policy.

(x) “Credit Bid” means a credit bid equal to the lesser of (x) \$46,000,000 and (y) all DIP Indebtedness outstanding immediately prior to the Closing.

(y) “Cure Costs” means the amounts necessary to cure all defaults, if any, and to pay all actual pecuniary losses, if any, that have resulted from such defaults, under the Assumed Contracts (other than the Assumed Hertz Contracts), in each case as of the Petition Date and to the extent required by Section 365(b) of the Bankruptcy Code and any order of the Bankruptcy Court, which amounts (if not already paid or to be paid in the Ordinary Course of Business pursuant to an order of the Bankruptcy Court) shall be identified to the Purchaser on Schedule 1.1(y) no later than December 2, 2013.

(z) “DIP Budget” shall have the same meaning as the term “Approved Budget” as defined in the DIP Order.

(aa) “DIP Indebtedness” means all “DIP Obligations” as defined in the DIP Order.

(bb) “DIP Lender” shall have the same meaning given such term in the DIP Order.

(cc) “DIP Loan Agreement” shall have the same meaning as the term “Governing DIP Agreement” as defined in the DIP Order.

(dd) “DIP Loan Documents” shall have the meaning given such term in the DIP Order, and for the avoidance of doubt shall include all guarantees, all other security agreements, pledge agreements, notes, guarantees, mortgages, certificates, Uniform Commercial Code financing statements and all other related agreements, instruments and other documents, in each case relating to the DIP Indebtedness, and executed and/or delivered in connection therewith by the Seller or FSNA.

(ee) “DIP Order” means as of any date of determination (i) the Interim Order (I) Authorizing Debtor To Obtain Post-Petition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361, 362 and 364, (II) Granting Liens And Super-Priority Claims; And (III) Scheduling A Final Hearing Pursuant To Bankruptcy Rule 4001 entered by the Bankruptcy Court on November 9, 2013 (the “Interim Order”) or (ii) the Final Order (as defined in the Interim Order), whichever Order is then in effect.

(ff) “Documents” means all of the Seller’s written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies and documents, Tax Returns, ledgers, journals, title policies, customer lists and information (relating to past, present and prospective customers), regulatory filings, operating data and plans, research material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes, flow charts, etc.), user documentation (installation

guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form.

(gg) “Employee” means an individual who, as of the applicable date, is employed by the Seller, FSNA or their respective Affiliates whose primary employment duties and responsibilities are engaged in connection with the Business.

(hh) “Employment and Withholding Taxes” means all Taxes and withholding of Taxes on wages imposed under Sections 3101, 3201, 3301 and 3401 of the Code and the corresponding provisions of applicable state and local Law.

(ii) “Employment Loss” means (i) an employment termination, other than a discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding six (6) months, (iii) a reduction in hours of work of more than fifty percent (50%) in each month of any six (6) month period or (iv) or any similar employment action that (when aggregated with any other employment action) could trigger the notice requirements of the WARN Act or any other similar state law.

(jj) “Encumbrance” means any lien, encumbrance, interest, claim (as defined in Section 101(5) of the Bankruptcy Code), right, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, hypothecations, easements, rights of way, restrictive covenants, conditions, restrictions, encroachments, rights of first refusal, preemptive rights, judgments, conditional sale or other title retention agreements and other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever (whether known or unknown, secured or unsecured or in the nature of setoff or recoupment, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or nonmaterial, disputed or undisputed, whether arising prior to or subsequent to the commencement of the Seller Chapter 11 Case, and whether imposed by agreement, understanding, Law, equity, or otherwise, including claims otherwise arising under doctrines of successor liability).

(kk) “Environmental Laws” means all Laws relating to pollution or protection of health, natural resources or the environment, or the generation, use, treatment, storage, handling, transportation or Release of, or exposure to, Hazardous Materials, including, without limitation, the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), Safe Drinking Water Act (42 U.S.C. §3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Clean Air Act (42 U.S.C. §7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.) and any other similar federal, state, provincial and local statutes.

(ll) “Equipment” means all equipment, machinery, vehicles, fuel, tires, spare parts, tools, furniture, fixtures, supplies and other tangible personal property of every kind and description owned and used or held for use by the Seller or FSNA (provided that in the case of FSNA such assets are used or held for use in connection with the Business), wherever located, including but not limited to, communications equipment, the IT Assets, and any attached and associated hardware, routers, devices, panels, cables, manuals, cords, connectors, cards, and vendor documents, and including all warranties of the vendor applicable thereto, to the extent such warranties are transferable, but excluding software and any other intangibles associated therewith except to the extent embedded in such assets and required to operate it.

(mm) “ERISA Affiliate” means any entity which is, or at any relevant time was, a member of (A) a controlled group of corporations (as defined in Section 414(b) of the Code), (B) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), (C) an affiliated service group (as defined under Section 414(m) of the Code) or (D) any group specified in regulations under Section 414(o) of the Code, any of which includes or included the Seller.

(nn) “Excluded Airport Concession Agreements” means those Airport Concession Agreements which are not Assumed Airport Concession Agreements.

(oo) “Excluded Contracts” means any Contracts to which the Seller is a party but that are not Assumed Contracts, including, without limitation, the Contracts set forth on Schedule 1.1(oo), as may be amended by the Purchaser from time to time pursuant to Section 2.7.

(pp) “Excluded Hertz Claims” means any pre-petition rights, claims, counterclaims, demands and causes of action of the Seller or FSNA against Hertz under the Hertz Sublease Agreements or under common law; provided, however, that the term “Excluded Hertz Claims” shall exclude any agreement (other than the Hertz Sublease Agreements) between or among Hertz, on the one hand, and the Seller and/or FSNA, on the other hand, or any of the Seller’s or FSNA’s respective pre-petition or post-petition rights, remedies or claims thereunder).

(qq) “Excluded Privacy Documents” means those Documents collected in connection with the offering of a product or a service to an individual and containing personally identifiable information about such individual, if a policy of the Seller prohibiting the transfer of such personally identifiable information about such individual was disclosed to such individual in connection with such offering.

(rr) “Executory Contracts” means executory contracts and unexpired leases of the Seller as of the Execution Date, including Airport Concession Agreements.

(ss) “Final Order” means an order or judgment of the Bankruptcy Court or any other court of competent jurisdiction entered by the Clerk of the Bankruptcy Court or



such other court on the docket in the Seller Chapter 11 Case or the docket of such other court, which has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari* or motion for new trial, reargument or rehearing shall then be pending or (ii) if an appeal, writ of *certiorari*, new trial, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other court of competent jurisdiction shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Bankruptcy Rules; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order, shall not cause such order not to be a Final Order.

(tt) “FSNA Assumed Contracts” means the FSNA Contracts set forth on Schedule 1.1(tt), as may be amended by the Purchaser from time to time pursuant to Section 2.7.

(uu) “FSNA Contracts” means all Contracts used or held for use in connection with the Business to which FSNA is a party.

(vv) “FSNA Excluded Contracts” means all FSNA Contracts that are not FSNA Assumed Contracts.

(ww) “FSNA Settlement Agreement” means a settlement agreement by and among FSNA and the Seller with respect to the settlement of certain intercompany claims, in a form acceptable to the Purchaser in its sole and absolute discretion.

(xx) “FTC” means the U.S. Federal Trade Commission.

(yy) “FTC Consent Decree” means the Decision and Order of the FTC In the Matter of Hertz Global Holdings, Inc., dated July 10, 2013, Docket No. C-4376, as in effect on the date hereof.

(zz) “GAAP” means United States generally accepted accounting principles as in effect from time to time.

(aaa) “Governmental Body” means any government, quasi governmental entity, or other governmental or regulatory body, agency or political subdivision thereof of any nature, whether foreign, federal, state or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrator (public or private) of applicable jurisdiction.

(bbb) “Hazardous Materials” means any material or substance (whether solid, liquid or gas) which is subject to regulation by any Environmental Law, including but not limited to any pollutant, contaminant, chemical, waste, petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos and asbestos containing materials, polychlorinated byphenals (PCBs), toxic mold, and any and all materials, substances or wastes now or hereafter defined, listed, designated or classified as, or otherwise determined to be, “hazardous,” “radioactive,” “toxic,” or a “pollutant” or “contaminant” (or words of similar meaning) under or pursuant to or otherwise listed or regulated pursuant to any Environmental Law.

(ccc) “Hertz” means, collectively, The Hertz Corporation and its Affiliates.

(ddd) “Hertz Settlement Agreement” means a settlement agreement by and among Hertz, the Purchaser, FSNA, the Seller and the other parties thereto with respect to certain claims of the parties by and against the other parties thereto, in a form acceptable to the Purchaser in its sole and absolute discretion.

(eee) “Hertz Sublease Agreements” means (i) the Master Motor Vehicle Operating Sublease Agreement, dated as of December 12, 2012, as amended, between Hertz and the Seller, and (ii) the Master Motor Vehicle Operating Hawaii Lease Agreement, dated as of December 12, 2012, as amended, between Hertz and the Seller.

(fff) “Indebtedness” of any Person means, without duplication, (i) the interest in respect of, principal of and premium (if any) in respect of (x) indebtedness of such Person for money borrowed and (y) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property (other than for services and goods acquired in the Ordinary Course of Business); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) 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 (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Encumbrance (other than Permitted Encumbrances), on any property or asset of such Person (whether or not such obligation is assumed by such Person).

(ggg) “Intellectual Property” means all intellectual property and proprietary rights of any kind, including the following: (i) all trademarks, service marks, trade names, slogans, logos, trade dress, internet domain names, uniform resource identifiers, rights in design, brand names, and other similar designations of source or origin, together with all translations, adaptations, derivations, and combinations thereof, all goodwill associated therewith, and all registrations of, and applications to register, the foregoing, and all renewals thereof; (ii) all patents, utility models and industrial designs, all applications and registrations

thereof (and all continuations, divisionals, continuations in part, provisionals, renewals, reissues, re-examinations thereof); (iii) all works of authorship (whether or not published), and all copyrights, industrial designs, and mask works, and all registrations of, and applications to register, the foregoing; (iv) all trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, and methodologies; (v) all computer software, computer programs, and databases (whether in source code, object code or other form); and (vi) all rights to sue or otherwise recover for any past, present and future infringements, misappropriations, dilutions or other violations of any of the foregoing and all remedies at law or equity associated therewith.

(hhh) “Intercompany Obligations” means any intercompany obligation or Indebtedness between the Seller, on the one hand, and an Affiliate of the Seller, on the other hand, whether or not evidenced by promissory notes, written contracts and/or recorded in the books and records of the Seller.

(iii) “IT Assets” means all computers, computer software and databases (including source code, object code and all related documentation), firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment and elements, and all associated documentation, whether owned, used or held for use.

(jjj) “Knowledge of FSNA” means, with respect to any matter in question, the knowledge, after reasonable inquiry, of those persons listed on Schedule 1.1(jjj), with respect to such matter.

(kkk) “Knowledge of the Seller” means, with respect to any matter in question, the knowledge, after reasonable inquiry, of those persons listed on Schedule 1.1(kkk), with respect to such matter.

(lll) “Laws” means all federal, state, local or foreign laws, statutes, common law, rules, codes, regulations, restrictions, ordinances, orders, decrees, approvals, directives, judgments, rulings, injunctions, writs and awards of, or issued, promulgated, enforced or entered by, any and all Governmental Bodies, or court of competent jurisdiction, or other legal requirement or rule of law.

(mmm) “Leased Real Property” means all of the real property leased, subleased or licensed by the Seller, together with all buildings, structures, fixtures and improvements erected thereon, and any and all rights, interests, privileges, easements, licenses, hereditaments and other appurtenances relating thereto.

(nnn) “Legal Proceeding” means any claim, Liability, action, complaint, suit, litigation, arbitration, appeal, petition, demand, inquiry, hearing, proceeding, investigation or other dispute, whether civil, criminal, administrative or otherwise, at law or in equity, by or before any Governmental Body or any third person and any appeal from any of the foregoing.

(ooo) “Liability” means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, Tax, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed, including all costs and expenses relating thereto.

(ppp) “Licensed Intellectual Property” means any Intellectual Property that is licensed to the Seller.

(qqq) “LLC Interests” means all of the Seller’s interests in the limited liability companies set forth on Schedule 1.1(qqq).

(rrr) “Material Adverse Effect” means any change, effect, event, occurrence, development, circumstance or state of facts which has had or would reasonably be expected to have a materially adverse effect on the business, properties, operations, financial condition, prospects or results of operations of the Business or the Seller, taken as a whole, or which would materially impair the Seller’s ability to perform its obligations under this Agreement or have a materially adverse effect on or prevent or materially delay the consummation of the transactions contemplated hereby; provided, however, that changes in the business, properties, operations, financial condition, prospects or results of operations of the Business arising by reason of any of the following shall not constitute a material adverse effect: (i) the filing of a voluntary petition under Chapter 11 of the Bankruptcy Code or the effect, directly or indirectly, of such filing; (ii) changes in conditions in the U.S. or global economy or capital or financial markets generally, including changes in interest or exchange rates; (iii) factors generally affecting the industries or markets in which the Seller operates; (iv) changes in general legal, tax, regulatory, political or business conditions that, in each case, generally affect the geographic regions or industries in which the Seller conducts its business; and (v) acts of war, armed hostilities, sabotage or terrorism, or any escalation or worsening of any such acts of war, armed hostilities, sabotage or terrorism threatened or underway as of the date of this Agreement, but only if such changes, events, effects, conditions, circumstances, states of facts or developments do not, individually or in the aggregate, have a materially disproportionate adverse impact on the Business relating to other Persons in similar businesses.

(sss) “Operation Of A Car Rental Facility” and “Operation Of The Car Rental Facility” shall have the meanings given such terms in the FTC Consent Decree.

(ttt) “Ordinary Course of Business” means the ordinary and usual course of day-to-day operations of the Business consistent with past practice.

(uuu) “Owned Intellectual Property” means all Intellectual Property owned by the Seller.

(vvv) “Owned Real Property” means all of the real property owned by the Seller, together with all buildings, structures, fixtures and improvements erected thereon, and any and all rights, interests, privileges, easements, licenses, hereditaments and other appurtenances relating thereto.

(www) “Permits” means all licenses, permits (including environmental, construction and operation permits), provider numbers, accreditations, franchises, certificates, approvals, Consents, waivers, clearances, exemptions, classifications, registrations, variances, orders, tariffs, rate schedules and other similar documents and authorizations issued by any Governmental Body and/or any self-regulatory or accreditation body or organization to the Seller or its Affiliates and used, or held for use, in connection with the operation of the Business or applicable to ownership of the Purchased Assets or assumption of the Assumed Liabilities.

(xxx) “Permitted Encumbrances” means (i) Encumbrances for current Taxes not yet due and payable; (ii) easements, rights of way, restrictive covenants, encroachments and similar non-monetary encumbrances or non-monetary impediments against any of the Purchased Assets which do not, in the aggregate, adversely affect the operation of the Business and, in the case of the Real Property, which do not, in the aggregate, adversely affect the use or occupancy of such Real Property as it relates to the operation of the Business, (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law which are not violated by the current use and operation of the Real Property, and (iv) such other Encumbrances or title exceptions as the Purchaser may approve in writing in its sole discretion or which do not materially impair the value, marketability, occupancy or use (for the conduct of the Business in the Ordinary Course of Business) of the property encumbered.

(yyy) “Person” means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, estate, Governmental Body or other entity or group.

(zzz) “Petition Date” means the date on which the Seller commenced the Seller Chapter 11 Case.

(aaaa) “Purchased Assets” means, collectively, the Seller Purchased Assets and the FSNA Purchased Assets.

(bbbb) “Qualified Bid” has the meaning assigned to that term in the Bidding Procedures (as defined in the Sale Procedures Order) as approved by the Bankruptcy Court.

(cccc) “Real Property” means, collectively, the Owned Real Property and the Leased Real Property.

(dddd) “Real Property Leases” means all leases, subleases and other agreements pursuant to which the Seller uses, occupies or possesses all or any portion of the Leased Real Property.

(eeee) “Regulatory Approvals” means any Consents, waivers, approvals, orders, Permits or authorizations of any Governmental Body required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereunder. For the avoidance of doubt, the term “Regulatory Approvals” shall include, without limitation, any Consents, waivers, approvals, orders, licenses, Permits, registrations, certifications, certificates of occupancy, certificates of need or authorizations of any Airport Authority required to effectuate the assumption and assignment of any Assumed Airport Concession Agreements.

(ffff) “Release” means, with respect to any Hazardous Material, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migrating into or through any surface or ground water, drinking water supply, soil, surface or subsurface strata or medium, or the ambient air.

(gggg) “Retained Contracts” means the Excluded Contracts.

(hhhh) “Sale Approval Hearing” means the hearing to approve this Agreement and seeking entry of the Sale Approval Order.

(iiii) “Sale Approval Order” means a final, non-appealable order of the Bankruptcy Court that has not been stayed, vacated or stayed pending appeal, in a form acceptable to the Purchaser in its sole and absolute discretion.

(jjjj) “Sale Motion” means the Motion, Pursuant To Bankruptcy Code Sections 105(a), 363, 365, 503 and 507, Bankruptcy Rules 2002, 3007, 6004, 6006, 9007 and 9014 For Entry Of: (A) Order (I) Approving Bidding Procedures In Connection With Sale Of Assets Of Debtor, (II) Approving Form And Manner Of Notice, (III) Scheduling Auction And Sale Hearing, (IV) Authorizing Procedures Governing Assumption and Assignment Of Certain Executory Contracts And Unexpired Leases, And (V) Granting Related Relief; And (B) Order (I) Approving Purchase Agreement, (II) Authorizing Sale Free And Clear Of All Liens, Claims, Encumbrances, And Other Interests, And (III) Granting Related Relief, which Motion was filed by the Seller on November 12, 2013.

(kkkk) “Sale Procedures Order” means a final, non-appealable order of the Bankruptcy Court that has not been stayed, vacated or stayed pending appeal, in the form attached hereto as Exhibit E with such changes as the Purchaser may have approved in its sole and absolute discretion; provided, however, that the Purchaser may waive the final, non-appealable requirement in writing in its sole discretion.

(llll) “Seller Intellectual Property” means all Licensed Intellectual Property and Owned Intellectual Property.

(mmmm) “Seller Plan” means (i) each “employee benefit plan” (as defined in Section 3(3) of ERISA), including each employee benefit plan which is a “pension plan” (as defined in Section 3(2) of ERISA) and any other written employee benefit arrangement or payroll practice (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, survivor benefit, deferred compensation, profit sharing, retirement, retiree medical, supplemental retirement, bonus or other incentive compensation, equity compensation arrangements or policies) and (ii) each written employment, termination, bonus, severance, change in control or other similar Contract or agreement, in each case to which the Seller is a party, with respect to which the Seller has any Liability or obligation, including such plans of an ERISA Affiliate, or which are maintained by the Seller and to which the Seller contributes or is obligated to contribute with respect to current or former directors, officers, consultants and Employees.

(nnnn) “Specified Airport Concessions” means, collectively, all Airport Y Concessions (as defined in the FTC Consent Decree) relating to each of the airports listed in Confidential Appendix C to the FTC Consent Decree and all Appendix B Airport Concessions (as defined in the FTC Consent Decree) relating to the Baltimore/Washington airport.

(oooo) “Tax” and “Taxes” mean any and all taxes, tariffs, duties, impositions, withholdings, levies or other similar assessments, charges or fees, imposed by any Governmental Body, together with any interest, penalties or additional amounts attributable to, imposed upon, or with respect thereto, and shall include any liability or obligation to pay (or contribute to the payment of) Taxes of any Person, whether by contract or law (including Treasury Regulation Section 1.1502-6 and any comparable provision of state, local or foreign Law), as transferee or successor, or otherwise.

(pppp) “Tax Period” means any period prescribed by any Governmental Body for which a Tax Return is required to be filed or a Tax is required to be paid.

(qqqq) “Tax Return” means any return, report, information return, declaration, claim for refund or other document (including any schedule or related or supporting information) filed or required to be filed to any Governmental Body in connection with the administration or enforcement of any Tax Laws or the assessment or collection of any Taxes, including attachments thereto and amendments thereof.

(rrrr) “Transactions” means the transactions contemplated herein to be consummated at the Closing, including the purchase and sale of the Purchased Assets and the delegation and assumption of the Assumed Liabilities provided for in this Agreement.

(ssss) “WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2101 et seq. and any similar state law.

1.2 Terms Defined Elsewhere in this Agreement. For purposes of this Agreement, the following terms have meanings set forth in the sections indicated:

<u>Term</u>	<u>Section</u>
“Advantage”	Preamble
“Agreement”	Preamble
“Allocation”	12.1(b)
“Assumed Intellectual Property”	2.1(q)
“Assumed Personal Property Leases”	2.1(n)
“Assumed Plans”	2.1(u)
“Assumed Real Property Leases”	2.1(o)
“ACA”	5.17(h)
“Auction”	9.1(b)
“Bankruptcy Code”	Recitals
“Bankruptcy Court”	Recitals
“Bankruptcy Exceptions”	5.3
“Bidding Procedures”	9.1(b)
“Closing”	4.1
“Closing Date”	4.1
“COBRA Continuation Coverage”	8.3
“Concession Counterparty”	5.22
“Credit Bid And Release”	3.1(b)(i)
“Debtor”	Preamble
“DIP Facility”	Recitals
“End Date”	4.1
“Excluded Assets”	2.2
“Excluded Documents”	2.1(z)
“Excluded Liabilities”	2.4
“Excluded Plans”	2.2(i)
“Execution Date”	Preamble
“Exempt Trust”	5.17(c)
“Financial Statements”	5.24
“FSNA”	Preamble
“FSNA Assumed Liabilities”	2.6
“FSNA Disclosure Schedule”	Article VI
“FSNA Documents”	6.2
“FSNA Excluded Contract Termination Notice”	2.7(d)
“FSNA IT Assets”	6.5(b)
“FSNA Organizational Documents”	6.1
“FSNA Permits”	6.6(a)



<u>Term</u>	<u>Section</u>
“FSNA Personal Property Leases”	6.9
“FSNA Purchased Assets”	2.5
“Insurance Policies”	5.20(a)
“Material Contracts”	5.8(a)
“Most Recent Balance Sheet Date”	5.24
“Most Recent Balance Sheet”	5.24
“Named Insured”	4.2(h)
“Non-Assignable Purchased Assets”	10.3(a)
“Organizational Documents”	5.1
“OTA Agreements”	2.1(cc)
“Parent”	5.18
“Party”	Preamble
“Personal Property Leases”	5.12
“Petition Date”	Recitals
“Purchase Price”	3.1(a)
“Purchased Names”	2.1(q)
“Purchaser”	Preamble
“Purchaser Disclosure Schedule”	Article VII
“Purchaser Released Parties”	10.12
“Purchaser’s Documents”	7.2
“Qualified Bidder”	9.1(b)
“Qualified Plan”	5.17(c)
“Record Destruction Date”	10.7
“Registered IP”	5.7(a)
“Representatives”	10.2(a)
“Retained Bank Accounts”	2.1(y)
“Seller”	Preamble
“Seller Assumed Liabilities”	2.3
“Seller Chapter 11 Case”	Recitals
“Seller Disclosure Schedule”	Article V
“Seller IT Assets”	5.7(f)
“Seller Permits”	5.9(a)
“Seller Purchased Assets”	2.1
“Seller Reserves”	5.23
“Seller’s Documents”	5.3
“Significant Vendors/Suppliers”	5.22
“Subsequent Designated Executory Contract”	2.7(c)
“Subsequent Designated FSNA Contract”	2.7(d)
“Third Party Insurance Policies”	5.20(b)
“Transfer Taxes”	12.1(a)
“Transferred Employee”	8.1
“Transferring Party”	10.15(b)

<u>Term</u>	<u>Section</u>
“Transition Services Agreement”	4.3(f)

## ARTICLE II.

### PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

2.1 Purchase and Sale of Seller Purchased Assets. Pursuant to Sections 105, 363, 365 and any other applicable provisions of the Bankruptcy Code and on the terms and subject to the conditions set forth in this Agreement and the Sale Approval Order, the Purchaser shall purchase and acquire and accept from the Seller, and the Seller shall sell, transfer, assign, convey and deliver to the Purchaser, at the Closing, all of the Seller’s right, title and interest in, to and under the Purchased Assets, free and clear of all Encumbrances (other than Permitted Encumbrances and Encumbrances included in the Assumed Liabilities). “Seller Purchased Assets” shall mean all of the business, assets, properties, titles, contractual rights, goodwill, going concern value, rights, interests and claims of the Seller, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, owned, leased, licensed, used or held, whether or not reflected on the books and records of the Seller (but, for the avoidance of doubt, excluding any Excluded Assets), including the FSNA Purchased Assets and the Seller’s right, title and interest in, to and under each of the following assets:

- (a) all rights of the Seller under any Assumed Contract;
- (b) all Accounts Receivable;
- (c) all Cash and Cash Equivalents, whether on hand, in transit or in banks or other financial institutions, security entitlements, securities accounts, commodity contracts and commodity accounts and including any cash collateral that is collateralizing any letters of credit issued pursuant to the DIP Loan Documents or any other letter of credit, including, without limitation, any letter of credit issued prior to the Petition Date, or obligation with respect thereto, assumed by the Purchaser, but excluding any cash tendered as part of the Purchase Price;
- (d) all Documents used in or relating to the Business or in respect of the assets purchased by the Purchaser under this Section 2.1 or Seller Assumed Liabilities, including but not limited to, any Assumed Contract, products, services, marketing, advertising and promotional activities, trade shows and all files, supplier lists, vendor lists, records, literature and correspondence with sufficient detail as reasonably available;
- (e) all deposits and prepaid expenses of the Seller, including but not limited to (i) security deposits with third party suppliers, vendors or service providers, ad valorem taxes and lease and rental payments (other than deposits held and prepaid expenses relating to any Excluded Assets), (ii) rebates, (iii) tenant reimbursements, (iv) pre-payments

and (v) those deposits and pre-paid expenses set forth on Schedule 2.1(e), as may be amended by the Purchaser from time to time pursuant to Section 2.7;

(f) all Equipment;

(g) all Permits and all pending applications therefor, including the Seller Permits, to the extent transferable pursuant to the Sale Approval Order, in accordance with the terms of such Permits or otherwise in accordance with applicable Law;

(h) all rights under non-disclosure or confidentiality, non-compete, or non-solicitation agreements with Employees and agents or with third parties;

(i) except for the Excluded Hertz Claims, all rights, claims, credits, causes of action or rights of set off against third parties relating to the assets purchased by the Purchaser under this Section 2.1 (including, for the avoidance of doubt, those arising under, or otherwise relating, to the Assumed Contracts) or Seller Assumed Liabilities, including rights under vendors' and manufacturers' warranties, indemnities, guaranties and avoidance claims and causes of action under the Bankruptcy Code or applicable state law, including, without limitation, all rights and avoidance claims of the Seller arising under Chapter 5 of the Bankruptcy Code;

(j) except for the Excluded Hertz Claims, any counterclaims, setoffs or defenses that the Seller may have with respect to any Seller Assumed Liabilities;

(k) subject to Section 2.2(d), to the extent assignable or transferable in accordance with applicable Law or the Sale Approval Order, all rights and benefits under Insurance Policies, as may be amended by the Purchaser from time to time pursuant to Section 2.7, including (i) all proceeds from Insurance Policies except to the extent that such proceeds relate to claims that are Excluded Assets or Excluded Liabilities, (ii) all claims, demands, proceedings and causes of action asserted by the Seller under Insurance Policies that do not relate solely to an Excluded Asset or Excluded Liability and (iii) any letters of credit related thereto;

(l) copies of all Tax Returns and Tax records of the Seller;

(m) any claim, right or interest of the Seller in or to any refund, rebate, abatement or other recovery for Taxes, together with any interest due thereon or penalty rebate arising therefrom, for any Tax Period (or portion thereof) ending on or before the Closing Date;

(n) all leases and subleases for personal property to which the Seller is a party and used, or held for use, in connection with the operation of the Business and all of the rights of the Seller to such personal property, as may be amended by the Purchaser from time to time pursuant to Section 2.7 (the "Assumed Personal Property Leases");

(o) all Real Property Leases that are Assumed Contracts and all of the Seller's right, title and interest in and thereto (the "Assumed Real Property Leases");

(p) all Owned Real Property;

(q) all of the Seller's right, title and interest in and to (i) all trade names of the Seller, including, without limitation, the name Simply Wheelz LLC and the name Advantage Rent A Car, and, in each case, any translations, adaptations, derivations, and combinations thereof (the "Purchased Names"), and (ii) all other Seller Intellectual Property (collectively, the "Assumed Intellectual Property"), including all of the Seller's right, title, and interest in any physical embodiments of all of the foregoing;

(r) all Contracts pursuant to which the Seller is granted a license to, or any rights under, any Intellectual Property of any third Person and all Contracts pursuant to which the Seller grants to a third Person a license to, or any rights under, any Seller Intellectual Property;

(s) all rights of indemnity pursuant to the Assumed Contracts;

(t) all goodwill and other intangible assets associated with the Business or the assets purchased by the Purchaser under this Section 2.1;

(u) the Seller Plans listed on Schedule 2.1(u), as may be amended by the Purchaser from time to time pursuant to Section 2.7, (the "Assumed Plans"), and any associated funding media, assets, reserves, credits and service agreements, and all Documents created, filed or maintained in connection with the Assumed Plans (to the extent transferable in accordance with the existing terms and conditions of the applicable Seller Plan) and any applicable Insurance Policies related thereto;

(v) all personnel files for Transferred Employees, except to the extent that any transfer or assignment is prohibited by applicable Law;

(w) all telephone, facsimile numbers and other directory listings and e-mail and website addresses used in connection with the Business;

(x) all furniture, counter space, improvements, fixtures, machinery/equipment (including, but not limited to, vehicle moving equipment, floor jacks, stanchions and car washes), telephones, printers, vehicles, infant/child seats, signage, marketing materials, customer lists, databases, GDS chain codes, E-toll and tracking devices, GPS devices and counter products used, or held for use, in connection with the operation of the Business;

(y) except as set forth on Schedule 2.1(y) (the "Retained Bank Accounts"), all of the Seller's right, title and interest in and to bank accounts and safe deposit boxes;

(z) all Documents (whether copies or originals), other than those Documents that (i) constitute Excluded Privacy Documents or (ii) relate to the formation, qualifications to conduct business as a foreign corporation or other legal entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, stock ledgers, stock certificates, by-laws and other documents relating to the organization and existence of any Seller as a corporation or other legal entity, as applicable, together with analogous documentation (collectively, the “Excluded Documents”);

(aa) except for any amounts to the extent specifically owed pursuant to or solely related to any Excluded Asset or Excluded Liability, all loans and other Indebtedness payable to the Seller;

(bb) all of the Seller’s rights under the FTC Consent Decree and any other related orders;

(cc) all online travel agency agreements and any related agreement, in each case, to which the Seller is a party (collectively, the “OTA Agreements”);

(dd) all LLC Interests; and

(ee) all rights, title and interest of the Seller under the Specified Airport Concessions.

Notwithstanding the foregoing, and for the avoidance of doubt, the Purchased Assets do not include the Excluded Assets.

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, in no event shall the Seller be deemed to sell, transfer, assign or convey, and the Seller shall retain all of the Seller’s right, title and interest to, in and under, the following assets, properties, interests and rights of the Seller (collectively, the “Excluded Assets”):

(a) all rights of the Seller under any Excluded Contract, including all Executory Contracts that are not Assumed Executory Contracts and all Excluded Airport Concession Agreements;

(b) all Documents (whether copies or originals): (i) to the extent they relate solely to any of the Excluded Assets or the Excluded Liabilities, (ii) that the Seller is required by Law to retain and is prohibited by Law from providing a copy of to the Purchaser, (iii) that were prepared primarily in connection with the transactions contemplated by this Agreement, including bids received from third Persons, and (iv) that constitute Excluded Documents; provided, however, that copies of the Excluded Documents shall be supplied to the Purchaser upon the Purchaser’s reasonable request and that all of the reasonable out-of-pocket costs incurred by the Seller in preparing and delivering the

foregoing shall be borne by the Purchaser and paid promptly after demand therefor and receipt of supporting invoices;

(c) all shares of capital stock or other equity interests of the Seller or any Affiliate of the Seller or securities convertible into, exchangeable or exercisable for any such shares of capital stock or other equity interests;

(d) any of the Seller's director and officer Insurance Policies, fiduciary policies and employment practices policies and any excess coverage policies applicable thereto (in each case of the foregoing, including any tail policies or coverage thereon) and any of the Seller's rights, claims, demands, proceedings, credits, causes of action or rights of set off thereunder;

(e) any preference or avoidance claims or causes of action under the Bankruptcy Code or applicable state Law with respect to the Excluded Assets, including, without limitation, all rights and claims of the Seller arising under Chapter 3 or Chapter 5 of the Bankruptcy Code with respect to (A) the assets excluded from the transaction contemplated hereby pursuant to this Section 2.2 or (B) the assets purchased by the Purchaser under Section 2.1 (in each case, other than any preference or avoidance claims or causes of action under the Bankruptcy Code or applicable state Law against any officer, director or Employee who is hired by the Purchaser, or any counterparty to any Assumed Contract, Assumed Airport Concession Agreement, Assumed Personal Property Lease or Assumed Real Property Lease);

(f) all claims that the Seller may have against any Person solely with respect to any other Excluded Assets;

(g) the Seller's rights, interests and benefits under this Agreement;

(h) any rights, claims, counterclaims, demands and causes of action of the Seller that relate to the Excluded Liabilities;

(i) each Seller Plan that is not an Assumed Plan, as may be amended by the Purchaser from time to time pursuant to Section 2.7 (the "Excluded Plans");

(j) any Excluded Hertz Claims;

(k) any Retained Bank Accounts; and

(l) any assets, properties, titles, contracts, goodwill, going concern value, rights, interests and claims of FSNA or any Affiliate of FSNA (other than the Seller) set forth on Schedule 2.2(l), which in each case are incidental to and not necessary for the operation of the Business.

2.3 Assumption of Seller Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement and the Sale Approval Order, the Purchaser shall assume at the Closing only the following Liabilities of the Seller (collectively, but in all cases excluding the Excluded Liabilities, the “Seller Assumed Liabilities”):

(a) any and all Liabilities of the Seller under each Assumed Contract, including any Cure Costs relating to such Assumed Contract; provided, however, that the Purchaser shall not be obligated to assume or pay any Cure Costs with respect to any Assumed Contract in excess of the applicable amount set forth in Schedule 1.1(y);

(b) the obligation to pay the amounts owed (and no other Liabilities) for goods or services received by the Seller in the Ordinary Course of Business in respect of any trade and vendor accounts payable (other than under any Assumed Contracts) arising on or after the Petition Date and incurred in accordance with the DIP Budget;

(c) any and all Liabilities arising under or otherwise in respect of any Assumed Plan, but, for the avoidance of doubt, excluding all Excluded Plans;

(d) to the extent accrued by the Seller in the Ordinary Course of Business prior to the Closing, Liabilities of the Seller for any unpaid payroll, and any untaken sick leave and vacation, in each case, with respect to Employees to the extent such Liabilities are entitled to priority treatment under Section 507(a)(4) of the Bankruptcy Code and incurred in accordance with the DIP Budget; and

(e) any additional Liabilities set forth on Schedule 2.3(e).

2.4 Excluded Liabilities. Except for the Seller Assumed Liabilities and the FSNA Assumed Liabilities, the Purchaser shall not assume, or become liable for the payment or performance of and shall not be obligated to assume or otherwise discharge, any Liabilities of the Seller and/or FSNA or their respective directors, officers, stockholders or agents (acting in such capacities) of any nature whatsoever, whether accrued or unaccrued, including the following Liabilities (collectively, the “Excluded Liabilities”) which shall remain Liabilities solely and exclusively of the Seller or FSNA, as applicable:

(a) all Liabilities of the Seller relating to or otherwise arising, whether before, on or after the Closing Date, out of, or in connection with, any of the Excluded Assets;

(b) all Liabilities of the Seller in respect of the Excluded Contracts, including, without limitation, the Hertz Sublease Agreements and the Excluded Airport Concessions;

(c) all Liabilities of the Seller arising out of or relating to any Legal Proceedings (other than in respect of the Assumed Plans) arising out of or in connection with events occurring on or prior to the Closing Date, no matter when raised;

(d) all accounts payable of the Seller arising on or prior to the Closing Date;

(e) all Liabilities of the Seller arising out of or relating to services or products of the Seller to the extent provided, developed, made or marketed, sold or distributed on or prior to the Closing Date;

(f) all Liabilities relating to any environmental, health or safety matter (including any Liability or obligation under any Environmental Law, whether known or unknown), arising out of or relating to the Seller's conduct, action or omission or its leasing, ownership or operation of real property on or prior to the Closing Date, no matter when raised, other than as required by Law;

(g) except to the extent that Liabilities are assumed pursuant to Section 2.3(e) (which shall all be Seller Assumed Liabilities), all Liabilities of the Seller in respect of Indebtedness, whether or not relating to the Business, including all Liabilities arising under existing Indebtedness;

(h) any claims, demands, proceedings or causes of action subject to or covered by the Insurance Policies described in Section 2.2(d);

(i) except to the extent that Liabilities are assumed pursuant to Section 2.3(c) and Section 2.3(d), all Liabilities relating to Employees or former employees, directors or officers of the Seller (i) under the Excluded Plans and any Seller Plan not set forth in Section 5.17 of the Seller Disclosure Schedule, (ii) under any employment, wage and hour restriction, equal opportunity, discrimination, plant closing or immigration and naturalization Laws or (iii) in connection with any workers' compensation or other employee health, accident, disability or safety claims;

(j) any and all Liabilities for Taxes attributable to the ownership of the Purchased Assets or the operation of the Business as of or prior to 11:59 p.m. Central time on the Closing Date;

(k) any and all Liabilities of the Seller, FSNA and their Affiliates for Taxes, including any and all Liabilities for income Taxes arising in connection with the transactions contemplated by this Agreement;

(l) any and all Liabilities for Transfer Taxes arising in connection with the transactions contemplated by this Agreement;

(m) any payments due to any equityholders of the Seller in respect of management or other fees;

(n) all Liabilities of the Seller in, under or pursuant to Intercompany Obligations;



(o) all Liabilities resulting from an Encumbrance that is not a Permitted Encumbrance;

(p) all Liabilities of the Seller under any collective bargaining agreement or any agreement with any labor union;

(q) all Liabilities arising from the operation of any successor liability Laws, including “bulk sales” statutes, to the extent that non-compliance therewith or the failure to obtain necessary clearances would subject the Purchaser or the Purchased Assets to the claims of any creditors (including any Governmental Body) of the Seller or FSNA other than with respect to the Assumed Liabilities, or would subject any of the Purchased Assets to any Encumbrances or other restrictions, other than Encumbrances arising in connection with the Assumed Liabilities;

(r) any post-petition Liabilities of the Seller that are not reflected in the DIP Budget or were incurred in violation of the DIP Order or the DIP Loan Documents; and

(s) all Liabilities set forth on Schedule 2.4(s).

For the avoidance of doubt, except as expressly noted above, none of the Excluded Liabilities shall be included as Assumed Liabilities.

2.5 Purchase and Sale of FSNA Purchased Assets. The Purchaser shall purchase and acquire and accept from FSNA, and FSNA shall sell, transfer, assign, convey and deliver to the Purchaser, at the Closing, all of FSNA’s right, title and interest in, to and under all of the business, assets, properties, titles, goodwill, going concern value, rights, interests and claims of FSNA and its Affiliates, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, owned, leased, licensed, used or held in connection with the Business (other than the FSNA Excluded Contracts, but including all of FSNA’s rights under the FTC Consent Decree, all OTA Agreements to which FSNA is a party and all Assumed Airport Concession Agreements to which FSNA is a party), whether or not reflected on the books and records of FSNA (but, for the avoidance of doubt, excluding any Excluded Assets) (collectively, the “FSNA Purchased Assets”), free and clear of all Encumbrances (other than Permitted Encumbrances and Encumbrances included in the FSNA Assumed Liabilities), including, without limitation, (i) the assets set forth on Schedule 2.5 and (ii) all rights, title and interest of FSNA under the Specified Airport Concessions.

2.6 Assumption of FSNA Liabilities. On the terms and subject to the conditions set forth in this Agreement, the Purchaser shall assume at the Closing only the Liabilities of FSNA set forth on Schedule 2.6 (collectively, the “FSNA Assumed Liabilities”).

2.7 Schedule Updates; Cure Costs.

(a) [Reserved].

(b) Notwithstanding anything to the contrary in this Agreement, and without any increase or decrease in the Purchase Price (other than any resulting increase or decrease in Cure Costs), the Purchaser may revise this Agreement and any schedule (other than the Seller Disclosure Schedule, the FSNA Disclosure Schedule and the Purchaser Disclosure Schedule) setting forth the Purchased Assets and the Excluded Assets prior to the Closing to (i) include in the definition of Purchased Assets (pursuant to the applicable schedule) and to exclude from the definition of Excluded Assets, any Contract or other asset of the Seller or FSNA, as applicable, not previously included in the Purchased Assets and require (A) the Seller to file a notice of assumption and assignment with the Bankruptcy Court and (B) each of the Seller and FSNA, as applicable, to provide any necessary notice to the parties to any such Contract and (ii) to exclude from the definition of Purchased Assets (pursuant to the applicable schedule) and to include in the definition of Excluded Assets, any Assumed Contract, Assumed Plan or other asset of the Seller or FSNA, as applicable, previously included in the Purchased Assets and not otherwise included in the definition of Excluded Assets, at any time on or prior to the Closing Date; provided that no such change of a schedule, the definition of the Purchased Assets or the definition of the Excluded Assets shall reduce the amount of the Purchase Price below the amount of the Credit Bid.

(c) On or before April 30, 2014 (subject to Section 2.7(d)), the Seller shall not reject, transfer, terminate, amend or modify any Retained Contract without providing the Purchaser with five (5) Business Days' prior written notice, and FSNA shall not terminate, transfer, amend or modify any Retained Contract without providing the Purchaser with ten (10) Business Days' prior written notice. Following the Closing, the Purchaser may determine at any time to have: (i) the Seller assume and assign any Retained Contract (not previously rejected or transferred to a third party by the Seller) to the Purchaser by one or more written notices to the Seller, or (ii) FSNA assign any Retained Contract not previously terminated or transferred to a third party by FSNA to the Purchaser, in each case by one or more written notices to the Seller or FSNA, as applicable (each such Retained Contract, a "Subsequent Designated Executory Contract"). After receipt of such notice, (i) the Seller shall use commercially reasonable efforts to assume and assign to the Purchaser pursuant to Section 365 of the Bankruptcy Code such Subsequent Designated Executory Contracts, (ii) the Purchaser shall pay all Cure Costs in connection with assignment or assumption of such Subsequent Designated Executory Contracts, and (iii) FSNA shall use commercially reasonable efforts to obtain any necessary third party Consent for the assumption and assignment to the Purchaser of all Subsequent Designated Executory Contracts of FSNA and shall assign such Subsequent Designated Executory Contracts to the Purchaser. The Seller, FSNA and the Purchaser acknowledge and agree that the agreements and covenants in this Section 2.7(c) shall survive the Closing. On the date that any Subsequent Designated Executory Contract is assumed and assigned to the Purchaser pursuant to this Section 2.7(c), such Subsequent Designated Executory Contract shall thereafter be deemed an Assumed Contract for all purposes under this Agreement. Any Retained Contract which the Purchaser does not elect to have assigned to it shall be automatically deemed to be an Excluded Contract.

(d) Pursuant to Section 2.7(c), FSNA shall give the Purchaser at least ten (10) Business Days' written notice prior to terminating any FSNA Excluded Contract (an "FSNA Excluded Contract Termination Notice"). If the Purchaser notifies FSNA in writing on or before the tenth (10<sup>th</sup>) Business Day after the Purchaser received an FSNA Excluded Contract Termination Notice, or any time before delivery of an FSNA Excluded Contract Termination Notice, that it desires to have FSNA assign to the Purchaser an applicable FSNA Excluded Contract (a "Subsequent Designated FSNA Contract"), then (i) FSNA shall use commercially reasonable efforts to assign to the Purchaser each such Subsequent Designated FSNA Contract and (ii) FSNA shall use commercially reasonable efforts to obtain any necessary third party Consents for the assignment to the Purchaser of such Subsequent Designated FSNA Contract and shall assign such Subsequent Designated FSNA Contract to the Purchaser. FSNA and the Purchaser acknowledge and agree that the agreements and covenants in this Section 2.7(d) shall survive the Closing (i) until April 30, 2014 for those FSNA Contracts set forth in Section 6.12(a) of the FSNA Disclosure Schedule and (ii) indefinitely for those FSNA Contracts not set forth in Section 6.12(a) of the FSNA Disclosure Schedule. On the date that any Subsequent Designated FSNA Contract is assigned to the Purchaser pursuant to this Section 2.7(d), such Subsequent Designated FSNA Contract shall thereafter be deemed an FSNA Assumed Contract for all purposes under this Agreement.

(e) If any Contract or Seller Plan is added to (or excluded from) the Purchased Assets as permitted by this Section 2.7, the Seller shall promptly take such steps as are reasonably necessary, including, if applicable, payment or adequate assurance of payment of all Cure Costs (other than with respect to Subsequent Designated Executory Contracts) (which shall be funded by the DIP Loan Agreement and the DIP Loan Documents prior to the Closing Date) and prompt delivery of notice to the non-debtor counterparty, to cause such Contracts to be assumed by the Seller, and assigned to the Purchaser, on the Closing Date (other than Subsequent Designated Executory Contracts or excluded under the Sale Approval Order and this Agreement).

(f) If any Contract or Seller Plan is excluded from the Purchased Assets as permitted by this Section 2.7, all Liabilities to third parties arising under such Contract or Seller Plan shall be Excluded Liabilities. Without limiting any of the Purchaser's rights pursuant to this Section 2.7, in the event that the Sale Approval Order does not approve the assignment or transfer of one or more of the Assumed Contracts to the Purchaser as Purchased Assets, the Purchaser may, in its sole discretion and at any time prior to the Closing Date, exclude any or all of the Assumed Contracts from the Purchased Assets but may not reduce the amount of the Purchase Price. Subject to the Purchaser's right to amend Schedule 1.1(j) as provided in this Section 2.7, the Purchaser shall assume all Airport Concession Agreements, except for the Excluded Airport Concession Agreements.

2.8 Further Conveyances and Assumptions. From time to time following the Closing, the Seller and the Purchaser shall, and the Seller and the Purchaser shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices,

assumptions, releases and acquaintances and such other instruments, and shall take such further actions, at the sole expense of the Purchaser, as may be necessary or appropriate to assign and convey fully to the Purchaser and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to the Purchaser under this Agreement and the Seller's Documents (as defined below) and to ensure the assumption of the Liabilities and obligations intended to be assumed by the Purchaser under this Agreement and the Seller's Documents, and to otherwise make effective the transactions contemplated hereby and thereby.

### **ARTICLE III.**

#### **CONSIDERATION**

##### **3.1 Consideration.**

(a) The aggregate consideration (collectively, the "Purchase Price") to be paid for the purchase of the Purchased Assets shall be:

- (i) the Credit Bid; plus
- (ii) the amount of the Assumed Liabilities as described in Section 2.3 and Section 2.6.

(b) The Purchase Price shall be satisfied at the Closing as to:

(i) the Credit Bid, by causing the DIP Lender to (A) acknowledge satisfaction of the DIP Indebtedness and (B) release all guarantees of the DIP Indebtedness and security interests and liens securing the DIP Indebtedness (collectively, (i)(A) and (i)(B) above, the "Credit Bid And Release"); and

(ii) the amount of the Assumed Liabilities described in Section 2.3 and Section 2.6, by assuming such Assumed Liabilities through a duly executed assignment and assumption agreements substantially in the forms attached hereto as Exhibit A and Exhibit B.

(c) There shall be no presumption that the fair market value of the Purchased Assets is equal to the Purchase Price.

### **ARTICLE IV.**

#### **CLOSING AND TERMINATION**

4.1 Closing. Subject to the satisfaction of the conditions set forth in Sections 11.1, 11.2 and 11.3 hereof or the waiver thereof by the Party entitled to the benefit of the applicable condition, the closing of the purchase and sale of the Purchased Assets, the delivery of the

Purchase Price, the assumption of the Assumed Liabilities and the consummation of the other transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Latham & Watkins LLP, 233 South Wacker Drive, Chicago, Illinois (or at such other place as the Parties may designate in writing) on (i) the date that is on or before the earlier of (a) March 31, 2014 and (b) the date on which the Seller’s right to use vehicles leased, owned or financed by Hertz pursuant to the Hertz Settlement Agreement expires or is otherwise terminated, in the sole discretion of the Purchaser or (ii) such later date as the Parties may agree in writing (the date specified in clause (i) or (ii), as applicable, the “End Date”); provided, that, and subject to Section 4.5, to the extent the conditions set forth in Sections 11.1, 11.2 and 11.3 are not so satisfied (other than conditions that by their nature are to be satisfied at the Closing) or so waived by the Parties in writing on or prior to such date, the period of time within which the Closing shall occur shall be automatically extended until, and the Closing shall occur promptly (but no later than two (2) Business Days) following, such date as all of the conditions set forth in Sections 11.1, 11.2 and 11.3 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing) or waived by the Party entitled to waive the applicable condition, unless another time or date, or both, are agreed to in writing by the Parties. The date on which the Closing shall be held is referred to in this Agreement as the “Closing Date.” Unless otherwise agreed by the Parties in writing, the Closing shall be deemed effective and all right, title and interest of the Seller in the Purchased Assets to be acquired by the Purchaser hereunder shall be considered to have passed to the Purchaser and the assumption of all of the Assumed Liabilities shall be considered to have occurred as of 11:59 p.m. Central time on the Closing Date.

4.2 Closing Deliveries by the Seller. At the Closing, the Seller shall deliver to the Purchaser:

- (a) a duly executed bill of sale with respect to the Seller Purchased Assets, substantially in the form attached hereto as Exhibit C;
- (b) a duly executed assignment and assumption agreement with respect to the Seller Assumed Liabilities, substantially in the form attached hereto as Exhibit A;
- (c) (i) a true and correct copy of the Sale Approval Order and (ii) with respect to the Owned Real Property, any existing surveys, legal descriptions and title policies in the possession of the Seller;
- (d) duly executed assignments of the Assumed Intellectual Property, including assignments, as applicable, in form suitable for recordation with the United States Patent and Trademark Office, the United States Copyrights Office, and any applicable foreign or multinational Intellectual Property offices or registries;
- (e) a duly executed non-foreign person affidavit of the Seller (or, if the Seller is a disregarded entity, its owner) dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under the Treasury Regulations issued pursuant to Section 1445 of the Code, stating that the Seller (or, if the Seller is a disregarded entity, its owner) is not a “foreign person” as defined in Section 1445 of the Code;

(f) the officer's certificates required to be delivered pursuant to Section 11.3(c);

(g) a list of the Accounts Receivable of the Seller as of the last day of the fiscal month immediately preceding the month in which the Closing occurs;

(h) except as otherwise provided in Section 10.11(a), written assurances in the form of policy endorsements or other forms satisfactory to the Purchaser that, subject to Section 2.2(d), the Purchaser is named as a policyholder ("Named Insured") under the Seller's Insurance Policies;

(i) all Seller Permits listed on Section 5.9(a) of the Seller Disclosure Schedule;

(j) such other bills of sale, special warranty deeds, completed transfer tax returns, title affidavits, assignments of leases, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form reasonably satisfactory to the Purchaser (in each case signed and acknowledged as appropriate), as the Purchaser may reasonably request (including, without limitation, as may be required in order for the Purchaser to obtain title insurance from any reputable licensed title insurer(s) insuring its interest in the Owned Real Property subject to no Encumbrances other than the Permitted Encumbrances) to vest in the Purchaser all the right, title and interest of the Seller in, to or under any or all the Purchased Assets; provided that all of the reasonable and documented out-of-pocket post-Closing costs incurred by the Seller in preparing and delivering the foregoing shall be borne by the Purchaser and paid promptly after demand therefor and receipt of supporting invoices; and

(k) all other previously undelivered certificates, agreements and other documents required by this Agreement to be delivered by the Seller at or prior to the Closing in connection with the transactions contemplated by this Agreement.

4.3 Closing Deliveries by FSNA. At the Closing, FSNA shall deliver to the Purchaser:

(a) a duly executed bill of sale with respect to the FSNA Purchased Assets, substantially in the form attached hereto as Exhibit D;

(b) a duly executed assignment and assumption agreement with respect to the FSNA Assumed Liabilities, substantially in the form attached hereto as Exhibit B;

(c) a duly executed non-foreign person affidavit of FSNA dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under the Treasury Regulations issued pursuant to Section 1445 of the Code, stating that FSNA is not a "foreign person" as defined in Section 1445 of the Code;

(d) the officer's certificates required to be delivered pursuant to Section 11.3(c);

(e) all FSNA Permits listed on Section 6.6(a) of the FSNA Disclosure Schedule, if any;

(f) a duly executed transition services agreement (the "Transition Services Agreement"), in a form acceptable to the Purchaser in its sole and absolute discretion;

(g) such other bills of sale, special warranty deeds, completed transfer tax returns, title affidavits, assignments of leases, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form reasonably satisfactory to the Purchaser (in each case signed and acknowledged as appropriate), as the Purchaser may reasonably request to vest in the Purchaser all the right, title and interest of FSNA in, to or under any or all the FSNA Purchased Assets; provided that all of the reasonable and documented out-of-pocket post-Closing costs incurred by FSNA in preparing and delivering the foregoing shall be borne by the Purchaser and paid promptly after demand therefor and receipt of supporting invoices; and

(h) all other previously undelivered certificates, agreements and other documents required by this Agreement to be delivered by FSNA at or prior to the Closing in connection with the transactions contemplated by this Agreement.

4.4 Closing Deliveries by the Purchaser. At the Closing, the Purchaser shall deliver, or cause to be delivered, to the Seller (or to other Persons, at the direction of the Seller):

(a) the Purchase Price, in the form of the Credit Bid And Release, in form satisfactory to the Seller and FSNA (including documentation reasonably acceptable to the Seller evidencing satisfaction of the DIP Indebtedness);

(b) a duly executed assignment and assumption agreement with respect to the Seller Assumed Liabilities, substantially in the form attached hereto as Exhibit A;

(c) a duly executed assignment and assumption agreement with respect to the FSNA Assumed Liabilities, substantially in the form attached hereto as Exhibit B;

(d) duly executed trademark and domain name assignment and assumption agreements;

(e) the officer's certificates required to be delivered pursuant to Section 11.2(b);

(f) a duly executed Transition Services Agreement; and

(g) all other previously undelivered certificates, agreements and other documents required by this Agreement to be delivered by the Purchaser at or prior to the Closing in connection with the transactions contemplated by this Agreement.

4.5 Termination of Agreement. This Agreement may be terminated at any time prior to the Closing as follows:

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

(b) by either the Purchaser or the Seller, if the Closing shall not have been consummated prior to the End Date, or such later date as the Parties may agree in writing; provided, however, that the Party seeking to terminate this Agreement under this Section 4.5(b) may not have breached in any material respect its obligations under this Agreement in a manner that has been the principal cause of the failure of the consummation of the Closing prior to the End Date;

(c) by either the Purchaser or the Seller, if there shall be any Law that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited, or there shall be in effect a final non-appealable order of the Bankruptcy Court or a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby; it being agreed that the Parties shall promptly appeal any such adverse determination which is appealable (and pursue such appeal with reasonable diligence);

(d) by either the Purchaser or the Seller, if the Seller Chapter 11 Case is dismissed or converted to a case or cases under Chapter 7 of the Bankruptcy Code, or by the Purchaser if a trustee or examiner with expanded powers to operate or manage the financial affairs, the business or the reorganization of the Seller is appointed in the Seller Chapter 11 Case;

(e) by the Purchaser, if (i) the Sale Procedures Order shall not have been entered by the Bankruptcy Court on or before November 22, 2013, (ii) the Auction has not concluded by midnight December 9, 2013, (iii) the Sale Approval Order shall not have been entered by the Bankruptcy Court on or before December 17, 2013, (iv) at any time after entry of the Sale Procedures Order, such Sale Procedures Order (including, without limitation, the provisions therein relating to the Bid Protections) is reversed, stayed, vacated or otherwise modified by the Bankruptcy Court, or (v) at any time after entry of the Sale Approval Order, such Sale Approval Order is reversed, stayed, vacated or otherwise modified;

(f) by either the Purchaser or the Seller if the Bankruptcy Court approves an Alternative Transaction;

(g) by the Seller, if the Purchaser has breached any representation, warranty, covenant or agreement contained in this Agreement and as a result of such breach the conditions set forth in Sections 11.2(a) and 11.2(b) hereof, as the case may be, would not



then be satisfied at the time of such breach; provided, however, that if such breach is curable by the Purchaser within ten (10) days through the exercise of its reasonable efforts, then for so long as the Purchaser continues to exercise such reasonable efforts the Seller may not terminate this Agreement under this Section 4.5(g) unless such breach is not cured within the earlier of the End Date or ten (10) days from written notice to the Purchaser of such breach; provided, further, that the Seller is not then in breach of the terms of this Agreement, and provided further, that no cure period shall be required for a breach which by its nature cannot be cured;

(h) by the Purchaser, if the Seller has breached any representation, warranty, covenant or agreement contained in this Agreement and as a result of such breach the conditions set forth in Sections 11.3(b) and 11.3(c) hereof, as the case may be, would not then be satisfied at the time of such breach; provided, however, that if such breach is curable by the Seller within ten (10) days through the exercise of its reasonable efforts, then for so long as the Seller continues to exercise such reasonable efforts the Purchaser may not terminate this Agreement under this Section 4.5(h) unless such breach is not cured within the earlier of the End Date or ten (10) days from written notice to the Seller of such breach; provided, further, that the Purchaser is not then in breach of the terms of this Agreement, and provided further, that no cure period shall be required for a breach which by its nature cannot be cured;

(i) by the Seller, if all of the conditions set forth in Sections 11.1 and 11.3 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing) or waived and the Purchaser fails to deliver the Purchase Price or the other deliverables required by Section 4.4;

(j) by the Purchaser, if (i) any secured creditor of the Seller obtains relief from the stay to foreclose on a material portion of the Purchased Assets or (ii) there occurs any repossession by Hertz of the Seller's vehicle fleet, or (iii) the entry of an order by the Bankruptcy Court (x) permitting Hertz to repossess any vehicles in the Debtor's vehicle fleet, or (y) determining that the Debtor is no longer entitled to use or possess any portion of its vehicle fleet;

(k) by the Purchaser, if its commitments to provide financing under the DIP Facility have been terminated on account of any Event of Default (as defined in the DIP Order or any DIP Loan Documents); or

(l) by the Purchaser, if the Seller has not obtained on or prior to the End Date the consent of the FTC with respect to the Transactions and with respect to the Purchaser as an eligible purchaser of the Purchased Assets (and which, among other things, shall deem the Purchaser to be an "Acquirer" within the meaning of the FTC Consent Decree), such consent to be in form and substance reasonably acceptable to the Purchaser and the Seller.

4.6 Procedure Upon Termination. In the event of a termination of this Agreement by the Purchaser or the Seller, or both, pursuant to Section 4.5, (a) written notice thereof shall be given promptly by the terminating Party to the other Parties hereto, specifying the provision hereof pursuant to which such termination is made, (b) except as contemplated by Section 4.7, this Agreement shall thereupon terminate and become void and of no further force and effect and (c) the consummation of the transactions contemplated by this Agreement shall be abandoned without further action of the Parties hereto. If this Agreement is terminated as provided herein, each Party shall redeliver all documents, work papers and other material of any other Party relating to the transactions contemplated hereby, whether so obtained before or after the execution hereof, to the Party furnishing the same.

4.7 Effect of Termination. In the event that this Agreement is validly terminated pursuant to a right of termination as provided herein, then each of the Parties shall be relieved of its duties and obligations arising under this Agreement effective as of the date of such termination and such termination shall be without Liability to the Purchaser or the Seller; provided, however, that Section 4.5, Section 4.6, this Section 4.7, ARTICLE XIV and the Sale Procedures Order (if entered) shall survive any such termination and shall be enforceable hereunder. In no event shall any termination of this Agreement relieve any Party hereto of any Liability for any willful breach of this Agreement by such Party.

4.8 Breakup Fee; Seller Remedies.

(a) The Seller shall pay, or cause to be paid, to the Purchaser the Breakup Fee:

(i) if this Agreement is terminated pursuant to Section 4.5(b), Section 4.5(d), Section 4.5(e) or Section 4.5(f) and the Seller enters into an agreement for, or consummates, an Alternative Transaction on or prior to one (1) year following such termination, which Breakup Fee shall be paid no later than the earlier of (x) three (3) Business Days following the entry into such agreement and (y) the date of the consummation by the Seller of such Alternative Transaction; or

(ii) if this Agreement is terminated pursuant to Section 4.5(h) or, if the Purchaser is the Prevailing Purchaser (as defined in the Bidding Procedures), Section 4.5(l), which Breakup Fee shall be paid no later than three (3) Business Days following such termination.

(b) The Seller acknowledges and agrees that (A) the payment of the Breakup Fee is an integral part of the transactions contemplated by this Agreement, (B) in the absence of the Seller's obligations to make this payment, the Purchaser would not have entered into this Agreement, (C) time is of the essence with respect to the payment of the Breakup Fee and (D) the Breakup Fee shall constitute part of the DIP Indebtedness and shall be secured by the DIP Lien (as defined in the DIP Order) on the Collateral (as defined in the DIP Order) and be entitled to the other DIP Protections (as defined in the DIP Order). If the Seller fails to take any action necessary to cause the delivery of the Breakup Fee under

circumstances where the Purchaser is entitled to the Breakup Fee and, in order to obtain such Breakup Fee the Purchaser commences a suit which results in a judgment in favor of the Purchaser, the Seller shall pay to the Purchaser, in addition to the Breakup Fee, an amount in cash equal to the costs and expenses (including reasonable attorney's fees) incurred by the Purchaser in connection with such suit.

(c) The Parties further acknowledge that the damages resulting from termination of this Agreement under circumstances where the Purchaser is entitled to the Breakup Fee are uncertain and incapable of accurate calculation and that the delivery of the Breakup Fee to the Purchaser is not a penalty but rather shall constitute liquidated damages in a reasonable amount that will compensate the Purchaser in the circumstances where the Purchaser is entitled to the Breakup Fee for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transactions contemplated hereby, and that, without these agreements, the Purchaser would not enter into this Agreement.

## **ARTICLE V.**

### **REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller hereby makes the representations and warranties in this ARTICLE V to the Purchaser as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date), except as qualified or supplemented by Sections in the Seller Disclosure Schedule attached hereto (the "Seller Disclosure Schedule"). Each such Section of the Seller Disclosure Schedule is numbered by reference to representations and warranties in a specific Section of this ARTICLE V.

5.1 Corporate Organization and Qualification. The Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware. The Seller is qualified and in good standing as a foreign limited liability company in each jurisdiction where the properties owned, leased or operated or the conduct of Business requires such qualification, except where the failure to be so qualified would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Seller has all requisite power and authority to own, lease and operate its properties and to carry on the Business as it is now being conducted, subject to the provisions of the Bankruptcy Code. The Seller has previously made available to the Purchaser complete and correct copies of its certificate of formation and limited liability company operating agreement (or other comparable organizational documents) as in effect on the Execution Date (the "Organizational Documents").

5.2 The Seller and Subsidiaries.

(a) Section 5.2(a) of the Seller Disclosure Schedule sets forth a true and complete list of the name, jurisdiction of organization, and jurisdictions of qualification as a

foreign entity of the Seller. Except as set forth in Section 5.2(a) of the Seller Disclosure Schedule, all outstanding shares of capital stock of or other equity ownership interests in the Seller are owned, directly or indirectly, by FSNA, free and clear of all Encumbrances, other than Permitted Encumbrances.

(b) Except for the LLC Interests, the Seller does not own, of record or beneficially, any direct or indirect equity or other interest in any Person, or any right (contingent or otherwise) to acquire the same.

5.3 Authority. Except for such authorization as is required by the Bankruptcy Court after giving effect to the Sale Approval Order, the Seller has all requisite limited liability company power, authority and legal capacity to (a) execute and deliver this Agreement, (b) execute and deliver each other agreement, document, instrument or certificate contemplated hereby or to be executed by the Seller in connection with the consummation of the transactions contemplated hereby (together with this Agreement, the "Seller's Documents"), and (c) perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby. The execution and delivery of the Seller's Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all requisite action on the part of the Seller, including by any action or required approval of the equityholder or equityholders of the Seller as required by applicable Law. This Agreement has been, and at or prior to the Closing, each of the other Seller's Documents will be, duly and validly executed and delivered by the Seller and (assuming the due authorization, execution and delivery by the other Parties hereto and thereto, and the entry of the Sale Approval Order) this Agreement constitutes, and each of the Seller's Documents when so executed and delivered will constitute, legal, valid and binding obligations of the Seller, enforceable against the Seller in accordance with its respective terms, subject to: (i) entry of the Sale Approval Order by the Bankruptcy Court, and (ii) applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) (the "Bankruptcy Exceptions").

#### 5.4 Conflicts; Consents of Third Parties.

(a) Except (a) as set forth in Section 5.4(a) of the Seller Disclosure Schedule, (b) for Consents that may be required in connection with the transfer of the Assumed Airport Concession Agreements or (c) as permitted by the Sale Approval Order, none of the execution and delivery by the Seller of this Agreement or any Seller's Document, the consummation of the transactions contemplated hereby or thereby, or compliance by the Seller with any of the provisions hereof or thereof will (A) result in the loss or impairment of the rights of the Seller in any Seller Intellectual Property which would, individually or in the aggregate, materially impair the Seller's ability to operate the Business in the Ordinary Course of Business or (B) conflict with, or result in any violation of or constitute a breach or default (with or without notice or lapse of time, or both) under, or give rise to a right of

acceleration, payment, amendment, termination or cancellation under any provision of (i) the Organizational Documents; (ii) subject to and assuming entry of the Sale Approval Order, any Contract or Permit to which the Seller is a party or by which any of the properties or assets of the Seller is bound, including any Assumed Contract; (iii) subject to and assuming entry of the Sale Approval Order, any order of any Governmental Body applicable to the Seller or any of the properties or assets of the Seller, including the Seller Purchased Assets, or the Business; or (iv) subject to and assuming entry of the Sale Approval Order, any applicable Law, other than, in the case of clauses (ii), (iii) and (iv), such conflicts, violations, defaults, terminations or cancellations that would not have, individually or in the aggregate, a Material Adverse Effect on the Seller's ability to operate the Business in the Ordinary Course of Business.

(b) Except (a) as set forth in Section 5.4(b) of the Seller Disclosure Schedule or (b) for Consents that may be required in connection with the transfer of the Assumed Airport Concession Agreements, no order, Permit or declaration or filing with, or notification to, any Governmental Body or other Person is required on the part of the Seller in connection with the execution and delivery of this Agreement or the Seller's Documents, the compliance by the Seller with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby or the taking by the Seller of any other action contemplated hereby or thereby, except for (i) the entry of the Sale Approval Order, and (ii) such other orders, Permits, declarations, filings and notifications, the failure of which to obtain or make would not have, individually or in the aggregate, a Material Adverse Effect on the Seller's ability to operate the Business in the Ordinary Course of Business.

5.5 Absence of Certain Developments. Except for actions taken in connection with the Seller Chapter 11 Case, as contemplated or expressly required or permitted by this Agreement, or as set forth in Section 5.4(b) of the Seller Disclosure Schedule or Section 5.5 of the Seller Disclosure Schedule, since the Petition Date, the Business has been conducted in the Ordinary Course of Business, and the Seller has not:

(a) acquired any material assets, other than acquisitions of Equipment in the Ordinary Course of Business;

(b) sold, leased, transferred or assigned any material assets, tangible or intangible, other than (i) sales of Equipment in the Ordinary Course of Business, or (ii) the disposition of obsolete or immaterial assets not necessary for the conduct of the Business by the Seller;

(c) accelerated, terminated, modified, amended, or cancelled any Material Contract, or waived, released or assigned any material rights or claims thereunder, in each case, in a manner adverse to the Seller (and no other party to any such Material Contract has accelerated, terminated, modified, amended, or cancelled such Material Contract or waived, released or assigned any rights or claims thereunder);

(d) imposed or created any Encumbrance (other than Permitted Encumbrances) upon any of the Purchased Assets, tangible or intangible, that would be binding on the Purchaser;

(e) incurred or made any capital expenditures in an aggregate amount in excess of \$25,000;

(f) created, incurred, assumed, or guaranteed any Indebtedness that would be binding upon the Purchaser;

(g) transferred, assigned, abandoned, permitted to lapse, granted any license or sublicense of any rights under or with respect to, or otherwise disposed of any Assumed Intellectual Property, other than pursuant to non-exclusive license agreements entered into in the Ordinary Course of Business;

(h) experienced any damage, destruction or other casualty loss (not covered by insurance) affecting the tangible Purchased Assets and resulting in an aggregate loss in excess of \$25,000;

(i) granted any bonus or any increase in any type of compensation or benefits, including severance or termination pay, to any of its current or former directors, Employees or consultants, except for increases in base compensation in the Ordinary Course of Business;

(j) paid any bonus, except for bonuses paid or accrued in the Ordinary Course of Business;

(k) delayed or postponed the payment of undisputed accounts payable or any other undisputed Liabilities of the Business in any respect (except as required by the Bankruptcy Code);

(l) adopted, made or agreed to (i) any welfare, pension, retirement, profit-sharing, incentive compensation or similar plan, program, payment or arrangement for any Employee except pursuant to the existing Seller Plans, or (ii) any new employment, change of control or collective bargaining agreement;

(m) made any addition to or modification of any Seller Plan, other than (i) any contribution to such plans made in the Ordinary Course of Business or (ii) the extension of coverage to Employees who became eligible after the Most Recent Balance Sheet Date;

(n) changed any financial or Tax accounting methods, principles or practices, except insofar as may have been required by GAAP or applicable Law;

(o) made or rescinded any material Tax election, taken any material Tax position, filed any amended Tax Return, settled or compromised any Tax Liability, entered into a closing agreement with respect to Taxes or agreed to an extension of the period for assessment, reassessment or collection of any Taxes; and

(p) received any written notice of any cancellation or termination of any Assumed Contract that is a Material Contract.

5.6 Litigation. Except as set forth in Section 5.6 of the Seller Disclosure Schedule, there is no litigation, action, claim, suit, proceeding, investigation, examination, hearing, arbitration, inquiry or subpoena, pending or, to the Knowledge of the Seller, threatened against the Seller or any property or asset of the Seller or which could reasonably be expected to give rise to or increase a Seller Assumed Liability. Except as set forth in Section 5.6 of the Seller Disclosure Schedule, the Seller is not subject to any judgment, decree, injunction, or order of any court, arbitration panel or other Governmental Body that relates to the Business or the Purchased Assets and for which the Seller has continuing obligations or Liabilities.

#### 5.7 Intellectual Property.

(a) Section 5.7(a) of the Seller Disclosure Schedule sets forth a true, complete and correct list of (i) all of the patents, registered trademarks, registered copyrights, Internet domain names, and applications for any of the foregoing, in each case that constitute the Owned Intellectual Property (collectively, the “Registered IP”) and (ii) all other material Owned Intellectual Property and a list of all Licensed Intellectual Property (except for “shrink-wrap,” “click-wrap” and “off-the-shelf” software).

(b) Except as set forth in Section 5.7(b) of the Seller Disclosure Schedule, (i) the Seller owns the Owned Intellectual Property, free from any Encumbrances, other than Permitted Encumbrances, and free from any requirement of any present or future royalty payments, license fees, charges or other payments, or conditions or restrictions whatsoever; and (ii) no action is pending or threatened challenging the validity, enforceability, registration, ownership or use of any Registered IP.

(c) To the Knowledge of the Seller, (i) neither the Seller nor any of its respective products or services is infringing upon, misappropriating, diluting or otherwise violating, the Intellectual Property of any third party and (ii) no Person is infringing upon, misappropriating, diluting or otherwise violating, any Seller Intellectual Property. Except as set forth in Section 5.7(c) of the Seller Disclosure Schedule, there is no pending claim, action or proceeding alleging that the Seller is infringing, misappropriating, diluting or otherwise violating the Intellectual Property rights of any Person and, to the Knowledge of the Seller, no such claims are threatened.

(d) The Seller owns or has the right to use the Seller Intellectual Property as used in the conduct of the Business as currently conducted, free and clear from any Encumbrances (other than Permitted Encumbrances and subject to the terms and conditions

of any agreement pursuant to which such Seller Intellectual Property was obtained or licensed).

(e) The Seller has taken commercially reasonable steps to maintain, police and protect the Owned Intellectual Property. All Owned Intellectual Property that derives independent economic value, actual or potential, from not being generally known to the public or to other Persons who can obtain economic value from its disclosure or use has been maintained in confidence in accordance with procedures customarily used in the industry to protect rights of like importance. To the Knowledge of the Seller, there has been no unauthorized use or disclosure of any Owned Intellectual Property. All former and current officers, directors, employees, personnel, consultants, advisors, agents and independent contractors of the Seller who have contributed to or participated in the conception and development of Intellectual Property for the Seller have entered into valid and binding proprietary rights agreements with the Seller vesting ownership of such Intellectual Property in the Seller. No such Person has asserted, and to the Knowledge of the Seller, no such Person has, any right, title, interest or other claim in, or the right to receive any royalties or other consideration with respect to, any Owned Intellectual Property.

(f) The IT Assets owned, controlled or used by the Seller (the “Seller IT Assets”) operate and perform in all material respects in accordance with their documentation and functional specifications and otherwise as required by the Seller and have not materially malfunctioned or failed within the past three (3) years. The Seller has in place commercially reasonable measures, consistent with current industry standards, to protect the confidentiality, integrity and security of the Seller IT Assets (and all information and transactions stored or contained therein or transmitted thereby) against any unauthorized use, access, interruption, modification or corruption. The Seller has implemented commercially reasonable data backup, data storage, system redundancy, and disaster avoidance and recovery procedures, as well as a commercially reasonable business continuity plan, in each case consistent with industry practices.

(g) Section 5.7(g) of the Seller Disclosure Schedule sets forth true and correct copies of each of the privacy policies implemented by the Seller provided to any Person in connection with the offering of a product or a service, including any such privacy policy in effect on each of the Petition Date and the Execution Date. The consummation of the transactions contemplated by this Agreement and the transfer of the Purchased Assets will not violate any such privacy policies, or violate any applicable Laws relating to the use, dissemination or transfer of the Purchased Assets.

#### 5.8 Agreements, Contracts and Commitments; Certain Other Agreements.

(a) Section 5.8(a) of the Seller Disclosure Schedule sets forth the following types of material executory Contracts that are unexpired as of the Execution Date relating to the Business to which the Seller is a party or by which it is bound or any of the Seller Purchased Assets are bound (such Contracts set forth below are collectively referred to as the “Material Contracts”):



- (i) each note, mortgage, indenture and other obligation and agreement and other instrument for or relating to any lending or borrowing of the Seller or to which any assets of the Seller are subject;
- (ii) each Contract entered into on or after January 1, 2009 pursuant to which the Seller has any remaining liability to pay contingent consideration, including any option to acquire or sell any properties or assets of the Seller;
- (iii) each limited partnership agreement, or limited liability company operating agreement and other joint venture agreement or other similar Contract pursuant to which the Seller has any equity interest in any other Person;
- (iv) each Contract with customers of the Seller for goods or services to be provided by the Seller, which the Seller reasonably anticipates will involve future payment or payments to the Seller in excess of \$25,000 in any calendar year;
- (v) each Contract with suppliers to the Seller for goods or services to be provided to the Seller (other than insurance and real property leases), which the Seller reasonably anticipates will involve future payment or payments by the Seller in excess of \$25,000 in any calendar year;
- (vi) each other Contract (other than Contracts with employees, customers or suppliers of the Seller) that involves the payment to or from the Seller in excess of \$25,000 in any calendar year in each individual case;
- (vii) Contracts to which any Significant Vendor/Supplier is a party;
- (viii) employment agreements, severance agreements and collective bargaining agreements with any labor unions;
- (ix) Contracts to which any officer or director of the Seller or any Affiliate of any such officer or director, is a party;
- (x) leases, subleases and other occupancy agreements for any real property or any material Equipment used or held for use in the Business;
- (xi) each Assumed Airport Concession Agreement;
- (xii) Contracts that: (A) limit or restrict the Seller or any of its Affiliates from engaging in any business or other activity in any jurisdiction; or (B) create or purport to create any exclusive relationship or arrangement;
- (xiii) Contracts granting to any Person an option or a right of first refusal, first-offer or similar preferential right to purchase or acquire any of the Purchased Assets;

(xiv) Contracts for the granting or receiving of a license, sublicense or franchise or under which any Person is obligated to pay or has the right to receive a royalty, license fee, franchise fee or similar payment;

(xv) Contracts (i) with respect to Seller Intellectual Property licensed or transferred to any third party or (ii) pursuant to which a third party has licensed or transferred any Intellectual Property to the Seller (in the case of both (i) and (ii), except for “shrink-wrap,” “click-wrap” and “off-the-shelf” software);

(xvi) each sales agent, dealer, distributor or joint marketing Contract under which the Company has continuing obligations to jointly market any product or service;

(xvii) each Tax sharing, indemnification, allocation or similar Contract;  
and

(xviii) Contracts with any Governmental Body.

(b) Except as set forth in Section 5.8(b) of the Seller Disclosure Schedule, the Seller has not received any written or oral notice of any default or event that with notice or lapse of time or both would constitute a default by the Seller under any Material Contract.

(c) Except as set forth in Section 5.8(c) of the Seller Disclosure Schedule, the Seller has heretofore delivered or made available to the Purchaser true and complete copies of all Material Contracts that are in writing, including all amendments, modifications, schedules and supplements thereto and all waivers (including descriptions of oral waivers) with respect thereto. Assuming (x) the entry of the Sale Approval Order and (y) due execution by the other party or parties thereto, as of the Closing Date, each Material Contract will be in full force and effect and, subject to the Bankruptcy Exceptions, enforceable in accordance with its terms against the Seller.

(d) Set forth in Section 5.8(d) of the Seller Disclosure Schedule are the Cure Costs for each Material Contract.

#### 5.9 Regulatory Matters; Permits.

(a) All of the Permits that are necessary for the operation of the Business as currently conducted and the ownership of the Seller Purchased Assets are held by the Seller and are in full force and effect (collectively, the “Seller Permits”). Section 5.9(a) of the Seller Disclosure Schedule sets forth a true, complete and correct list of all Seller Permits held by the Seller as of the Execution Date and identifies the holder thereof.

(b) The Seller is in compliance in all material respects with its obligations under each of the Seller Permits and the rules and regulations of the Governmental Body issuing such Seller Permits, and no condition exists that without notice or lapse of time or

both would constitute a default under, or a violation of, any Seller Permit except for such failures to be in compliance or defaults that would not have, individually or in the aggregate, a Material Adverse Effect on the Seller's ability to operate the Business in the Ordinary Course of Business.

(c) Each Seller Permit is valid and in full force and effect and there is no proceeding, notice of violation, order of forfeiture or complaint or investigation against the Seller relating to any of the Seller Permits pending or to the Knowledge of the Seller, threatened, before any Governmental Body.

5.10 Brokers and Finders. Except as set forth in Section 5.10 of the Seller Disclosure Schedule, the Seller has not employed, and to the Knowledge of the Seller, no other Person has made any arrangement by or on behalf of the Seller with any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

5.11 Title to Assets.

(a) At Closing, the Seller will have (and shall convey to the Purchaser at the time of the transfer of the Seller Purchased Assets to the Purchaser) good and marketable title or a valid leasehold interest in and to or the right to use each of the Seller Purchased Assets (including furniture, improvements, fixtures, equipment, vehicles, signage, marketing materials, customer lists, databases, GDS chain codes, phone numbers, GPS devices and counter products) (excluding the FSNA Purchased Assets) free and clear of all Encumbrances except Permitted Encumbrances.

(b) The Seller Purchased Assets (together with the FSNA Purchased Assets) constitute all of the properties, assets and rights used by the Seller to conduct and operate the Business substantially as currently conducted and operated by the Seller. All of the Seller Purchased Assets are in good order and repair (ordinary wear and tear excepted) for assets of comparable age and past use and are capable of being used in the Ordinary Course of Business to operate the Business substantially as currently conducted and operated by the Seller, except where the failure to be in such condition would not have, individually or in the aggregate, a Material Adverse Effect on the Seller's or the Purchaser's ability to operate the Business in the Ordinary Course of Business.

5.12 Tangible Personal Property; Equipment. Section 5.12(a) of the Seller Disclosure Schedule sets forth all personal property leases (the "Personal Property Leases") involving annual payments in excess of \$25,000 relating to personal property, including Equipment, used by the Seller in the Business or to which the Seller is a party or by which the personal property, including Equipment, of the Seller is bound. Except as set forth in Section 5.12(b) of the Seller Disclosure Schedule, the Seller has not received any written notice of, or to the Knowledge of the Seller, oral notice of any default or event that with notice or lapse of time or both would constitute a default by the Seller under any of the Personal Property Leases.

### 5.13 Real Property.

(a) Section 5.13(a) of the Seller Disclosure Schedule sets forth a complete and correct list of all parcels of Owned Real Property, specifying the address or other information sufficient to identify all such Owned Real Property. After giving effect to the Sale Approval Order, the Seller owns good and marketable fee simple absolute title to the Owned Real Property, free and clear of all Encumbrances other than Permitted Encumbrances.

(b) Section 5.13(b) of the Seller Disclosure Schedule sets forth a complete and correct list of all Leased Real Property used, or held for use, in connection with the operation of the Business, specifying the address or other information sufficient to identify all such Leased Real Property and the current use thereof. Each lease for each parcel of such Leased Real Property grants the Seller the right to use and occupy the applicable Leased Real Property, in accordance with the terms thereof, subject to Permitted Encumbrances. The Seller has delivered to the Purchaser a true and correct copy of each Assumed Real Property Lease. Each Assumed Real Property Lease is valid and in full force and effect, is unmodified and represents the entire agreement between the Seller and the applicable landlord. There exist no obligations on the part of the Seller to be paid or performed with respect to the Assumed Real Property Leases other than those set forth in the leases.

(c) Except as set forth in Section 5.13(c) of the Seller Disclosure Schedule, the Seller has not leased, subleased or granted to any Person the right to access, enter upon, use, occupy, lease, manage, operate, maintain, broker or purchase the Seller's interest in any portion of the Real Property that will not otherwise be terminated on or prior to the Closing Date.

(d) The Seller has not received any written notice of, nor to the Knowledge of the Seller, oral notice of condemnation or eminent domain proceedings pending or threatened that affect any portion of the Real Property. The Seller has not received any written notice of, nor to the Knowledge of the Seller, oral notice of any zoning, ordinance, building, fire, occupancy or health code or other legal violation affecting any portion of the Real Property, except where any such violations would not have, individually or in the aggregate, a Material Adverse Effect on the Seller's or the Purchaser's ability to operate the Business in the Ordinary Course of Business.

(e) There are no encroachments or other facts or conditions affecting any parcel of Real Property that would be revealed by an accurate survey or inspection thereof, which encroachments, facts or conditions would materially impair the value, marketability, occupancy or use (for the conduct of the Business in the Ordinary Course of Business) of such parcel of Real Property. To the Knowledge of the Seller, none of the buildings and structures on such Real Property encroaches, in any material respect, upon real property of another Person or upon the area of any easement affecting the Real Property.

(f) Each parcel of Real Property has legal and adequate means of ingress, egress, parking, curb cuts, drainage, sewage and utilities to continue to operate the Business in the Ordinary Course of Business.

(g) If any of the improvements on any Real Property were totally or partially destroyed, then no zoning restrictions or other Laws would prevent the Purchaser from reconstructing the existing improvements and resuming their existing use, as of right. None of such improvements constitute a legal non-conforming use or otherwise require any special dispensation, variance or special Permit under any zoning requirement or other Law (whether or not such dispensation, variance or special Permit has been issued and obtained).

5.14 Compliance with Law. Except with respect to tax matters which are addressed in Section 5.15, the Seller is in compliance, in all material respects, with all applicable Laws. As of the Execution Date, the Seller has not received any notice of any alleged violation of any Law applicable to it or them. The Seller is not in default of any order of any Governmental Body applicable to the Purchased Assets or the transactions contemplated under this Agreement. To the Knowledge of the Seller, no investigations, inquiries or reviews by any Governmental Body with respect to the Business have been commenced, nor are any contemplated, that would impose any material Liability on the Purchaser or, from and after the Closing Date, the Seller Purchased Assets (excluding the FSNA Purchased Assets) or the Business.

5.15 Tax Returns; Taxes. Except as set forth in Section 5.15 of the Seller Disclosure Schedule:

(a) The Seller is, and has been at all times since formation, an entity that is disregarded as separate from FSNA for U.S. federal and applicable state and local income tax purposes. All Tax Returns required to have been filed by or with respect to the Seller, the Seller Purchased Assets and the Business have been duly and timely filed with the appropriate Governmental Body, and all such Tax Returns are true, correct and complete in all material respects. The Seller is not currently the beneficiary of any extension of time to file any Tax Return and no filing extensions are currently in effect with respect to any Tax Return relating to the Seller Purchased Assets or the Business.

(b) All Taxes due and payable by or with respect to the Seller, the Purchased Assets and the Business (whether or not shown on any Tax Return) have been paid in full. All Taxes of the Seller attributable to Tax Periods (or portions thereof) commencing after the date of the Most Recent Balance Sheet have arisen in the Ordinary Course of Business.

(c) No claims, adjustments, assessments or deficiencies for any Taxes have been asserted, proposed or, to the Knowledge of the Seller and the Knowledge of FSNA, threatened against the Seller, the Seller Purchased Assets or the Business. No audit, examination or other administrative or judicial proceeding is ongoing, pending or scheduled, or, to the Knowledge of the Seller and the Knowledge of FSNA, threatened with respect to any Taxes or Tax Returns of or relating to the Seller, the Purchased Assets or the Business.

Section 5.15(c) of the Seller Disclosure Schedule sets forth a complete and accurate list of all audits, examinations or other administrative or judicial proceedings with respect to any Taxes or Tax Returns of or relating to the Seller, the Seller Purchased Assets or the Business that have commenced and/or concluded since December 31, 2010.

(d) Section 5.15(d) of the Seller Disclosure Schedule sets forth a complete and accurate list of all jurisdictions in which the Seller or its Affiliates file Tax Returns relating to the Seller, the Seller Purchased Assets or the Business. No claim has been made against the Seller or any of its Affiliates (with respect to the Seller, the Seller Purchased Assets or the Business) by any Governmental Body in a jurisdiction where the Seller or its Affiliate (with respect to the Seller, the Seller Purchased Assets or the Business) does not file Tax Returns that the Seller or its Affiliate (with respect to the Seller, the Seller Purchased Assets or the Business) is or may be subject to taxation in such jurisdiction.

(e) The Seller has withheld and paid all Taxes required to have been withheld and paid by it to the appropriate Governmental Body in connection with amounts paid or owing to any Person.

(f) There are no Encumbrances for Taxes on any of the Seller Purchased Assets, nor is there any such Encumbrance that is pending or, to the Knowledge of the Seller and the Knowledge of FSNA, threatened other than Permitted Encumbrances.

(g) Neither the Seller nor any of its Affiliates (with respect to the Seller, the Seller Purchased Assets or the Business) has executed or filed with any Governmental Body any agreement or waiver extending the period for assessment, reassessment or collection of any Taxes. Neither the Seller nor any of its Affiliates (with respect to the Seller, the Seller Purchased Assets or the Business) has made an election, nor is required, to treat any Seller Purchased Asset as owned by another Person or as tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code or under any comparable provision of state or local Tax law.

(h) The Seller has no liability for Taxes of any other Person as a transferee or successor, by law or by contract. None of the Assumed Contracts constitutes a Tax sharing, indemnity, allocation or similar agreement, and none of the Assumed Contracts will obligate the Purchaser to pay the Taxes of any other Person.

#### 5.16 Employees.

(a) Section 5.16(a) of the Seller Disclosure Schedule sets forth a true and correct list of each individual who was employed by the Seller, FSNA or their respective Affiliates whose primary employment duties and responsibilities are engaged in connection with the Business as of the Execution Date, and the Seller has delivered to the Purchaser a true and correct list of each such individual's position, annual salary, and date of hire. The Seller is not delinquent in payments to any Employees for any wages, salaries, commissions, bonuses or other direct compensation for any services performed for it or amounts required to

be reimbursed to Employees. The Seller is in material compliance with all applicable Laws respecting labor, employment, fair employment practices, terms and conditions of employment, immigration, workers' compensation, occupational safety, plant closings and wages and hours. The Seller has withheld all amounts required by Law or by agreement to be withheld from the wages, salaries and other payments to Employees, and are not liable for any arrears of wages or Employment and Withholding Taxes or any penalty for failure to comply with any of the foregoing. Except as set forth on Section 5.16(a) of the Seller Disclosure Schedule, there are no material pending claims against the Seller under any workers' compensation plan or policy or for long term disability. There are no material controversies pending or, to the Knowledge of the Seller, threatened between the Seller and any of its current or former Employees which have or could reasonably be expected to result in an action, suit, proceeding, claim, arbitration or investigation before a governmental authority. No Employees are in violation of any term of any employment contract, non-disclosure agreement, noncompetition agreement, or any restrictive covenant to a former employer relating to the right of any such Employee to be employed by the Seller because of the nature of the business conducted by the Seller or to the use of trade secrets or proprietary information of others. The Seller has no direct or indirect Liability with respect to any misclassification of any Person as an independent contractor rather than as an Employee or with respect to any Employee leased from another employer.

(b) Section 5.16(b) of the Seller Disclosure Schedule lists the name, job title, job site and unit, date of Employment Loss, and type of Employment Loss (e.g., termination, layoff or reduction in work hours) of each Employee or former Employee who has experienced an Employment Loss in the ninety (90) days immediately preceding the date of this Agreement (excluding Employees who are employed for an average of fewer than twenty (20) hours per week or who have been employed for fewer than six of the 12 months preceding the date of this Agreement). Except as set forth in Section 5.16(b) of the Seller Disclosure Schedule, the Seller does not presently intend to take any action that would result in a "mass layoff" or "plant closing" as defined in the WARN Act between the date of this Agreement and the Closing Date. With respect to any Employment Loss that occurred since December 12, 2012, the Seller has complied with all of the requirements of the WARN Act.

(c) The Seller is not a party to or bound by, either directly or by operation of Law, any collective bargaining agreement, labor contract, letter of understanding, letter of intent, voluntary recognition agreement or legally binding commitment or written communication to any labor union, trade union or employee organization or group which may qualify as a trade union in respect of or affecting Employees nor is the Seller subject to any union organization effort, nor is the Seller engaged in any labor negotiation. There are no, and within the prior three (3) years there have not been any (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Seller, threatened against or involving the Seller, or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Seller, threatened by or on behalf of any Employee or group of Employees.

5.17 Company Benefit Plans. Except as provided in Section 5.17 of the Seller Disclosure Schedule:

(a) Each Seller Plan is listed in Section 5.17 of the Seller Disclosure Schedule. The Seller has made available to the Purchaser true and complete copies of (i) all Seller Plans and related trust agreements, annuity contracts or other funding instruments, (ii) the latest Internal Revenue Service determination or opinion letter obtained with respect to any such Seller Plan qualified or exempt under Section 401 or 501 of the Code, as applicable, and the results of discrimination testing for the most recently completed three (3) fiscal years for each such Seller Plan, (iii) Forms 5500 and certified financial statements for the most recently completed three (3) fiscal years for each Seller Plan required to file such form, together with the most recent actuarial report, if any, prepared by the Seller Plan's enrolled actuary, (iv) the current summary plan descriptions for each Seller Plan required to prepare, file and distribute summary plan descriptions, (v) all summaries furnished to Employees, officers or directors of the Seller of all incentive compensation, other plans and fringe benefits for which a summary plan description is not required and (vi) the form notifications to Employees of their rights under Section 4980B of the Code.

(b) None of the Seller Plans is a "multiemployer plan" (as defined in Section 3(37) of ERISA), is or has been subject to Sections 4063 or 4064 of ERISA, or is or has been subject to subject to Title IV of ERISA or Code Section 412 or 430. Neither the Seller nor any of its ERISA Affiliates have any Liability under Title IV of ERISA or Code Section 412 or 430. None of the Seller Plans is subject to any Laws outside of the United States.

(c) Each Seller Plan has been established, administered and invested in all material respects in accordance with its terms and is in material compliance with all applicable Laws. The Seller has performed and complied with all of its respective obligations under or with respect to the Seller Plans. Each Seller Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code ("Qualified Plan") and each trust that is intended to be exempt under Section 501 of the Code ("Exempt Trust") has received a determination or opinion letter from the Internal Revenue Service to the effect that such Qualified Plan is so qualified and such Exempt Trust is so exempt, and, to the Knowledge of the Seller, nothing has occurred since the date of the most recent Internal Revenue Service determination or opinion letter, as applicable, that would adversely affect the tax-qualified status of any Qualified Plan or Exempt Trust.

(d) There is no action, order, writ, injunction, judgment or decree outstanding or proceeding, arbitral action, governmental audit, or investigation relating to, or seeking benefits under, any Seller Plan that is pending or threatened against the Seller (other than any claims for benefits under the Seller Plans in the Ordinary Course of Business). Neither the Seller, nor to the Knowledge of the Seller, any fiduciary of any Seller Plan, has any material liability with respect to any transaction in violation of Sections 404 or 406 of ERISA or any "prohibited transaction," as defined in Section 4975(c)(1) of the Code, for



which no exemption exists under Section 408 of ERISA or Section 4975(c)(2) or (d) of the Code.

(e) No Seller Plan provides post-retirement or post-termination employee benefits (including death, medical or health benefits) to or in respect of any Employees or former Employees or their beneficiaries, and the Seller has no obligation to provide such benefits other than COBRA Continuation Coverage. Except as set forth on Section 5.17(e) of the Seller Disclosure Schedule, no Seller Plan provides health benefits that are not fully insured through an insurance Contract. All contributions or premiums required to be made by the Seller to or under each Seller Plan have been made in a timely fashion in accordance with applicable Law, the terms of the applicable Seller Plan and any applicable collective bargaining agreement, and the Seller does not have, and as of the Closing Date will not have, any actual or potential unfunded Liabilities with respect to any Seller Plans.

(f) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby (whether alone or in conjunction with any other event) will result in forgiveness of Indebtedness or the acceleration or creation of any rights of any Person to benefits under any Assumed Plan (including the acceleration of the accrual or vesting of any benefits under any such Seller Plan or the acceleration or creation of any rights under any employment, severance, retention, parachute or change in control agreement or the right to receive any transaction bonus or other similar payment) or the obligation to take action to secure any benefits payable under any Assumed Plan.

(g) Each Seller Plan that is a “nonqualified deferred compensation plan” (as defined under Section 409A(d)(1) of the Code) has, since January 1, 2005, been operated and administered in good faith compliance with Section 409A of the Code and IRS Notice 2005 I and other authoritative and binding guidance thereunder.

(h) The Seller Plans meet the requirements of the Patient Protection and Affordable Care Act of 2010, and all rules and official guidance promulgated thereunder (collectively, the “ACA”). No circumstance exists or event has occurred, and no circumstance is expected to exist or event expected to occur, which reasonably could be expected to result in a material violation of, or material penalty or liability under, the ACA.

5.18 FSNA. Except as set forth in Section 5.18 of the Seller Disclosure Schedule, neither FSNA nor any of its Affiliates (other than the Seller) (“Parent”) is party to any Contracts relating to the Business or the Assumed Liabilities or any Contracts by which any of the Purchased Assets are bound. Except for the equity interests of Parent, Parent does not hold any assets used, or held for use, in connection with the operation of the Business.

5.19 Affiliate Matters. Except as set forth in Section 5.19 of the Seller Disclosure Schedule, no (a) shareholder, officer, or director of the Seller, (b) entity in which any such shareholder, officer or director owns any beneficial interest (other than a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market and less than two percent (2%) of the stock of which is beneficially owned by such

shareholders, officers or directors in the aggregate), or (c) Affiliate of any of the foregoing is a party to: (i) any Contract with, or relating to, the Seller, its businesses, the Seller Purchased Assets or the Seller Assumed Liabilities; or (ii) any property (real, personal or mixed, tangible or intangible) used by the Seller in the operation of the Business. Section 5.19 of the Seller Disclosure Schedule also sets forth a true, correct and complete list of all Accounts Receivable, notes receivable and other receivables and accounts payable owed to or due from any such Person described above by or to the Seller except for any compensation payable to such officers in their capacity as employees, officers or directors of the Seller in the Ordinary Course of Business.

## 5.20 Insurance Policies.

(a) Section 5.20(a)(i) of the Seller Disclosure Schedule lists all insurance policies owned or held by the Seller or otherwise applicable to the Business (the “Insurance Policies”). All such policies (or substitute policies with substantially similar terms and underwritten by insurance carriers with substantially similar or higher ratings) are in full force and effect, all premiums with respect thereto covering all periods up to and including the Execution Date have been paid, and no written notice of cancellation or termination (or any other threatened termination) has been received with respect to any such policy. Except as set forth in Section 5.20(a)(ii) of the Seller Disclosure Schedule, there are no pending, or to the Knowledge of the Seller, threatened claims, or circumstances that might give rise to a claim, under any Insurance Policy. The Seller maintains sufficient insurance with reputable insurers for the Business, properties and assets of the Seller against all risks normally insured against, and in the amounts normally carried, by the Seller in the Ordinary Course of Business. All claims relating to the Seller, the Business or any of the Seller Purchased Assets under the Insurance Policies have been filed in a due and timely fashion and any such claims that are pending are included in the Seller Purchased Assets. Except as set forth in Section 5.20(a)(iii) of the Seller Disclosure Schedule, no notice of cancellation or nonrenewal with respect to, disallowance of any claim, or reservation of rights with respect to any claim under, or increase of premium for, any Insurance Policy has been received by the Seller.

(b) Insurance policies under which the Seller, the Business or any of the Seller Purchased Assets are insured that are provided by or on behalf of vendors, contractors or third party service providers (collectively, the “Third Party Insurance Policies”) are, to the Knowledge of the Seller, in full force and effect in accordance with the requirements therefor under the applicable Contracts. Immediately following Closing, the Purchaser will have the ability to directly make claims under the Third Party Insurance Policies related to the Seller, the Business (to the extent not specifically related to the Excluded Assets) or the Seller Purchased Assets pursuant to all of the rights the Seller had under the Third Party Insurance Policies immediately prior to the Closing.

(c) It is the intent of the parties that immediately following the Closing, the Purchaser will have all the rights under the Insurance Policies and Third Party Insurance Policies that the Seller had under the Insurance Policies and Third Party Insurance Policies

immediately prior to the Closing, with respect to the Purchaser, the Business (to the extent not specifically related to the Excluded Assets) and the Seller Purchased Assets.

5.21 Environmental Matters. Except as set forth in Section 5.21 of the Seller Disclosure Schedule: (a) the Seller is and has at all times been in material compliance with all Environmental Laws, (b) the Seller has obtained all Permits required by any Environmental Laws and all such Permits are current and valid, (c) there is no investigation, suit, claim, action or judicial or administrative proceeding relating to or arising under Environmental Laws that is pending or, to the Knowledge of the Seller, threatened against the Seller or any real property owned, operated or leased by the Seller, or any of the Purchased Assets, (d) none of the Real Property has been listed on the federal Comprehensive Environmental Response, Compensation Liability Information System (CERCLIS) database or any other similar federal, provincial or state list of known or suspected contaminated sites, (e) to the Knowledge of the Seller, no Hazardous Materials are present at any location or at, on or under the Real Property in any manner or concentration that requires investigation, removal or remediation under Environmental Laws or would otherwise cause the Seller or any future owner or operator of any Real Property to incur liability under Environmental Laws, (f) the Seller has not received any notice of or entered into any order, settlement, judgment, injunction or decree involving uncompleted, outstanding or unresolved obligations, liabilities or requirements relating to or arising under Environmental Laws, and (g) the Seller has provided the Purchaser with all material environmental documents, including all Phase I and Phase II environmental site assessments, within the Seller's possession or control.

5.22 Vendors and Suppliers. Section 5.22 of the Seller Disclosure Schedule sets forth a complete and accurate list of all Significant Vendors/Suppliers and all non-Seller counterparties to all Airport Concession Agreements (each, a "Concession Counterparty"). "Significant Vendors/Suppliers" are: (i) those vendors and/or suppliers who sold services to the Business since May 1, 2013 in an amount greater than \$25,000 or (ii) those vendors and/or suppliers who are expected to sell services to the Business during the 2013 fiscal year in an amount greater than \$25,000. Except as set forth in Section 5.22 of the Seller Disclosure Schedule, true, correct and complete copies of all written Contracts (other than purchase orders) with Significant Vendors/Suppliers and Concession Counterparties have been provided to the Purchaser. No Significant Vendor/Supplier or Concession Counterparty has given the Seller written notice terminating, canceling or reducing, or threatening to terminate, cancel or reduce, any Contract or relationship with the Seller. During the three-month period immediately preceding the Execution Date, there has been no material increase in the dollar amount of customer claims relating to the quality of the Seller's products or services as compared with the comparable period of the preceding calendar year. Except as set forth in Section 5.22 of the Seller Disclosure Schedule, no Significant Vendor/Supplier or Concession Counterparty has proposed in writing, or given the Seller written notice of its intention to propose, any material price structure changes or any other material changes to any Contract or commercial relationship with the Seller, nor, to the Knowledge of the Seller, does any Significant Vendor/Supplier or Concession Counterparty intend to propose a material change to the price structure of any such Contract or commercial relationship or any other material change to any such Contract or commercial relationship. For

purposes of this Section 5.22, the term Significant Vendors/Suppliers excludes lessors, insurance providers, utilities and professional service providers (including subcontractors who provide services under vendor managed service agreements and auditors and attorneys).

5.23 Accounts Receivable. The Seller has made available to the Purchaser a complete and accurate list, as of October 31, 2013, of the Accounts Receivable of the Seller, including an aging of all Accounts Receivable showing amounts due in 30-day aging categories. The Seller has provided reserves for Accounts Receivable (the “Seller Reserves”) in accordance with GAAP and the Seller’s accounting policies as consistently applied in the Ordinary Course of Business by the Seller. On the Closing Date, the Seller will deliver to the Purchaser a complete and accurate list, as of a date within five (5) days of the Closing Date, of the Accounts Receivable updated through a date that is fifteen (15) days prior to the Closing Date. All Accounts Receivable represent valid obligations arising from bona fide business transactions in the Ordinary Course of Business. Subject to the Seller Reserves, there is no pending or threatened contest, claim, counterclaim, defense or right of set-off under any Contract or otherwise with any obligor of any Account Receivable relating to the amount or validity of such Accounts Receivable.

5.24 Financial Statements. The Seller has delivered or made available to the Purchaser the following financial statements (collectively the “Financial Statements”): unaudited statements of income, changes in stockholders’ equity and cash flow as of September 30, 2013 and an unaudited consolidated balance sheet (the “Most Recent Balance Sheet”) as of September 30, 2013 (the “Most Recent Balance Sheet Date”) for the Seller as set forth in Section 5.24 of the Seller Disclosure Schedule. The Most Recent Balance Sheet includes all of the assets and Liabilities of the Seller as of September 30, 2013, in each case that are required by GAAP to be set forth on a balance sheet, presents fairly, in all material respects, the financial condition of the Seller as of September 30, 2013, and is consistent, in all material respects, with the books and records of the Seller.

5.25 Capital Expenditures. As of the Execution Date, the Seller has made available to the Purchaser the most recent capital spending plans of the Seller relating to the Business or the Seller Purchased Assets.

5.26 Absence of Undisclosed Liabilities. Except as set forth in Section 5.26 of the Seller Disclosure Schedule, the Seller does not have any Liabilities except (a) Liabilities reflected on the liabilities side of the Most Recent Balance Sheet, (b) Liabilities that have arisen after the date of the Most Recent Balance Sheet in the Ordinary Course of Business or otherwise in accordance with the terms and conditions of this Agreement (none of which is a material Liability for breach of warranty, malpractice, tort or infringement or a claim or lawsuit or breach of an Environmental Law) and (c) Liabilities that are or will be Excluded Liabilities.

5.27 Claims for Indemnification. Except as set forth in Section 5.27 of the Seller Disclosure Schedule, since December 12, 2012 the Seller has not made and has not had made against it any claim pursuant to rights of indemnity, set-off, counterclaim or any similar action pursuant to or arising under any Contract relating to the acquisition or disposition of the capital

stock or assets of the Seller, and to the Knowledge of the Seller, no such claim is currently contemplated or threatened.

5.28 Airport Concessions, Licenses and Leases. Each Airport Concession Agreement, license or lease to which the Seller is a party as a concessionaire, licensee or lessee grants to the Seller (a) the right to use and occupy the counter areas in terminals or consolidated rental car facilities on an exclusive basis, together with such areas as may be designated for rental car operations and related parking areas designated therein and (b) the non-exclusive right to use and occupy such other areas of the applicable airport as may be necessary or convenient for the operation of the Business at such airport.

5.29 Vehicle Purchases and Leases. Section 5.29 of the Seller Disclosure Schedule sets forth each outstanding vehicle purchase or lease order placed by the Seller with vehicle manufacturers or any other person as of the date hereof, specifying (i) the date of the relevant order, (ii) the number, type and year model of the vehicles covered by such order, (iii) the purchase price per vehicle, (iv) the expected date of delivery thereof and (v) whether each such vehicle is subject to a vehicle repurchase program.

5.30 Condition of Purchased Assets. All of the tangible Purchased Assets are adequate for the uses to which they are being put, are in good operating condition (ordinary wear and tear excepted) and have been maintained in accordance with generally accepted industry practice, and no repairs, replacements or regularly scheduled maintenance relating to any such item has been deferred, and all leased Equipment and other personal property of the Seller is in all material respects in the condition required of such property by the terms of the lease applicable thereto except where the failure to be in such condition would not, individually or in the aggregate, materially impair the Seller's or the Purchaser's ability to operate the Business in the Ordinary Course of Business.

5.31 CONRAC LLCs. The limited liability companies set forth on Schedule 1.1(qqq) are limited purpose entities whose activities are limited solely to the sharing and purchasing of fuel, maintenance and similar items with respect to consolidated rent-a-car facilities. Such limited liability companies have no employees and generate no taxable income and the Seller has no capital commitments with respect thereto.

## **ARTICLE VI.**

### **REPRESENTATIONS AND WARRANTIES OF FSNA**

Each of FSNA and the Seller hereby makes the representations and warranties in this ARTICLE VI to the Purchaser as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date), except as qualified or supplemented by Sections in the FSNA Disclosure Schedule (the "FSNA Disclosure Schedule") attached hereto. Each such Section of the FSNA Disclosure Schedule is numbered by reference to representations and warranties in a specific Section of this ARTICLE VI.

6.1 Corporate Organization and Qualification. FSNA is a corporation duly formed, validly existing and in good standing under the laws of Delaware. FSNA is qualified and in good standing as a foreign corporation in each jurisdiction where the properties owned, leased or operated or the conduct of Business requires such qualification, except where the failure to be so qualified would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. FSNA has all requisite power and authority to own, lease and operate its properties and to carry on the Business as it is now being conducted. FSNA has previously made available to the Purchaser complete and correct copies of its certificate of incorporation and bylaws (or other comparable organizational documents) as in effect on the Execution Date (the “FSNA Organizational Documents”).

6.2 Authority. FSNA has all requisite corporate power, authority and legal capacity to (a) execute and deliver this Agreement, (b) execute and deliver each other agreement, document, instrument or certificate contemplated hereby or to be executed by FSNA in connection with the consummation of the transactions contemplated hereby (together with this Agreement, the “FSNA Documents”), and (c) perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby. The execution and delivery of the FSNA Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all requisite action on the part of FSNA, including by any action or required approval of the equityholder or equityholders of FSNA as required by applicable Law. This Agreement has been, and at or prior to the Closing, each of the other FSNA Documents will be, duly and validly executed and delivered by FSNA and (assuming the due authorization, execution and delivery by the other Parties hereto and thereto, and the entry of the Sale Approval Order) this Agreement constitutes, and each of the FSNA Documents when so executed and delivered will constitute, legal, valid and binding obligations of FSNA, enforceable against FSNA in accordance with its respective terms, subject to the Bankruptcy Exceptions.

6.3 Conflicts; Consents of Third Parties.

(a) Except as set forth in Section 6.3(a) of the FSNA Disclosure Schedule or as permitted by the Sale Approval Order, none of the execution and delivery by FSNA of this Agreement or any FSNA Document, the consummation of the transactions contemplated hereby or thereby, or compliance by FSNA with any of the provisions hereof or thereof will conflict with, or result in any violation of or constitute a breach or default (with or without notice or lapse of time, or both) under, or give rise to a right of acceleration, payment, amendment, termination or cancellation under any provision of (i) the FSNA Organizational Documents; (ii) subject to and assuming entry of the Sale Approval Order, any Contract or Permit to which FSNA is a party or by which any of the properties or assets of FSNA is bound, including any Assumed Contract that is a FSNA Purchased Asset; (iii) subject to and assuming entry of the Sale Approval Order, any order of any Governmental Body applicable to FSNA or any of the properties or assets of FSNA, including the FSNA Purchased Assets; or (iv) subject to and assuming entry of the Sale Approval Order, any applicable Law, other than, in the case of clauses (ii), (iii) and (iv), such conflicts, violations, defaults, terminations

or cancellations that would not have, individually or in the aggregate, a Material Adverse Effect on FSNA's ability to operate the Business in the Ordinary Course of Business.

(b) Except (i) as set forth in Section 6.3(b) of the FSNA Disclosure Schedule and (ii) no order, Permit or declaration or filing with, or notification to, any Governmental Body or other Person is required on the part of FSNA in connection with the execution and delivery of this Agreement or the FSNA Documents, the compliance by FSNA with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby or the taking by FSNA of any other action contemplated hereby or thereby, except for (i) the entry of the Sale Approval Order, and (ii) such other orders, Permits, declarations, filings and notifications, the failure of which to obtain or make would not have, individually or in the aggregate, a Material Adverse Effect on FSNA's ability to operate the Business in the Ordinary Course of Business.

6.4 Litigation. Except as set forth in Section 6.4 of the FSNA Disclosure Schedule, there is no litigation, action, claim, suit, proceeding, investigation, examination, hearing, arbitration, inquiry or subpoena, pending or, to the Knowledge of FSNA, threatened against FSNA or any property or asset of FSNA or which could reasonably be expected to give rise to or increase an FSNA Assumed Liability. Except as set forth in Section 6.4 of the FSNA Disclosure Schedule, FSNA is not subject to any judgment, decree, injunction, or order of any court, arbitration panel or other Governmental Body that relates to the Business or the FSNA Purchased Assets and for which FSNA has continuing obligations or Liabilities.

#### 6.5 Intellectual Property.

(a) Except as set forth in Section 6.5(a) of the FSNA Disclosure Schedule, FSNA does not own any Intellectual Property that is used or held for use in the Business.

(b) The IT Assets owned, controlled or used by FSNA and used in the Business (the "FSNA IT Assets") operate and perform in all material respects in accordance with their documentation and functional specifications and otherwise as required by FSNA and have not materially malfunctioned or failed within the past three (3) years. FSNA has in place commercially reasonable measures, consistent with current industry standards, to protect the confidentiality, integrity and security of the FSNA IT Assets (and all information and transactions stored or contained therein or transmitted thereby) against any unauthorized use, access, interruption, modification or corruption. FSNA has implemented commercially reasonable data backup, data storage, system redundancy, and disaster avoidance and recovery procedures, as well as a commercially reasonable business continuity plan, in each case consistent with industry practices.

#### 6.6 Regulatory Matters; Permits.

(a) All of the Permits that are necessary for the ownership of the FSNA Purchased Assets are held by FSNA and are in full force and effect (collectively, the "FSNA Permits"). Section 6.6(a) of the FSNA Disclosure Schedule sets forth a true, complete and

correct list of all FSNA Permits held by FSNA as of the Execution Date and identifies the holder thereof.

(b) FSNA is in compliance in all material respects with its obligations under each of the FSNA Permits and the rules and regulations of the Governmental Body issuing such FSNA Permits, and no condition exists that without notice or lapse of time or both would constitute a default under, or a violation of, any FSNA Permit except for such failures to be in compliance or defaults that would not have, individually or in the aggregate, a Material Adverse Effect on FSNA's ability to operate the Business in the Ordinary Course of Business.

(c) Each FSNA Permit is valid and in full force and effect and there is no proceeding, notice of violation, order of forfeiture or complaint or investigation against FSNA relating to any of the FSNA Permits pending or to the Knowledge of FSNA, threatened, before any Governmental Body.

6.7 Brokers and Finders. Except as set forth in Section 6.7 of the FSNA Disclosure Schedule, FSNA has not employed, and to the Knowledge of FSNA, no other Person has made any arrangement by or on behalf of FSNA with any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

6.8 Title to Assets. At Closing, FSNA will have (and shall convey to the Purchaser at the time of the transfer of the FSNA Purchased Assets to the Purchaser) good and marketable title or a valid leasehold interest in and to each of the FSNA Purchased Assets free and clear of all Encumbrances except Permitted Encumbrances. The FSNA Purchased Assets, together with the FSNA Excluded Contracts, constitute all of the properties, assets and rights owned, leased, used or licensed by FSNA which are used in the Business.

6.9 Tangible Personal Property; Equipment. Section 6.9(a) of the FSNA Disclosure Schedule sets forth all personal property leases (the "FSNA Personal Property Leases") relating to personal property, including Equipment, leased by FSNA and used by the Seller in the Business. Except as set forth in Section 6.9(b) of the FSNA Disclosure Schedule, FSNA has not received any written notice of, or to the Knowledge of FSNA, oral notice of any default or event that with notice or lapse of time or both would constitute a default by FSNA under any of the FSNA Personal Property Leases.

6.10 Compliance with Law. FSNA is in compliance, in all material respects, with all applicable Laws. As of the Execution Date, FSNA has not received any notice of any alleged violation of any Law applicable to it or them. FSNA is not in default of any order of any Governmental Body applicable to the FSNA Purchased Assets or the transactions contemplated under this Agreement. To the Knowledge of FSNA, no investigations, inquiries or reviews by any Governmental Body with respect to the Business have been commenced, nor are any



contemplated, that would impose any material Liability on the Purchaser or, from and after the Closing Date, the FSNA Purchased Assets or the Business.

6.11 Condition of FSNA Purchased Assets. All of the tangible FSNA Purchased Assets are in operating condition (ordinary wear and tear excepted) and have been maintained in accordance with generally accepted industry practice, and no repairs, replacements or regularly scheduled maintenance relating to any such item has been deferred, and all leased Equipment and other personal property of FSNA is in all material respects in the condition required of such property by the terms of the lease applicable thereto. Except as set forth in Section 6.11 of the FSNA Disclosure Schedule, neither FSNA nor any of its Affiliates (other than the Seller) has any Accounts Receivable relating to the Business.

6.12 FSNA Contracts.

(a) Section 6.12(a) of the FSNA Disclosure Schedule sets forth (i) the FSNA Contracts relating to the Business to which FSNA is a party or by which it is bound or any of the FSNA Purchased Assets are bound, and (ii) the monetary liabilities outstanding thereunder as of November 26, 2013.

(b) Except as set forth in Section 6.12(b) of the FSNA Disclosure Schedule, FSNA has not received any written or oral notice of any default or event that with notice or lapse of time or both would constitute a default by FSNA under any FSNA Contract.

(c) Except as set forth in Section 6.12(c) of the FSNA Disclosure Schedule, FSNA has heretofore delivered or made available to the Purchaser true and complete copies of all FSNA Contracts that are in writing, including all amendments, modifications, schedules and supplements thereto and all waivers (including descriptions of oral waivers) with respect thereto. Assuming due execution by the other party or parties thereto, as of the Closing Date, each FSNA Contract will be in full force and effect and enforceable in accordance with its terms against FSNA.

## **ARTICLE VII.**

### **REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

The Purchaser hereby makes the representations and warranties in this ARTICLE VII to the Seller as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date), except as qualified or supplemented by Sections in the Purchaser Disclosure Schedule (the "Purchaser Disclosure Schedule") attached hereto:

7.1 Corporate Organization and Qualification. The Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of incorporation. The Purchaser is qualified and in good standing as a foreign entity in each

jurisdiction where the properties owned, leased or operated, or the business conducted by it require such qualification except as would not have or reasonably be expected to have a material adverse effect on the Purchaser's ability to consummate the transactions contemplated by this Agreement. The Purchaser has all requisite power and authority (corporate or otherwise) to own its properties and to carry on its business as it is now being conducted except as would not have or reasonably be expected to have a material adverse effect on the Purchaser's ability to consummate the transactions contemplated by this Agreement. The Purchaser has previously made available to the Seller complete and correct copies of the Purchaser's entity organizational documents, as amended and in effect on the Execution Date.

7.2 Authority. The Purchaser has the requisite corporate power and authority to (a) execute and deliver this Agreement, (b) execute and deliver each other agreement, document, instrument or certificate contemplated by this Agreement or to be executed by the Purchaser in connection with the consummation of the transactions contemplated hereby (together with this Agreement, the "Purchaser's Documents"), and (c) perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Purchaser of this Agreement and each of the Purchaser's Documents has been duly authorized by all necessary corporate action on behalf of the Purchaser. This Agreement has been, and at or prior to the Closing each Purchaser's Document will be, duly and validly executed and delivered by the Purchaser and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each of the Purchaser's Documents when so executed and delivered will constitute, legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, subject to the Bankruptcy Exceptions.

7.3 Consents and Approvals; No Violation.

(a) Except as set forth in Section 7.3(a) of the Purchaser Disclosure Schedule, none of the execution and delivery by the Purchaser of this Agreement or the Purchaser's Documents, the consummation of the transactions contemplated hereby or thereby, or the compliance by the Purchaser with any of the provisions hereof or thereof will conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of acceleration, payment, amendment, termination or cancellation under any provision of (i) the certificate of incorporation and the bylaws (or similar organizational documents) of the Purchaser, (ii) any Contract (including but not limited to any Contracts related to financing) or Permit to which the Purchaser is a party or by which the Purchaser or its properties or assets are bound, (iii) any order of any Governmental Body applicable to the Purchaser or by which any of the properties or assets of the Purchaser are bound, or (iv) any applicable Law, other than, in the case of clauses (ii), (iii), and (iv), except as would not have or reasonably be expected to have a material adverse effect on the Purchaser's ability to consummate the transactions contemplated by this Agreement.

(b) Except (i) as set forth in Section 7.3(b) of the Purchaser Disclosure Schedule and (ii) no Consent, waiver, approval, order, Permit or authorization of, or declaration or filing with, or notification to, any Governmental Body or other Person nor any other Regulatory Approval is required on the part of the Purchaser in connection with the execution and delivery of this Agreement or the Purchaser's Documents, the compliance by the Purchaser with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby or the taking by the Purchaser of any other action contemplated hereby or thereby, or for the Purchaser to operate the Purchased Assets.

7.4 Brokers and Finders. The Purchaser has not employed, and to the knowledge of the Purchaser, no other Person has made any arrangement by or on behalf of the Purchaser with, any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

7.5 Adequate Assurances Regarding Assumed Contracts. As of the Closing, the Purchaser will be capable of satisfying the conditions set forth in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts.

7.6 No Other Representations or Warranties. The Purchaser hereby acknowledges and agrees that, except as otherwise expressly provided in ARTICLE V and ARTICLE VI of this Agreement, the Seller makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the Purchased Assets. Without in any way limiting the foregoing, the Seller hereby disclaims any warranty, express or implied, of merchantability or fitness for any particular purpose as to any portion of the Purchased Assets. The Purchaser further acknowledges that the Purchaser has conducted an independent inspection and investigation of the physical condition of the Purchased Assets and all such other matters relating to or affecting the Purchased Assets as the Purchaser deemed necessary or appropriate and that in proceeding with its acquisition of the Purchased Assets, except for any representations and warranties set forth in ARTICLE V or ARTICLE VI, the Purchaser is doing so based solely upon such independent inspections and investigations.

## **ARTICLE VIII.**

### **EMPLOYEES**

8.1 Employee Matters. The Purchaser may offer employment to the Employees, as in existence as of the Closing, as selected by the Purchaser, and except as otherwise set forth in this Section 8.1, such employment offers and acceptances shall be on such terms and conditions as may be acceptable to the Employees and the Purchaser in the Purchaser's sole discretion and need not bear any relationship to terms and provisions applicable to the Employees' employment by the Seller. Each Employee to whom the Purchaser has made an offer of employment pursuant to this Section 8.1 and that has accepted such offer and commences employment with the Purchaser or its Affiliates on or following the Closing Date is hereinafter referred to as a

“Transferred Employee”; provided, however, that each Employee to whom the Purchaser has made an offer of employment pursuant to this Section 8.1 who is on a leave of absence as of the Closing Date shall not become a Transferred Employee unless such Employee returns to active service within six (6) months following the Closing Date and, except pursuant to any Assumed Plan, the Purchaser shall have no liability with respect to any such Employee prior to the date he or she becomes a Transferred Employee.

8.2 Excluded Plans. The Seller shall be solely responsible and shall retain all Liabilities with respect to the Excluded Plans.

8.3 COBRA Coverage. To the extent required by Law, the Purchaser shall be responsible for providing continued medical coverage pursuant to its group health plans for employees under Part 6, Title I of ERISA and Section 4980B of the Code (“COBRA Continuation Coverage”). Immediately prior to the Closing, the Seller will provide to the Purchaser a list of all Employees (i) terminated by the Seller within the ninety (90) days immediately preceding the Closing, and (ii) receiving COBRA Continuation Coverage on the Closing Date.

8.4 WARN Act Liability. The Seller shall be solely responsible for any obligations under the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law, rule or regulation that might arise on or prior to the Closing, or as a consequence of the transactions contemplated by this Agreement, including, without limitation, providing any notice of layoff or plant closing, or maintaining the Employees on the Seller’s payroll for any period of notice required by the WARN Act. Except to the extent included in Assumed Liabilities, the Seller shall retain all Liabilities, if any, for any severance or termination costs relating to Employees who, on or at the Closing, experience a termination of employment by the Seller as a result of the transactions contemplated by this Agreement.

8.5 No Third-Party Beneficiaries.

(a) Notwithstanding anything set forth in this ARTICLE VIII, nothing contained herein, whether express or implied, (i) shall be treated as an amendment or other modification of any Seller Plan or (ii) shall limit the right of the Purchaser or any of its Affiliates to amend, terminate or otherwise modify any Assumed Plan following the Closing Date.

(b) The Seller and the Purchaser acknowledge and agree that all provisions contained in this ARTICLE VIII with respect to current or former Employees are included for the sole benefit of the Seller and the Purchaser, and that nothing herein, whether express or implied, shall create any third party beneficiary or other rights (i) in any other Person, including, without limitation, any current or former employees, directors, officers or consultants of the Seller, any participant in any Seller Plan, or any dependent or beneficiary thereof, or (ii) to continued employment with the Purchaser or any of its Affiliates.

## ARTICLE IX.

### BANKRUPTCY COURT MATTERS

#### 9.1 Auction; Bid Protections; Other Matters.

(a) On November 12, 2013, the Seller filed with the Bankruptcy Court the Sale Motion seeking approval of (i) the Sale Procedures Order and (ii) the Sale Approval Order and the Transactions.

(b) The Purchaser and the Seller have agreed to certain bidding procedures, as set forth in Exhibit A to the Sale Procedures Order (as defined in the Sale Procedures Order, the “Bidding Procedures”), to, among other things, provide for the Seller to conduct an auction (the “Auction”) to enable additional qualified prospective bidders (each, a “Qualified Bidder”) to bid for the Purchased Assets, and pursuant to the Sale Procedures Order, the Seller shall adhere to such Bidding Procedures. The Seller and the Purchaser agree, and the Sale Approval Order shall reflect the fact that, the provisions of this Agreement are reasonable, were a material inducement to the Purchaser to enter into this Agreement and are designed to achieve the highest or best offer for the Purchased Assets.

(c) The Bidding Procedures shall require that the minimum acceptable initial overbid at the Auction be set at \$3,500,000, with subsequent bidding in minimum increments of \$500,000. In valuing the Purchaser’s initial bid as evidenced by this Agreement or any subsequent overbid by the Purchaser, the Seller shall give effect to the Breakup Fee to which the Purchaser may be entitled. The Sale Procedures Order shall provide that the Breakup Fee shall constitute part of the DIP Indebtedness and shall be secured by the DIP Lien (as defined in the DIP Order) on the Collateral (as defined in the DIP Order) and be entitled to the other DIP Protections (as defined in the DIP Order).

(d) In order to participate in the Auction, a bidder must satisfy the customary requirements for being a Qualified Bidder (as defined in the Bidding Procedures) and its bid must satisfy the customary requirements for being a Qualified Bid (as defined in the Bidding Procedures), all as more particularly set forth in the Bidding Procedures.

(e) The Seller shall promptly serve true and correct copies of the Sale Motion and all related pleadings in accordance with the Sale Procedures Order, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules for the United States Bankruptcy Court for the Southern District of Mississippi and any other applicable order of the Bankruptcy Court.

9.2 Sale Approval Order. The Sale Approval Order shall be entered by the Bankruptcy Court in form and substance acceptable to the Purchaser in its sole discretion. The Sale Approval Order shall, among other things, (a) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (i) the execution, delivery and performance by the Seller of this Agreement, (ii) the sale of the Purchased Assets to the Purchaser on the terms set forth herein

and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (iii) the performance by the Seller of its obligations under this Agreement; (b) authorize and empower the Seller to assume and assign to the Purchaser the Assumed Contracts; and (c) find that the Purchaser is a “good faith” buyer within the meaning of Section 363(m) of the Bankruptcy Code, not a successor to the Seller and grant the Purchaser the protections of Section 363(m) of the Bankruptcy Code. The Purchaser agrees that it will promptly take such actions as are reasonably requested by the Seller to assist in obtaining Bankruptcy Court approval of the Sale Approval Order, including, without limitation, furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (a) demonstrating that the Purchaser 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. In the event that the Bankruptcy Court’s approval of the Sale Approval Order shall be appealed, the Seller shall use reasonable efforts to defend such appeal.

## ARTICLE X.

### COVENANTS AND AGREEMENTS

#### 10.1 Conduct of Business of the Seller and FSNA.

(a) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 4.5 or the Closing, except (1) for any limitations on operations imposed by, or actions required by, the Bankruptcy Court or the Bankruptcy Code, (2) as required by applicable Law, (3) as otherwise expressly contemplated by this Agreement, (4) as set forth on Schedule 10.1(a), (5) with the prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), or (6) as specifically permitted by any order of the Bankruptcy Court or the DIP Loan Documents, the Seller (and FSNA solely for purposes of, to the extent applicable, Section 10.1(a)(ii), Section 10.1(a)(iii) (with respect to the FSNA Purchased Assets and the FSNA Assumed Liabilities), Section 10.1(a)(iv) (with respect to the FSNA Permits and the FSNA Purchased Assets) and Section 10.1(a)(v)) shall:

- (i) comply with the DIP Order and the DIP Loan Documents and not permit or suffer to exist any event of default thereunder;
- (ii) comply with all applicable Laws in all material respects;
- (iii) conduct the Business and operate and maintain the Purchased Assets and the Assumed Liabilities in the Ordinary Course of Business;
- (iv) maintain the Permits and the confidentiality, integrity and use of the Purchased Assets; and

(v) use commercially reasonable efforts to (x) preserve the goodwill of and relationships with Governmental Bodies, customers, suppliers, vendors, lessors, licensors, licensees, contractors, distributors, agents, Employees and others having business dealings with the Business; and (y) comply with all applicable Laws and, to the extent consistent therewith, preserve their assets (tangible and intangible), including the IT Assets.

(b) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 4.5 or the Closing, except (1) for any limitations on operations imposed by, or actions required by, the Bankruptcy Court or the Bankruptcy Code, (2) as required by GAAP or applicable Law, (3) as otherwise expressly contemplated by this Agreement or as set forth on Schedule 10.1(a), or (4) with the prior written consent of the Purchaser (such consent not to be unreasonably withheld or conditioned and, in the event that the Seller or FSNA, as applicable, requests the Purchaser's consent in writing and the Purchaser does not provide a written response within two (2) days after such request, the Purchaser shall be deemed to have provided its prior consent to such request), the Seller (and FSNA solely for purposes of, to the extent applicable, Section 10.1(b)(i) (with respect to the FSNA Purchased Assets), Section 10.1(b)(ii) (with respect to the FSNA Purchased Assets), Section 10.1(b)(iii) (with respect to the FSNA Purchased Assets), Section 10.1(b)(iv) and Section 10.1(b)(v) (with respect to any Material Contract that is an FSNA Purchased Asset), Section 10.1(b)(vi) (with respect to the FSNA Purchased Assets and the FSNA Assumed Liabilities), Section 10.1(b)(vii) (with respect to the FSNA Assumed Liabilities), Section 10.1(b)(xiv) (with respect to the FSNA Purchased Assets and the FSNA Assumed Liabilities) and Section 10.1(b)(xv) (with respect to the FSNA Permits)) shall not:

(i) mortgage, pledge or subject to any Encumbrance (other than a Permitted Encumbrance) the Business or any of the Purchased Assets;

(ii) sell, assign, license, transfer, convey, lease, abandon, permit to lapse, surrender, relinquish or otherwise dispose of any of the Purchased Assets except to the extent permitted by the DIP Loan Documents or this Agreement;

(iii) cancel or compromise any debt or claim or waive or release any right of the Seller or FSNA that constitutes a Purchased Asset or otherwise relates to the Business;

(iv) (A) enter into any new Contract and, in the case of FSNA, any new Contract relating to the Business, or renew any existing Contract and, in the case of FSNA, any existing Contract relating to the Business, requiring payments by the Seller or FSNA in excess of \$25,000 over the twelve (12) month period immediately following the execution thereof and (B) cancel, terminate, amend, modify, supplement or rescind any Material Contract or any terms of any Material Contract, except for the purpose of effecting any changes in applicable Law or implementing regulatory requirements or in response to a breach or default by the other party thereto;

(v) abandon any rights under any Material Contract or breach any Material Contract;

(vi) incur any long term expenditure associated with the Purchased Assets that would be an Assumed Liability except to the extent permitted by the DIP Loan Documents;

(vii) incur or permit to be incurred any Liability (other than in connection with the performance of any Excluded Contracts or execution of any Contracts that are not Material Contracts in the Ordinary Course of Business) that would be an Assumed Liability except to the extent permitted by the DIP Loan Documents, or would increase the amount of an Assumed Liability except to the extent permitted by the DIP Loan Documents;

(viii) fail to replenish the Equipment of the Business in the Ordinary Course or Business;

(ix) terminate any Employee set forth on Schedule 10.1(b)(ix) or hire any Person to replace any such Employee;

(x) (A) with respect to any Employee set forth on Schedule 10.1(b)(x), increase the salary, bonus or severance arrangements of such Employee or amend, modify, terminate or enter into any employment or severance Contract with such Employee and (B) with respect to all other Employees, take any of the foregoing actions other than in the Ordinary Course of Business;

(xi) (A) enter into, amend or terminate any Seller Plan, (B) exercise any discretion to accelerate the vesting or payment of any compensation or benefit under any Seller Plan to any current or former employee, officer or director, or other service provider of the Seller, (C) grant any new awards under any Seller Plan or (D) take any action to fund the payment of compensation or benefits under any Seller Plan to any current or former employee, officer or director, or other service provider of the Seller, except (X) in the case of clauses (A) or (D), in the Ordinary Course of Business with respect to employees of the Seller who are not currently, and have never been, officers or directors of the Seller and (Y) in the case of all Clauses, to conform to applicable Law or as may be required under any Seller Plan that is in effect as of the date hereof;

(xii) change its fiscal year or any financial or Tax accounting methods, principles or practices;

(xiii) make or rescind any material Tax election, take any material Tax position, file any amended Tax Return, settle or compromise any Tax Liability, enter into a closing agreement with respect to Taxes or agree to an extension of the period for assessment, reassessment or collection of any Taxes;



(xiv) settle or agree to settle or modify in any manner that is adverse to the Business or the Purchased Assets, any litigation, action or proceeding before any court or Governmental Body in which the Seller is a defendant relating to the Purchased Assets and that is or will be an Assumed Liability except any such litigation, action or proceeding involving payment by or to the Seller that is less than \$5,000 individually and \$25,000 in the aggregate;

(xv) (A) take or suffer any action that results in the revocation, surrender or forfeiture of, any of the Seller Permits necessary or desirable for the continued operation of the Business (which, for the avoidance of doubt, shall include failure to take commercially reasonable action to seek approvals and Consents from all Governmental Bodies (including all airport authorities) and other third parties necessary to obtain and transfer to the Purchaser at the Closing all Assumed Airport Concession Agreements), (B) fail to use commercially reasonable efforts to prosecute with due diligence any pending applications with respect to the Seller Permits, including any renewals thereof, (C) with respect to the Seller Permits, fail to make all filings and reports and pay all fees necessary or reasonably appropriate for the continued operation of the Business of the Seller, as and when such approvals, Consents, Permits, licenses, filings, or reports or other authorizations are necessary or appropriate or (D) fail to initiate appropriate steps to renew any Seller Permits held by the Seller that are scheduled to terminate prior to or within sixty (60) days after the Closing or to prosecute any pending applications for any Material Permit;

(xvi) transfer, assign or abandon or grant any rights or modify any existing rights under any Seller Intellectual Property other than in the Ordinary Course of Business, or enter into any settlement regarding the breach or infringement, misappropriation, dilution or other violation of any Intellectual Property right;

(xvii) make, commit to make or incur any Liability for capital expenditures except to the extent permitted by the DIP Loan Documents;

(xviii) amend, modify or otherwise supplement the terms or conditions of any privacy policy set forth in Section 5.7(g) of the Seller Disclosure Schedule that remains in effect on the Execution Date; or

(xix) enter into any Contract to do any of the foregoing or agree to do anything prohibited by this Section 10.1(b).

(c) Promptly after the Closing Date, the Seller will (i) prepare and file with the appropriate Governmental Body appropriate documents, including, but not limited to, articles of amendment, changing their name so as to effectuate the transfer of the Purchased Names and any of like names or combinations of words or derivations thereof to the Purchaser and promptly deliver evidence of such name change to the Purchaser and (ii) except as otherwise provided in the Transition Services Agreement, cease using the Purchased Names, and any derivations thereof.

## 10.2 Access to Information.

(a) The Seller and FSNA agree that, between the Execution Date and the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 4.5, the Purchaser shall be entitled, through its officers, employees, counsel, accountants and other authorized representatives, agents and contractors (“Representatives”), to have such reasonable access to and make such reasonable investigation and examination of the books and records, properties, businesses, assets, Employees, accountants, auditors, counsel and operations of the Seller and, solely to the extent related to the Business, FSNA as the Purchaser or the Purchaser’s Representatives may reasonably request. Any such investigations and examinations shall be conducted during regular business hours upon reasonable advance notice and under reasonable circumstances, including the Seller’s or FSNA’s right to have its Representatives accompany the Purchaser upon the Real Property at the time of any inspection or examination and shall be subject to restrictions under applicable Law. Pursuant to this Section 10.2, the Seller and FSNA shall furnish to the Purchaser and its Representatives such financial, operating and property related data and other information as such Persons reasonably request. The Seller and FSNA shall use commercially reasonable efforts to cause its Representatives to reasonably cooperate with the Purchaser and the Purchaser’s Representatives in connection with such investigations and examinations, and the Purchaser shall, and use its commercially reasonable efforts to cause its Representatives to, reasonably cooperate with the Seller and FSNA and their respective Representatives and shall use reasonable efforts to minimize any disruption to the Business.

(b) From and after the Closing Date, the Seller and FSNA shall give the Purchaser and the Purchaser’s Representatives reasonable access during normal business hours to the offices, facilities, properties, assets, Employees, Documents (including, without limitation, any Documents included in the Excluded Assets), personnel files and books and records of the Seller and FSNA pertaining to the Business. In connection with the foregoing, the Seller and FSNA shall use commercially reasonable efforts to cause its Representatives to furnish to the Purchaser such financial, technical, operating and other information pertaining to the Business as the Purchaser’s Representatives shall from time to time reasonably request and to discuss such information with such Representatives. Without limiting the generality of the foregoing the Seller and FSNA shall, and shall use commercially reasonable efforts to cause each of their respective Affiliates to, cooperate with the Purchaser as may reasonably be requested by the Purchaser for purposes of (i) enabling an independent accounting firm selected by the Purchaser to conduct an audit of the Business, including access to the Seller’s and FSNA’s independent auditors’ working papers pertaining to the Business or the Purchased Assets including any environmental assessment; (ii) undertaking, with the consent of the Seller and FSNA, which consent shall not be unreasonably withheld or delayed, any study of the condition or value of the Purchased Assets; and (iii) undertaking any study relating to the Seller’s or FSNA’s compliance with Laws; and the Seller and FSNA acknowledge that information or access may be requested and used for such purpose; provided, however, that the access, and related rights to investigate and examine, granted to the Purchaser and its Representatives pursuant to this Agreement shall not constitute nor be

construed as a waiver of any applicable legal privilege of the Seller or FSNA, including the attorney-client and work product privileges. All requests for documents, information, meetings and discussions under this Section 10.2 shall initially be made through the Seller's financial advisor, Capstone Advisory Group, LLC.

(c) From and after the Closing Date, the Purchaser shall give the Seller, FSNA and their respective Representatives reasonable access during normal business hours to the offices, facilities, properties, assets, Employees, Documents (including, without limitation, any Documents included in the Purchased Assets), personnel files and books and records of the Purchaser pertaining to (i) the conduct of the Business or ownership of the Purchased Assets prior to the Closing Date or (ii) the Excluded Assets and Liabilities. In connection with the foregoing, the Purchaser shall use commercially reasonable efforts to cause its Representatives to furnish to the Seller or FSNA such financial, technical, operating and other information pertaining to (i) the conduct of the Business or ownership of the Purchased Assets prior to the Closing Date, or (ii) the Excluded Assets and Liabilities, in each case, as the Seller's or FSNA's respective Representatives shall from time to time reasonably request and to discuss such information with such Representatives. Without limiting the generality of the foregoing, the Purchaser shall, and shall use commercially reasonable efforts to cause each of its Affiliates to, cooperate with the Seller and FSNA as may reasonably be requested by the Seller or FSNA for purposes of enabling an independent accounting firm selected by the Seller and FSNA to conduct an audit of the Business for periods prior to the Closing Date, including access to the Purchaser's independent auditors' working papers pertaining to the Business or the Purchased Assets.

(d) No information received pursuant to an investigation made under this Section 10.2 shall be deemed to (i) qualify, modify, amend or otherwise affect any representations, warranties, covenants or other agreements of the Seller or FSNA set forth in this Agreement or any certificate or other instrument delivered to the Purchaser in connection with the transactions contemplated hereby, (ii) amend or otherwise supplement the information set forth in the Seller Disclosure Schedule or the FSNA Disclosure Schedule, (iii) limit or restrict the remedies available to the parties under applicable Law arising out of a breach of this Agreement or otherwise available at Law or in equity, or (iv) limit or restrict the ability of any of the Purchaser, the Seller or FSNA to invoke or rely on the conditions to the obligations of the parties to consummate the transactions contemplated by this Agreement set forth in ARTICLE XI.

### 10.3 Assignability of Certain Contracts, Etc.

(a) Notwithstanding anything in this Agreement to the contrary, to the extent that the Purchaser determines in its sole discretion that the conveyance to the Purchaser of any Purchased Asset would adversely affect in any material respect the rights of the Purchaser or any of its Affiliates thereunder, is not permitted by applicable Law or is not permitted without the Consent of, or other action by, any Person or Governmental Body and, in the case of the Purchased Assets that are the subject of Section 365 of the Bankruptcy

Code and the Sale Approval Order, as applicable, such restriction cannot be effectively overridden by the Sale Approval Order, or other related order of the Bankruptcy Court, then this Agreement shall not constitute or be construed as an agreement to assign any such Purchased Asset or any right thereunder (collectively, the “Non-Assignable Purchased Assets”).

(b) Subject to the terms and conditions of this Agreement, the Seller, FSNA and the Purchaser shall, and shall cause their respective Affiliates to, use commercially reasonable efforts to obtain the Consents, waivers, approvals, orders and authorizations necessary to transfer and assign the Purchased Assets prior to the Closing. To the extent that any third party Consent has not been obtained prior to the Closing, the Seller, FSNA and the Purchaser shall use their commercially reasonable efforts, at another Party’s request, to endeavor to obtain such third party Consents. Notwithstanding the foregoing, neither the Seller nor FSNA shall be required to incur any Liabilities or provide any financial accommodation, in order to obtain any such third party Consent with respect to the transfer or assignment of any Purchased Asset for the benefit of the Purchaser.

(c) Notwithstanding the foregoing, the Purchaser shall not be obligated to consummate the Transactions if (i) any of the Assumed Airport Concession Agreements (or any of the Assumed Real Property Leases relating to such Assumed Airport Concession Agreements) are not assumed and assigned to the Purchaser at the Closing or (ii) any of the OTA Agreements are not assigned or assumed and assigned to the Purchaser at the Closing. The Seller and FSNA shall obtain and deliver to the Purchaser all Consents necessary to transfer the Assumed Airport Concession Agreements to the Purchaser at the Closing.

10.4 Rejected Contracts. The Seller shall not reject any Assumed Contract in any bankruptcy proceeding following the date hereof without the prior written consent of the Purchaser.

10.5 Further Agreements. The Purchaser authorizes and empowers the Seller from and after the Closing Date to receive and to open all mail received by the Seller relating to the Purchased Assets, the Business or the Assumed Liabilities and to deal with the contents of such communications in accordance with the provisions of this Section 10.5. The Seller shall (a) promptly deliver to the Purchaser any mail or other communication received by them after the Closing Date and relating to the Purchased Assets, the Business or the Assumed Liabilities, (b) promptly transfer in immediately available funds to the Purchaser any cash, electronic credit or deposit received by the Seller but solely to the extent that such cash, electronic credit or deposit are Purchased Assets and (c) promptly forward to the Purchaser any checks or other instruments of payment that it receives but solely to the extent that such checks or other instruments are Purchased Assets. The Purchaser shall (x) promptly deliver to the Seller any mail or other communication received by it after the Closing Date and relating to the Excluded Assets or the Excluded Liabilities, (y) promptly wire transfer in immediately available funds to the Seller, any cash, electronic credit or deposit received by the Purchaser but solely to the extent that such cash, electronic credit or deposit are Excluded Assets and (z) promptly forward to the

Seller any checks or other instruments of payment that it receives but solely to the extent that such checks or other instruments are Excluded Assets. From and after the Closing Date, the Seller shall refer all inquiries with respect to the Business, the Purchased Assets and the Assumed Liabilities to the Purchaser, and the Purchaser shall refer all inquiries with respect to the Excluded Assets and the Excluded Liabilities to the Seller.

#### 10.6 Further Assurances.

(a) Subject to the terms and conditions of this Agreement (including Section 9.2) and applicable Law, the Parties shall use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement as soon as practicable, and shall coordinate and cooperate with each other in exchanging information, keeping the other Parties reasonably informed with respect to the status of the matters contemplated by this Section 10.6 and supplying such reasonable assistance as may be reasonably requested by another Party in connection with the matters contemplated by this Section 10.6. Without limiting the foregoing, following the Execution Date and until the date on which the Closing occurs or this Agreement is terminated in accordance with Section 4.5, the Parties shall use their commercially reasonable efforts to take the following actions but solely to the extent that such actions relate to the transactions contemplated by this Agreement:

(i) obtain any required Consents, approvals (including Regulatory Approvals), waivers, Permits, authorizations, registrations, qualifications or other permissions or actions by, and give all necessary notices to, and make all filings with, and applications and submissions to, any Governmental Body (including all airport authorities) or third party and provide all such information concerning such Party as may be necessary or reasonably requested in connection with the foregoing;

(ii) avoid the entry of, or have vacated or terminated, any injunction, decree, order, or judgment that would restrain, prevent, or delay the consummation of the transactions contemplated hereby;

(iii) take any and all reasonably necessary steps to avoid or eliminate every impediment under any applicable Law that is asserted by any Governmental Body with respect to the transactions contemplated hereby so as to enable the consummation of such transactions to occur as expeditiously as possible;

(iv) execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and cooperate and take such further actions, as may be reasonably necessary or appropriate to transfer and assign fully to the Purchaser and its successors and assigns, all of the Purchased Assets, and for the Purchaser and its successors and assigns, to assume the Assumed Liabilities, and to otherwise make effective the transactions contemplated hereby and thereby; and

(v) take any and all actions necessary to effect the transfer of all of the Permits and include all such Permits in the Purchased Assets.

Subject to the terms and conditions of this Agreement, the Parties shall not take any action or refrain from taking any action the effect of which would be to unduly delay or impede the ability of the Parties to consummate the transactions contemplated by this Agreement, unless in such Party's reasonable judgment, taking such action or refraining from taking such action is consistent with achieving the ultimate objective of consummating the transactions contemplated hereby or is required by applicable Law.

(b) Following the Execution Date and until the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 4.5, the Seller, on the one hand, and the Purchaser, on the other hand, shall keep each other reasonably informed as to the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by the Seller or the Purchaser or by any of their respective Affiliates (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement.

(c) Notwithstanding anything in this Agreement to the contrary, the obligations of the Seller pursuant to this Section 10.6 shall be subject to any orders entered, or approvals or authorizations granted or required, by or under the Bankruptcy Court or the Bankruptcy Code (including in connection with the Seller Chapter 11 Case), and the Seller's obligations as a debtor in possession to comply with any order of the Bankruptcy Court (including the Sale Procedures Order and the Sale Approval Order) and the Seller's duty to seek and obtain the highest or otherwise best price for the Business as required by the Bankruptcy Code.

10.7 Preservation of Records. The Parties agree that each of them shall preserve and keep the records held by them or their Affiliates relating to the Business, the Purchased Assets and Assumed Liabilities for a period of five (5) years from the Closing Date, in the case of the Purchaser, and until the closing of the Seller Chapter 11 Case or the liquidation and winding up of the Seller's estate, in the case of the Seller and FSNA (each, a "Record Destruction Date"), and shall make such records available to the other Parties as may be reasonably required by such other Parties in connection with, among other things, any insurance claims by, actions or tax audits against or governmental investigations of the Parties or any of their respective Affiliates or in order to enable the Parties to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby or thereby. In the event any Party wishes to destroy such records on the Record Destruction Date, such Party shall first give sixty (60) days prior written notice to the other Parties and each such other Parties shall have the right at its option and expense, upon prior written notice given to such Party within such sixty (60) day period, to take possession of the records within one hundred and twenty (120) days after the date of such notice, or such shorter period as the liquidation and winding up of the Seller's estate shall permit.

10.8 Publicity. Except as required by applicable Law (including any order by the Bankruptcy Court) or filings by the Seller with, or in any proceeding before, the Bankruptcy Court, the Seller, to the extent reasonably practicable, shall not issue any press release, provide any notice to customers or suppliers, or make any public announcement concerning this Agreement or the Transactions without the Purchaser's consent, not to be unreasonably withheld delayed or conditioned; provided that the Seller may issue any such press release or make any such public announcement in connection with the Auction after having provided the Purchaser at least one (1) Business Day to review and comment on such release or announcement (which comments shall be reasonably considered by the Seller). Nothing contained herein shall restrict FSNA from making such disclosures as it is required by Law or stock exchange requirements to make as determined in the reasonable opinion of its outside counsel.

10.9 Communication with Concession Counterparties. At the Purchaser's request, the Seller and the Purchaser shall send joint letters to the Significant Vendors/Suppliers and Concession Counterparties, in form and substance reasonably satisfactory to the Purchaser, at a mutually satisfactory time after the Bankruptcy Court's entry of the Sale Approval Order, which shall include, but not be limited to, advising the Significant Vendors/Suppliers and Concession Counterparties about the existence of (but not the terms of) this Agreement and the pending transfer of such Significant Vendor/Supplier's or Concession Counterparty's account (in the case of Significant Vendors/Suppliers and Concession Counterparties) and underlying Assumed Airport Concession Agreement (in the case of Concession Counterparties) from the Seller to the Purchaser. In addition, the Purchaser shall have the right to contact and meet with the Seller's vendors, suppliers, Concession Counterparties, joint venturers and other partners, the FTC, any Airport Authorities, Hertz, any parties to any Assumed Contract and any lenders with respect to any Purchased Assets or Assumed Liabilities. At the request of the Purchaser, upon reasonable notice, the Seller shall attend meetings with Hertz, the FTC, Airport Authorities or other Persons in connection with the conveyance of Airport Concessions to the Purchaser.

10.10 Notification of Certain Matters. Except for matters specifically described in pleadings that have been filed with the Bankruptcy Court and are accessible on the electronic court docket in connection with the Seller Chapter 11 Case, the Seller shall give prompt notice to the Purchaser, and the Purchaser shall give prompt notice to the Seller, of (a) any notice or other communication from any Person alleging that the Consent of such Person which is or may be required in connection with the transactions contemplated by this Agreement is not likely to be obtained prior to the Closing and (b) any written objection or proceeding that challenges the transactions contemplated hereby or the entry of the approval of the Bankruptcy Court. To the extent permitted by applicable Law, the Seller shall give prompt notice to the Purchaser of (w) any notice of any alleged violation of Law applicable to the Seller, (x) the commencement of any investigation, inquiry or review by any Governmental Body with respect to the Business or that any such investigation, inquiry or review, to the Knowledge of the Seller, is contemplated, (y) the infringement or unauthorized use by any Person of any material Intellectual Property (of which the Seller has Knowledge) and (z) the execution of any Material Contract entered into other than in the Ordinary Course of Business (and the Seller shall deliver or make available a copy thereof to the Purchaser).

10.11 Insurance Policies. Without limiting the generality of Section 5.20, and subject to Section 2.2(d), the Seller shall:

(a) cause the assignment of all rights of the Seller in and to the Insurance Policies and Third Party Insurance Policies, to the extent related to the Purchaser, the Business (to the extent not specifically related to the Excluded Assets) or the Purchased Assets, to the Purchaser as soon as reasonably practicable (and in any event within forty-five (45) following the Closing);

(b) to the extent the Purchaser is not a Named Insured or otherwise does not have the rights to directly make claims under the Insurance Policies or Third Party Insurance Policies, provide the Purchaser with all the rights of the Seller to make claims thereunder related to the Business (to the extent not specifically related to the Excluded Assets) or the Purchased Assets;

(c) use commercially reasonable efforts to maintain each Insurance Policy (or in the case of any Third Party Insurance Policy, to cause the applicable vendor, contractor or third party services provider to maintain) in full force and effect through such Insurance Policy's scheduled expiration date in accordance with its terms and provide Purchaser with prompt notice of any event that would reasonably be expected to cause any such Insurance Policy other than any Third Party Insurance Policy to cease to be so in full force and effect, including the reduction in the total aggregate limits of liability applicable to the excess liability or the directors and officers liability insurance programs;

(d) take all action and furnish all assistance as is reasonably necessary to assist the Purchaser in tendering and pursuing claims including but not limited to settling, compromising or modifying coverage, or establishing the right to make claims with respect to the Business (to the extent not specifically related to the Excluded Assets) or Purchased Assets under the Insurance Policies and Third Party Insurance Policies;

(e) promptly remit to the Purchaser all net proceeds and recoveries under the Insurance Policies and Third Party Insurance Policies with respect to the Business (except to the extent specifically related to the Excluded Assets) or the Purchased Assets;

(f) not take or permit any action that would materially affect the rights of the Purchaser with respect to the Insurance Policies or Third Party Insurance Policies, including but not limited to any returns of premium under the Insurance Policies or collateral for any of the Insurance Policies including amounts secured by letters of credit;

(g) provide reasonable cooperation and assistance to the Purchaser in obtaining comparable insurance policies to the extent any of the Insurance Policies (or any benefits thereunder) at any time prior to the scheduled expiration date become unavailable to the Purchaser; and



(h) obtain all approvals, authorizations, Consents, licenses, permissions, waivers and approvals from, and make all notices and filings with, third parties necessary or advisable to accomplish the foregoing.

Notwithstanding any other provision of this Agreement to the contrary, the Parties shall be entitled to specifically enforce this Section 10.11.

10.12 Release of Claims. Notwithstanding anything contained herein to the contrary (including any restriction contained in Section 10.1) prior to the Closing, the Seller shall deliver to the Purchaser and the DIP Lender, a full, irrevocable and unconditional release of any and all claims, actions, refunds, causes of action, choses in action, actions, suits or proceedings, rights of recovery, rights of setoff, rights of recoupment, rights of indemnity or contribution and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable) against the Purchaser, the DIP Lender and their respective current and former officers, directors, stockholders, employees, agents, representatives, attorneys, investors, parents, predecessors, subsidiaries, successors, assigns, and affiliates, each of the foregoing in their capacity as such (individually and collectively, the "Purchaser Released Parties"), from all actions, causes of action, damages, claims, and demands whatsoever, in law or in equity, known or unknown, contingent or liquidated, whether direct claims or for indemnification or contribution, that the Seller ever had, now has, or may have against the Purchaser Released Parties in connection with any event, conduct or circumstance occurring prior to the Closing.

10.13 Non-Solicitation. From the date hereof until the second (2<sup>nd</sup>) anniversary of the Closing Date, the Seller and each of its Affiliates (and any of their respective successors) shall not hire or solicit for employment any employee of the Purchaser or its Affiliates or any of the Transferred Employees; provided, that such restrictions shall not apply to Transferred Employees who are terminated by the Purchaser or an Affiliate of the Purchaser, or by such employee, after the expiration of ninety (90) days following such termination.

10.14 Specified Airport Concessions. To the extent the Specified Airport Concessions have not been conveyed to the Seller or FSNA, the Seller and FSNA shall use their commercially reasonable efforts to cause the applicable Airport Authority to convey to the Purchaser such Specified Airport Concession.

10.15 Third Party Approvals.

(a) Subject to the terms and conditions of this Agreement, the Seller, FSNA and the Purchaser shall, and shall cause their respective Affiliates to, use commercially reasonable efforts to obtain the Consents, waivers, approvals, orders and authorizations necessary to transfer and assign the Purchased Assets prior to the Closing. To the extent that any third party Consent has not been obtained prior to the Closing, the Seller, FSNA and the Purchaser shall use their commercially reasonable efforts, at another Party's request, to endeavor to obtain such third party Consents. Notwithstanding the foregoing, the Purchaser shall not be required to incur any Liabilities or provide any financial

accommodation, in order to obtain any such third party Consent with respect to the transfer or assignment of any Purchased Asset.

(b) In addition, to the extent permitted by applicable Law and the terms of the Purchased Asset, in the event any third party Consent has not been obtained by the Closing, at the Purchaser's request, the Party contemplated to be transferring such Purchased Asset under this Agreement (the "Transferring Party") shall hold in trust for the Purchaser, as applicable, the relevant Purchased Asset until such time as the third party Consent is obtained. During such time period, the Transferring Party shall comply with all applicable covenants and obligations under the Purchased Assets, including the payment of any costs or expenses in connection therewith, which shall be performed by the Transferring Party for the Purchaser's account and the Purchaser shall promptly (but in no event later than ten (10) Business Days following receipt of an invoice from the Transferring Party) reimburse the Transferring Party for any out-of-pocket costs, expenses or payments made by the Transferring Party in respect of such Purchased Asset. The Purchaser shall be entitled to receive all of the benefits of the Transferring Party under the Purchased Asset.

10.16 Additional DIP Indebtedness. To the extent of availability under the DIP Facility and as directed in writing by the Purchaser, the Seller shall borrow additional amounts under the DIP Facility on or prior to the Closing Date which amount shall be utilized solely to pay any Assumed Liabilities incurred prior to the Closing designated in writing by the Purchaser.

## **ARTICLE XI.**

### **CONDITIONS TO CLOSING**

11.1 Conditions Precedent to the Obligations of the Parties. The respective obligations of each Party to this Agreement to consummate the transactions contemplated by this Agreement are subject to the satisfaction or written waiver, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Seller and the Purchaser in whole or in part to the extent permitted by applicable Law):

(a) there shall not be in effect any statute, rule, regulation or executive order enacted, issued, entered or promulgated by a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the Transactions;

(b) the Bankruptcy Court shall have entered the Sale Procedures Order and the Sale Approval Order and each of such orders shall be a Final Order and in form and substance reasonably satisfactory to the Seller and the Purchaser (except that the Purchaser, in its sole discretion, shall be entitled to waive the final and non-appealable requirement);

(c) the Hertz Settlement Agreement shall have been executed by the parties thereto, and shall remain in full force and effect; and

(d) the FSNA Settlement Agreement shall have been executed by the parties thereto, and shall remain in full force and effect.

11.2 Conditions Precedent to the Obligations of the Seller and FSNA. The obligations of the Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Seller on behalf of itself and FSNA in whole or in part to the extent permitted by applicable Law):

(a) the representations and warranties of the Purchaser set forth in ARTICLE VII hereof shall be true and correct in all material respects (other than representations and warranties qualified as to “materiality” or “material adverse effect”, which representations and warranties shall be true in all respects) as of the Closing Date as though made on and as of the Closing Date (except for such representations and warranties made as of a certain date, which shall be true and correct in all material respects (other than representations and warranties qualified as to “materiality” or “material adverse effect”, which representations and warranties shall be true in all respects) as of such date as though made on and as of such date);

(b) the Purchaser shall have performed and complied in all material respects with all covenants, obligations and agreements required by this Agreement to be performed or complied with by the Purchaser on or prior to the Closing Date, and the Seller shall have received a certificate signed by an authorized officer of the Purchaser, dated the Closing Date, to the foregoing effect;

(c) the Purchaser shall have delivered, or caused to be delivered, to the Seller and FSNA all of the items set forth in Section 4.4;

(d) all portions of the Purchase Price shall have been delivered in accordance with Section 3.1; and

(e) the Purchaser shall have delivered to the Seller and FSNA appropriate evidence of all necessary corporate action by the Purchaser in connection with the transactions contemplated hereby, including, without limitation: (i) certified copies of resolutions duly adopted by the Purchaser’s members, board of managers or similar governing body approving the transactions contemplated by this Agreement and authorizing the execution, delivery, and performance by the Purchaser of this Agreement; and (ii) a certificate as to the incumbency of officers of the Purchaser executing this Agreement and any instrument or other document delivered in connection with the transactions contemplated by this Agreement.

11.3 Conditions Precedent to the Obligations of the Purchaser. The obligations of the Purchaser to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of

which may be waived in writing by the Purchaser in whole or in part to the extent permitted by applicable Law):

(a) the Seller shall have delivered to the Purchaser (i) a certified copy of the Sale Approval Order (which shall contain, among other things, the terms described in Section 9.2) and (ii) copies of all affidavits of service of the Sale Motion or notice of such motion filed by or on behalf of the Seller (which service shall comply with Section 9.1(f));

(b) the representations and warranties of (i) the Seller set forth in ARTICLE V and (ii) FSNA set forth in ARTICLE VI shall be true and correct in all material respects (other than representations and warranties qualified as to “materiality” or “material adverse effect”, which representations and warranties shall be true in all respects) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except for such representations and warranties made as of a certain date, which shall be true and correct in all material respects (other than representations and warranties qualified as to “materiality” or “material adverse effect”, which representations and warranties shall be true in all respects) as of such date as though made on and as of such date);

(c) both the Seller and FSNA shall have performed and complied in all respects with all covenants, obligations and agreements required in this Agreement to be performed or complied with by them on or prior to the Closing Date, and the Purchaser shall have received (i) a certificate signed by an authorized officer of the Seller and (ii) a certificate signed by an authorized officer of FSNA, each dated such Closing Date, to the forgoing effect;

(d) except as provided in Section 10.3(a), all of the Assumed Contracts set forth on Section 11.3(d) of the Seller Disclosure Schedule, shall (i) be in full force and effect on the Closing Date, and (ii) other than with respect to Subsequent Designated Executory Contracts, have had all of the Seller’s monetary breaches and monetary defaults thereunder cured as of the Closing Date by payment of the Cure Costs through the funding provided by the DIP Lender under the DIP Facility (or creation of reserves therefor) in accordance with the Sale Approval Order or otherwise;

(e) the amount of Cure Costs paid does not, in the aggregate, exceed one hundred ten percent (110%) of the aggregate amount of Cure Costs set forth on Schedule 1.1(y);

(f) the Purchaser shall have received all Consents from third parties (including any Governmental Bodies) and Permits (in each case, which the Purchaser deems necessary) to permit the Purchaser to own and operate the Purchased Assets and the Assumed Liabilities from and after the Closing in substantially the same manner as operated by the Seller prior to the Closing (including, without limitation, all Consents required to assume and assign the Assumed Airport Concession Agreements);

(g) there shall be no prohibition of or limitation on the acquisition, ownership or operation by the Purchaser or any of its Affiliates of the Purchased Assets, and there shall be no requirement that the Purchaser or any of its Affiliates divest or hold separate any of the Purchased Assets or any of the assets of the Purchaser or any of its Affiliates;

(h) the Seller shall have delivered, or caused to be delivered, to the Purchaser all of the items set forth in Section 4.2;

(i) the Purchaser shall have obtained all of the Seller Permits (other than those Permits that are the subject of Section 11.3(f)) to the extent assignable or transferable in accordance with applicable Law or the Sale Approval Order, and all such Seller Permits shall be in full force and effect as necessary for the Purchaser to continue to conduct the Business in the Ordinary Course of Business immediately after the Closing Date;

(j) between the Execution Date and the Closing Date, there shall not have occurred a Material Adverse Effect with respect to the Business or condition of the Seller or FSNA, the Purchased Assets or the Assumed Liabilities, in each case from and after the Execution Date;

(k) the Seller and FSNA shall have obtained all approvals and Consents from all Governmental Bodies (including all airport authorities) and other third parties necessary to obtain and transfer to the Purchaser at the Closing all Specified Airport Concessions; and

(l) the Seller and FSNA shall have obtained all approvals and Consents from any and all Governmental Bodies (including all airport authorities) and other third parties necessary to transfer to the Purchaser at the Closing all OTA Agreements.

11.4 Failure Caused by Party's Failure to Comply. No Party may rely on the failure of any condition set forth in Sections 11.1, 11.2 or 11.3, as the case may be, if such failure was caused directly by such Party's failure to comply with any provision of this Agreement.

## ARTICLE XII.

### TAXES

#### 12.1 Additional Tax Matters.

(a) Any sales, use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or other similar Taxes and recording charges which may be payable by reason of the purchase and sale of the Purchased Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated herein (collectively, "Transfer Taxes") shall be borne and timely paid by the Seller, and the Seller shall indemnify, defend (with counsel reasonably satisfactory to the Purchaser), protect, and save and hold the Purchaser harmless from and against any and all claims, charges, interest or

penalties assessed, imposed or asserted in relation to any such Taxes. The Purchaser and the Seller shall reasonably cooperate to mitigate any such Transfer Taxes and to prepare and timely file any Tax Returns required to be filed in connection with any Transfer Taxes.

(b) The Purchaser shall, within one hundred twenty (120) days after the Closing Date, prepare and deliver to the Seller for its consent (which consent shall not be unreasonably withheld, delayed or conditioned) a schedule allocating the purchase price (as determined for U.S. federal income tax purposes) among the Purchased Assets (such schedule, the “Allocation”). If the Seller raises any objection to the Allocation within twenty (20) days of the receipt thereof, the Purchaser and the Seller will negotiate in good faith to resolve such objection(s). The Purchaser and the Seller shall report and file all Tax Returns (including amended Tax Returns and claims for refund) consistent with the Allocation as finally agreed upon, and shall take no position contrary thereto or inconsistent therewith (including, without limitation, in any audits or examinations by any Governmental Body or any other proceeding) without first giving the other Party prior written notice; provided, however, that nothing contained herein shall prevent the Purchaser or the Seller from settling any proposed deficiency or adjustment by any Governmental Body based upon or arising out of the Allocation, and neither the Purchaser nor the Seller shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Body challenging such Allocation. The Purchaser and the Seller shall cooperate in the filing of any forms (including Form 8594 under Section 1060 of the Code) with respect to such Allocation, including any amendments to such forms required pursuant to this Agreement with respect to any adjustment to the purchase price (as determined for U.S. federal income tax purposes). If and to the extent the Parties are unable to agree on such Allocation, the Parties shall retain a mutually agreed upon accounting firm of national repute to resolve such dispute. Notwithstanding any other provision of this Agreement, the terms and provisions of this Section 12.1(b) shall survive the Closing without limitation.

### **ARTICLE XIII.**

#### **EXPENSES; NON-SURVIVAL**

13.1 Payment of Expenses. Except as otherwise provided in this Agreement, the DIP Order and the DIP Loan Documents, and whether or not the transactions contemplated hereby are consummated, the Seller, FSNA and the Purchaser shall, subject to Section 14.11 and Section 4.8, bear their own expenses incurred or to be incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the consummation of the transactions contemplated hereby and thereby.

13.2 Survival. No representations and warranties of the Seller contained in ARTICLE V shall survive beyond the Closing Date. This Section 13.2 shall not limit any Party’s liability for fraud.

## ARTICLE XIV.

### MISCELLANEOUS

14.1 Payment of Expenses. Except as otherwise provided in this Agreement and whether or not the transactions contemplated hereby are consummated, the Seller and the Purchaser shall, subject to Section 14.11 below, bear their own expenses incurred or to be incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the consummation of the transactions contemplated hereby and thereby.

14.2 Entire Agreement; Amendments and Waivers. This Agreement (including the schedules and exhibits hereto and other documents specifically referred to herein) represents the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof. This Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any Party shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any Party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

14.3 Counterparts. For the convenience of the Parties, this Agreement may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

14.4 Governing Law. THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

14.5 Jurisdiction, Waiver of Jury Trial.

(a) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY;

PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14.6 Notices. Unless otherwise set forth herein, any notice, request, instruction or other document to be given hereunder by any Party to another Party shall be in writing and shall be deemed duly given (i) upon delivery, when delivered personally, (ii) one (1) day after being sent by overnight courier or when sent by facsimile transmission (with a confirming copy sent by overnight courier) or e-mail or other electronic communication, and (iii) three (3) days after being sent by registered or certified mail, postage prepaid, as follows:

If to the Seller, to:

Simply Wheelz LLC  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: Thomas P. McDonnell, III  
Facsimile No.: 601-713-4384

With a copy (which shall not constitute effective notice) to:

Butler Snow LLP  
1020 Highland Colony Parkway, Suite 1400  
Ridgeland, MS 39157  
Attn: Steve Rosenblatt  
Facsimile No.: 601-985-4500

If to FSNA, to:

Franchise Services of North America, Inc.  
1052 Highland Colony Parkway, Suite 204  
Ridgeland, MS 39157  
Attn: Kendall Moore



Facsimile No.: 601-713-4384

With a copy (which shall not constitute effective notice) to:

Law Offices of Craig M. Geno  
587 Highland Colony Parkway  
Ridgeland, MS 39157  
Attn: Craig M. Geno  
Facsimile No.: 601-427-0050

If to the Purchaser, to:

The Catalyst Capital Group Inc.  
77 King Street West, North Tower, Suite 4320  
Toronto, ON M5K 1J3  
Attn: Gabriel de Alba  
Facsimile No.: 416-945-3060

With a copy (which shall not constitute effective notice) to:

Latham & Watkins LLP  
233 South Wacker Drive, Suite 5800  
Chicago, IL 60606  
Attn: Richard Levy and Zachary Judd  
Facsimile No.: 312-993-9767

or to such other Persons or addresses as may be designated in writing by the Party to receive such notice.

14.7 Binding Effect; Assignment. This Agreement shall be binding upon the Purchaser and, subject to entry of the Sale Procedures Order (with respect to the matters covered thereby) and the Sale Approval Order, the Seller, and inure to the benefit of the Parties and their respective successors and permitted assigns, including, without limitation, any trustee or estate representative appointed in the Seller Chapter 11 Case or any successor Chapter 7 case. Nothing in this Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Agreement except as provided below. No assignment of this Agreement or of any rights or obligations hereunder may be made by the Seller or the Purchaser (by operation of law or otherwise) without the prior written consent of the other Parties hereto and any attempted assignment without the required consents shall be void; provided, that the Purchaser may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations

hereunder shall relieve the Parties hereto of any such obligations. Upon any such permitted assignment, the references in this Agreement to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

14.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

14.9 Injunctive Relief.

(a) The Parties agree that damages at Law may be an inadequate remedy for the breach of any of the covenants, promises and agreements contained in this Agreement by the Seller, and, accordingly, the Purchaser shall be entitled to injunctive relief with respect to any such breach, including without limitation, specific performance of such covenants, promises or agreements or an order enjoining the Purchaser from any threatened, or from the continuation of any actual, breach of the covenants, promises or agreements contained in this Agreement by the Seller. The rights set forth in this Section 14.9 shall be in addition to any other rights which the Purchaser may have at Law or in equity pursuant to this Agreement.

(b) The Seller acknowledges and agrees that the Seller is not entitled under any circumstances to obtain specific performance of the Purchaser's obligation to consummate the Transactions.

14.10 Non Recourse. Except as expressly contemplated by this Agreement, no past, present or future director, officer, employee, advisor, lawyer, agent, representative, incorporator, member, partner or equityholder of the Seller or the Purchaser shall have any liability for any obligations or liabilities of the Seller or the Purchaser under this Agreement or the Seller's Documents or the Purchaser's Documents of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby.

14.11 No Waiver or Release. Notwithstanding anything herein to the contrary, all terms, conditions, covenants, representations and warranties contained in the DIP Order and the DIP Loan Documents, and all rights, powers and remedies of the DIP Lender and all of the obligations of the Seller and FSNA thereunder (including, without limitation, the obligation to reimburse the DIP Lender for fees and expenses incurred in connection with preparation and negotiation of this Agreement to the extent set forth therein), are reserved and are not amended, modified, limited or otherwise affected by the terms and conditions of this Agreement.

14.12 Certain Interpretations.

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

(i) All references in this Agreement to Articles, Sections, Schedules and Exhibits shall be deemed to refer to Articles, Sections, Schedules and Exhibits to this Agreement.

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

(iii) The Article, Section and paragraph captions herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(iv) The words “include,” “includes” and “including,” when used herein shall be deemed in each case to be followed by the words “without limitation” (regardless of whether such words or similar words actually appear).

(v) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded.

(vi) Any reference in this Agreement to \$ shall mean U.S. dollars.

(vii) Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(viii) The words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(b) The Parties hereto agree that they have been represented by legal counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document shall be construed against the Party drafting such agreement or document.

(c) The Purchaser acknowledges hereby that the Seller may not comply with the provisions of any bulk transfer Laws of any jurisdiction in connection with the transactions contemplated by this Agreement.

14.13 Hertz Settlement Agreement. Notwithstanding anything to the contrary herein, the Purchaser will be deemed a third party beneficiary hereunder entitled to exercise and enforce any and all rights, powers, privileges and remedies of the Seller pursuant to the Hertz Settlement Agreement or any other agreement, instrument or document executed in connection therewith (other than this Agreement). Without limiting the generality of the foregoing, and notwithstanding anything to the contrary in this Agreement or in any other agreement, instrument or document executed in connection therewith, the Seller will not exercise any right to terminate, or execute and deliver or otherwise provide any waivers, consents or amendments under, the Hertz Settlement Agreement or any of the other agreements, instruments or documents executed in connection therewith (other than this Agreement), without the prior written consent of the Purchaser.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

**THE PURCHASER:**

**THE CATALYST CAPITAL GROUP INC.**  
on behalf of funds managed by it

By: 

Name: Gabriel de Alba

Title: Managing Director & Partner

**THE SELLER:**

**SIMPLY WHEELZ LLC D/B/A ADVANTAGE  
RENT A CAR**

By: Tom McDonnell  
Name: Tom McDONNELL  
Title: CEO

**FSNA:**

**FRANCHISE SERVICES OF NORTH  
AMERICA, INC.**

By: Tom McDonnell  
Name: Tom McDONNELL  
Title: CEO

## EXHIBIT A

### FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Assignment Agreement") is made as of \_\_\_\_\_, 2013, by and between The Catalyst Capital Group Inc., a Delaware corporation (the "Purchaser"), and Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company (the "Seller").

#### WITNESSETH:

**WHEREAS**, the Seller, Franchise Services of North America, Inc. and the Purchaser entered into that certain Asset Purchase Agreement dated as of December 16, 2013 (the "Purchase Agreement"); and

**WHEREAS**, pursuant to the Purchase Agreement, the Seller has agreed to sell, convey, transfer, assign and deliver to the Purchaser all of the Seller's right, title and interest in, to and under the Seller Purchased Assets, and the Purchaser has agreed to assume, timely perform and discharge in accordance with their respective terms, the Seller Assumed Liabilities.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed that:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings set forth in the Purchase Agreement.
2. Assignment of Purchased Assets. Effective as of 11:59 p.m. (Central time) on the Closing Date, the Seller hereby conveys, transfers, assigns and delivers to the Purchaser all of the Seller's right, title and interest in, to and under the Seller Purchased Assets, and the Purchaser hereby accepts such conveyance, transfer, assignment and delivery from the Seller; *provided, however*, that the tangible Seller Purchased Assets are being specifically assigned and transferred pursuant to the Bill of Sale and any other Seller Purchased Assets that are specifically assigned or transferred pursuant to any other document are being specifically assigned and transferred pursuant to such other document and, in each case, shall not be assigned or transferred pursuant to this Section 2.
3. Assumption of Assumed Liabilities. Effective as of 11:59 p.m. (Central time) on the Closing Date, the Purchaser hereby assumes, accepts and agrees to timely perform and discharge in accordance with their respective terms any and all of the Seller Assumed Liabilities.
4. Subject to the Purchase Agreement. This Assignment Agreement is subject in all respects to the terms and conditions of the Purchase Agreement, and all of the representations, warranties, covenants and agreements of the Seller and the Purchaser contained therein, all of which shall survive the execution and delivery of this Assignment Agreement in accordance with

the terms of the Purchase Agreement. Nothing in this Assignment Agreement shall supersede, amend, alter or modify (nor shall it be deemed or construed to supersede, amend, alter or modify) any of the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event of any conflict between the provisions of this Assignment Agreement and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall control and prevail.

5. Representations and Warranties. Except as set forth in the Purchase Agreement, the Seller makes no representations or warranties, express or implied, with respect to the Seller Purchased Assets or the Seller Assumed Liabilities, and the Seller expressly disclaims any implied warranties.

6. Binding Effect; Assignment. This Assignment Agreement shall be binding upon the Purchaser and, subject to entry of the Sale Procedures Order (with respect to the matters covered thereby) and the Sale Approval Order, the Seller, and inure to the benefit of each party and its respective successors and permitted assigns, including, without limitation, any trustee or estate representative appointed in the Seller Chapter 11 Case or any successor Chapter 7 case. Nothing in this Assignment Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Assignment Agreement except as provided below. No assignment of this Assignment Agreement or of any rights or obligations hereunder may be made by the Seller or the Purchaser (by operation of law or otherwise) without the prior written consent of the other party and any attempted assignment without the required consents shall be void; provided, that the Purchaser may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Assignment Agreement to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

7. Counterparts. For the convenience of the parties, this Assignment Agreement may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

8. Amendments; Waiver. This Assignment Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Assignment Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Assignment Agreement, including without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Assignment Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any



other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Severability. If any term or other provision of this Assignment Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Assignment Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Assignment Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

10. Governing Law; Jurisdiction.

(a) THIS ASSIGNMENT AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

(b) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS ASSIGNMENT AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*SIGNATURE PAGES FOLLOW*

**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

**The Seller:**

SIMPLY WHEELZ LLC D/B/A  
ADVANTAGE RENT A CAR

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

**The Purchaser:**

THE CATALYST CAPITAL GROUP INC.

By: \_\_\_\_\_

Name:

Title:

## EXHIBIT B

### FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “Assignment Agreement”) is made as of \_\_\_\_\_, 2013, by and between The Catalyst Capital Group Inc., a Delaware corporation (the “Purchaser”), and Franchise Services of North America, Inc., a Delaware corporation (“FSNA”).

#### WITNESSETH:

**WHEREAS**, Simply Wheelz LLC d/b/a Advantage Rent A Car, FSNA and the Purchaser entered into that certain Asset Purchase Agreement dated as of December 16, 2013 (the “Purchase Agreement”); and

**WHEREAS**, pursuant to the Purchase Agreement, FSNA has agreed to sell, convey, transfer, assign and deliver to the Purchaser all of FSNA’s right, title and interest in, to and under the FSNA Purchased Assets, and the Purchaser has agreed to assume, timely perform and discharge in accordance with their respective terms, the FSNA Assumed Liabilities.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed that:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings set forth in the Purchase Agreement.
2. Assignment of Purchased Assets. Effective as of 11:59 p.m. (Central time) on the Closing Date, FSNA hereby conveys, transfers, assigns and delivers to the Purchaser all of FSNA’s right, title and interest in, to and under the FSNA Purchased Assets, and the Purchaser hereby accepts such conveyance, transfer, assignment and delivery from FSNA; *provided, however*, that the tangible FSNA Purchased Assets are being specifically assigned and transferred pursuant to the Bill of Sale and any other FSNA Purchased Assets that are specifically assigned or transferred pursuant to any other document are being specifically assigned and transferred pursuant to such other document and, in each case, shall not be assigned or transferred pursuant to this Section 2.
3. Assumption of Assumed Liabilities. Effective as of 11:59 p.m. (Central time) on the Closing Date, the Purchaser hereby assumes, accepts and agrees to timely perform and discharge in accordance with their respective terms any and all of the FSNA Assumed Liabilities.
4. Subject to the Purchase Agreement. This Assignment Agreement is subject in all respects to the terms and conditions of the Purchase Agreement, and all of the representations, warranties, covenants and agreements of FSNA and the Purchaser contained therein, all of which

shall survive the execution and delivery of this Assignment Agreement in accordance with the terms of the Purchase Agreement. Nothing in this Assignment Agreement shall supersede, amend, alter or modify (nor shall it be deemed or construed to supersede, amend, alter or modify) any of the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event of any conflict between the provisions of this Assignment Agreement and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall control and prevail.

5. Representations and Warranties. Except as set forth in the Purchase Agreement, FSNA makes no representations or warranties, express or implied, with respect to the FSNA Purchased Assets or the FSNA Assumed Liabilities, and FSNA expressly disclaims any implied warranties.

6. Binding Effect; Assignment. This Assignment Agreement shall be binding upon the Purchaser and FSNA, and inure to the benefit of each party and its respective successors and permitted assigns. Nothing in this Assignment Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Assignment Agreement except as provided below. No assignment of this Assignment Agreement or of any rights or obligations hereunder may be made by FSNA or the Purchaser (by operation of law or otherwise) without the prior written consent of the other party and any attempted assignment without the required consents shall be void; provided, that the Purchaser may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Assignment Agreement to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

7. Counterparts. For the convenience of the parties, this Assignment Agreement may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

8. Amendments; Waiver. This Assignment Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Assignment Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Assignment Agreement, including without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Assignment Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any

single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Severability. If any term or other provision of this Assignment Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Assignment Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Assignment Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

10. Governing Law; Jurisdiction.

(a) THIS ASSIGNMENT AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

(b) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS ASSIGNMENT AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS ASSIGNMENT AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*SIGNATURE PAGES FOLLOW*

**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

**FSNA:**

FRANCHISE SERVICES OF NORTH  
AMERICA, INC.

By: \_\_\_\_\_

Name:

Title:

**The Purchaser:**

THE CATALYST CAPITAL GROUP INC.

By: \_\_\_\_\_

Name:

Title:



## EXHIBIT C

### FORM OF BILL OF SALE

This **BILL OF SALE** (this "Bill of Sale") is made as of \_\_\_\_\_, 2013, by and between The Catalyst Capital Group Inc., a Delaware corporation (the "Purchaser"), and Simply Wheelz LLC d/b/a Advantage Rent A Car, a Delaware limited liability company (the "Seller").

**WHEREAS**, the Seller, Franchise Services of North America, Inc. ("FSNA") and the Purchaser entered into that certain Asset Purchase Agreement, dated as of December 16, 2013 (the "Purchase Agreement"); and

**WHEREAS**, pursuant to the Purchase Agreement, the Seller has agreed to sell, convey, transfer, assign and deliver to the Purchaser all of the Seller Purchased Assets, and the Purchaser has agreed to purchase the Seller Purchased Assets from the Seller.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed that:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Bill of Sale shall have the meanings set forth in the Purchase Agreement.
2. Transfer of Assets. Effective as of 11:59 p.m. (Central time) on the Closing Date, the Seller hereby conveys, transfers, assigns and delivers to the Purchaser all of the Seller's right, title and interest in, to and under the tangible Seller Purchased Assets, and the Purchaser hereby purchases such tangible Seller Purchased Assets and accepts such conveyance, transfer, assignment and delivery, subject to the simultaneous assumption of the Seller Assumed Liabilities; *provided, however*, that any Seller Purchased Assets that are specifically assigned or transferred pursuant to any other document shall not be assigned or transferred pursuant to this Section 2.
3. Subject to the Purchase Agreement. This Bill of Sale is subject in all respects to the terms and conditions of the Purchase Agreement, and all of the representations, warranties, covenants and agreements of the Seller, FSNA and the Purchaser contained therein, all of which shall survive the execution and delivery of this Bill of Sale in accordance with the terms of the Purchase Agreement. The Seller Purchased Assets are being delivered for good and valuable consideration, pursuant to the terms and conditions contained in the Purchase Agreement. Nothing contained herein shall supersede, amend, alter or modify (nor shall it be deemed or construed to supersede, amend, alter or modify) any of the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event of any conflict between the provisions of this Bill of Sale and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall control and prevail.

4. Representations and Warranties. Except as set forth in the Purchase Agreement, the Seller makes no representations or warranties, express or implied, with respect to the Seller Purchased Assets, and the Seller expressly disclaims any implied warranties

5. Binding Effect; Assignment. This Bill of Sale shall be binding upon the Purchaser and, subject to entry of the Sale Procedures Order (with respect to the matters covered thereby) and the Sale Approval Order, the Seller, and inure to the benefit of each party and its respective successors and permitted assigns, including, without limitation, any trustee or estate representative appointed in the Seller Chapter 11 Case or any successor Chapter 7 case. Nothing in this Bill of Sale shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Bill of Sale except as provided below. No assignment of this Bill of Sale or of any rights or obligations hereunder may be made by the Seller or the Purchaser (by operation of law or otherwise) without the prior written consent of the other party and any attempted assignment without the required consents shall be void; provided, that the Purchaser may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Bill of Sale to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

6. Counterparts. For the convenience of the parties, this Bill of Sale may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

7. Amendments; Waiver. This Bill of Sale may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Bill of Sale signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Bill of Sale, including without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Bill of Sale shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

8. Severability. If any term or other provision of this Bill of Sale is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Bill of Sale shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner

adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Bill of Sale so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

9. Governing Law; Jurisdiction.

(a) THIS BILL OF SALE IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

(b) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS BILL OF SALE OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS BILL OF SALE OR ANY AGREEMENT CONTEMPLATED HEREBY.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS BILL OF SALE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*SIGNATURE PAGES FOLLOW*

**IN WITNESS WHEREOF**, the parties hereto have caused this Bill of Sale to be executed by their respective officers thereunto duly authorized as of the date first above written.

**The Seller:**

SIMPLY WHEELZ LLC D/B/A  
ADVANTAGE RENT A CAR

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

**The Purchaser:**

THE CATALYST CAPITAL GROUP INC.

By: \_\_\_\_\_

Name:

Title:

## EXHIBIT D

### FORM OF BILL OF SALE

This **BILL OF SALE** (this "Bill of Sale") is made as of \_\_\_\_\_, 2013, by and between The Catalyst Capital Group Inc., a Delaware corporation (the "Purchaser"), and Franchise Services of North America, Inc., a Delaware corporation ("FSNA").

**WHEREAS**, Simply Wheelz LLC d/b/a Advantage Rent A Car (the "Seller"), FSNA and the Purchaser entered into that certain Asset Purchase Agreement, dated as of December 16, 2013 (the "Purchase Agreement"); and

**WHEREAS**, pursuant to the Purchase Agreement, FSNA has agreed to sell, convey, transfer, assign and deliver to the Purchaser all of the FSNA Purchased Assets, and the Purchaser has agreed to purchase the FSNA Purchased Assets from FSNA.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is hereby agreed that:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Bill of Sale shall have the meanings set forth in the Purchase Agreement.

2. Transfer of Assets. Effective as of 11:59 p.m. (Central time) on the Closing Date, FSNA hereby conveys, transfers, assigns and delivers to the Purchaser all of FSNA's right, title and interest in, to and under the tangible FSNA Purchased Assets, and the Purchaser hereby purchases such tangible FSNA Purchased Assets and accepts such conveyance, transfer, assignment and delivery, subject to the simultaneous assumption of the FSNA Assumed Liabilities; *provided, however*, that any FSNA Purchased Assets that are specifically assigned or transferred pursuant to any other document shall not be assigned or transferred pursuant to this Section 2.

3. Subject to the Purchase Agreement. This Bill of Sale is subject in all respects to the terms and conditions of the Purchase Agreement, and all of the representations, warranties, covenants and agreements of the Seller, FSNA and the Purchaser contained therein, all of which shall survive the execution and delivery of this Bill of Sale in accordance with the terms of the Purchase Agreement. The FSNA Purchased Assets are being delivered for good and valuable consideration, pursuant to the terms and conditions contained in the Purchase Agreement. Nothing contained herein shall supersede, amend, alter or modify (nor shall it be deemed or construed to supersede, amend, alter or modify) any of the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event of any conflict between the provisions of this Bill of Sale and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall control and prevail.

4. Representations and Warranties. Except as set forth in the Purchase Agreement, FSNA makes no representations or warranties, express or implied, with respect to the FSNA Purchased Assets, and FSNA expressly disclaims any implied warranties

5. Binding Effect; Assignment. This Bill of Sale shall be binding upon the Purchaser and FSNA, and inure to the benefit of each party and its respective successors and permitted assigns. Nothing in this Bill of Sale shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Bill of Sale except as provided below. No assignment of this Bill of Sale or of any rights or obligations hereunder may be made by FSNA or the Purchaser (by operation of law or otherwise) without the prior written consent of the other party and any attempted assignment without the required consents shall be void; provided, that the Purchaser may assign its rights and obligations hereunder in whole or in part to one or more Affiliates or wholly owned subsidiaries of the Purchaser or funds managed by the Purchaser or its Affiliates (subject to the next succeeding sentence). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Bill of Sale to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

6. Counterparts. For the convenience of the parties, this Bill of Sale may be executed (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

7. Amendments; Waiver. This Bill of Sale may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Bill of Sale signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Bill of Sale, including without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Bill of Sale shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

8. Severability. If any term or other provision of this Bill of Sale is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Bill of Sale shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Bill of Sale so as to effect the original intent of the parties as closely as possible in an acceptable

manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

9. Governing Law; Jurisdiction.

(a) THIS BILL OF SALE IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

(b) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER THE PARTIES HERETO AND ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS BILL OF SALE OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS BILL OF SALE OR ANY AGREEMENT CONTEMPLATED HEREBY.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS BILL OF SALE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*SIGNATURE PAGES FOLLOW*



**IN WITNESS WHEREOF**, the parties hereto have caused this Bill of Sale to be executed by their respective officers thereunto duly authorized as of the date first above written.

**FSNA:**

FRANCHISE SERVICES OF NORTH  
AMERICA, INC.

By: \_\_\_\_\_

Name:

Title:

**The Purchaser:**

THE CATALYST CAPITAL GROUP INC.

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT E**  
**FORM OF SALE PROCEDURES ORDER**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

<b>In re:</b>	)	
	)	
<b>SIMPLY WHEELZ LLC, D/B/A</b>	)	<b>CASE NO. 13-03332-ee</b>
<b>ADVANTAGE RENT-A-CAR</b>	)	<b>Chapter 11</b>
	)	
<b>Debtor</b>	)	
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	)	

**ORDER, PURSUANT TO BANKRUPTCY CODE SECTIONS 105(A), 363 AND 365,  
BANKRUPTCY RULES 2002, 3007, 6004, 6006, 9007 AND 9014, (A) APPROVING  
BIDDING PROCEDURES IN CONNECTION WITH SALE OF  
ASSETS OF THE DEBTOR, (B) APPROVING FORM AND MANNER OF NOTICE,  
(C) SCHEDULING AUCTION AND SALE HEARING, (D) AUTHORIZING  
PROCEDURES GOVERNING ASSUMPTION AND ASSIGNMENT OF CERTAIN  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (E) GRANTING  
RELATED RELIEF**

Upon the motion (the “Motion”)<sup>1</sup> of Simply Wheelz LLC (the “Debtor”) for the entry of an order: (a) establishing bidding procedures to govern the sale of all or substantially all of the assets of the Debtor (the “Bidding Procedures”) and approving certain bid protections in connection therewith; (b) approving the form and manner of notice of the Bidding Procedures;

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

(c) scheduling an auction to sell the Seller Assets (the “Auction”) and the Sale Hearing; (d) authorizing procedures governing the assumption and assignment of certain executory contracts and unexpired leases (the “Assigned Contracts”); and (e) granting other related relief, as more fully described in the Motion; and it appearing that the relief requested is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided under the particular circumstances; and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor, THE COURT HEREBY FINDS THAT:<sup>2</sup>

A. The statutory bases for the relief requested in the Motion are sections 105(a), 363, and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rules 2002, 3007, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

B. Notice of the Motion having been given to: (i) the Office of the United States Trustee for the Southern District of Mississippi; (ii) the creditors listed on the Consolidated List of Creditors Holding 20 Largest Unsecured Claims appended to the Debtor’s Chapter 11 petition;

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<sup>2</sup> The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

(iii) counsel to the DIP Lender; and (iv) those parties who have formally filed request for notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002. The Debtor has articulated good and sufficient reasons for this Court to grant the relief requested in the Motion regarding the sales process, including approval and authorization to serve the Sale Notice.

D. The Sale Notice (annexed to the Motion as **Exhibit D**) and Publication Notice (annexed to the Motion as **Exhibit E**) are reasonably calculated to provide all interested parties with timely and proper notice of the Bidding Procedures, the Auction, the Sale Hearing, and the Sale.

E. The Cure Notice (annexed to the Motion as **Exhibit C**) is reasonably calculated to provide all non-Debtor counterparties (the “Contract Parties”) to the Debtor’s executory contracts and unexpired leases (each a “Contract or Lease” and, collectively, the “Contracts and Leases”) with reasonable and proper notice of the potential assumption and assignment of their executory contract or unexpired lease and any cure amounts relating thereto, although the mere listing of any executory contract or unexpired lease on the Cure Notice does not require or guaranty that such executory contract or unexpired lease will be assumed and assigned and all rights of the Debtor with respect to such Contracts and Leases are reserved.

F. Agreeing to pay the Break-Up Fee is within the sound business judgment of the Debtor, and will increase the likelihood that the Debtor will receive the greatest possible consideration for the Seller Assets.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Motion is GRANTED as set forth herein.
2. The Bidding Procedures, in the form attached hereto as **Exhibit 1**, are hereby approved in their entirety. The Debtor is authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures.
3. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the Court at the hearing on the Motion or by stipulation filed with the Court, are overruled except as otherwise set forth herein.
4. The Break-Up Fee is approved and shall be payable to the extent provided in the Stalking Horse Agreement. The Stalking Horse Buyer's claim to the Break-Up Fee shall constitute part of the DIP Obligations pursuant to, and as defined in, the Interim Order (I) Authorizing Debtor to Obtain Post-Petition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361, 362 and 364, (II) Granting Lien and Super-Priority Claims, and (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001 [Docket No. 52] (the "**Interim Order**") or the Final Order (as defined in the Interim Order), whichever is then in effect, and shall be entitled to all of the other DIP Protections (as defined in Interim Order or Final Order, whichever is then in effect). Immediately after the Break-Up Fee shall become due and payable, the Debtor shall fund, or cause to be funded, the Break-Up Fee into a segregated account, which account shall not be subject to the Liens of prepetition or post-petition creditor (other than the DIP Lender).
5. The Sale Notice, substantially in the form attached to the Motion as **Exhibit D**: (a) is hereby approved; and (b) shall be served within three business days of entry of this Order, upon the Notice Parties identified in the Motion and those entities and individuals appearing on

the Debtor's creditor matrix.

6. Within five (5) business days of entry of this Order, the Debtor shall publish the Publication Notice, substantially in the form attached to the Motion as Exhibit E, the National Edition of The Wall Street Journal.

7. The Cure Notice, substantially in the form attached to the Motion as Exhibit C, is hereby approved. Within five (5) business days after the entry of this Order, the Debtor shall serve the Cure Notice upon the Contract Parties. The Cure Notice shall identify the Contracts and Leases and provide the corresponding cure amounts that the Debtor believes must be paid to cure all prepetition defaults under the Contracts and Leases (the "Cure Amounts"). The failure to specify any particular executory contract or unexpired lease on a Cure Notice will not act to extend the Contract Objection Deadline with respect to any executory contract or unexpired lease that was included on such Cure Notice.

8. Other than an Adequate Assurance Objection as defined and described in the next paragraph of this Order, unless the Contract Party to any Contract or Lease timely files an objection to its Cure Amount or to the assumption and assignment of a Contract or Lease and timely serves a copy of such objection upon (a) counsel to the Debtor, Butler Snow, 1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS 39157, Attn: Stephen W. Rosenblatt and Christopher R. Maddux; (b) the Office of the United States Trustee for the Southern District of Mississippi, 501 East Court Street, Suite 6430, Jackson, MS 39201, Attn: Ronald H. McAlpin; and (c) counsel to the DIP Lender and the Stalking Horse Buyer (i) Latham & Watkins LLP, 233 South Wacker Drive, Suite 5800, Chicago, Illinois 60606, Attn: Richard Levy and James Ktsanes, (ii) Watkins and Eager, PLLC, P.O. Box 650, Jackson, MS 39205, Attn: Jim Spencer,



so as to be received no later than **5:00 p.m. (prevailing Central Time) on December 9, 2013**, such Contract Party shall forever be barred and estopped from objecting (i) to the Cure Amount and from asserting that any additional amounts are due or defaults exist; (ii) that any conditions to assumption and assignment must be satisfied under such Contract or Lease before it can be assumed and assigned or that any required consent to assignment has not been given; or (iii) that the Stalking Horse Buyer has not provided adequate assurance of future performance.

9. Promptly following the Debtor's selection of the Prevailing Purchaser at the conclusion of the Auction, the Debtor shall announce the Prevailing Purchaser and shall file with the Bankruptcy Court a notice of the Prevailing Purchaser. Only if the Stalking Horse Buyer is not the Prevailing Purchaser for the Seller Assets, the Contract Parties shall have until **12:00 p.m. (prevailing Central Time) on December 12, 2013** to object to the assumption and assignment of a Contract or Lease solely on the issue of whether the Prevailing Purchaser or Back-Up Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code (each an "Adequate Assurance Objection"); provided, however, that if the Stalking Horse Buyer is the Prevailing Purchaser, all Adequate Assurance Objections must be filed so as to be received no later than 5:00 p.m. (prevailing Central Time) on December 9, 2013.

10. In the event of a timely filed objection regarding: (a) any Cure Amount with respect to any of the Contracts and Leases; (b) the ability of the Stalking Horse Buyer or other Prevailing Purchaser to provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code, if applicable, under a Contract or Lease; or (c) any other matter pertaining to assumption, the Cure Amount shall be paid as soon as reasonably practicable after

the later of (a) such Cure Amount is finally determined by the Bankruptcy Court or agreed to by the parties, and (b) the assumption and assignment of such Assigned Contract is effective.

11. The Stalking Horse Buyer or other Prevailing Purchaser may designate in writing any Contract or Lease to be assigned to it by the Designation Deadline, and the Debtor shall file, but not serve, a list of all such designated Contracts or Leases no later than one day prior to the Sale Hearing. Further, after the Closing the Stalking Horse Buyer or other Prevailing Purchaser may designate additional Contracts or Leases, which had not previously been designated for assumption and assignment, to be assumed and assigned to the Stalking Horse Buyer or other Prevailing Purchaser notwithstanding the occurrence of the Closing.

12. The Debtor is authorized to conduct an Auction on Monday, December 9, 2013, at the offices of Butler Snow LLP at 1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS, as set forth in the Bidding Procedures.

13. No entity, other than the Stalking Horse Buyer, shall be entitled to any expense reimbursement, break-up fee, "topping," termination, contribution, or other similar fee or payment.

14. The Sale Hearing will be conducted on **December 17, 2013, at 9:30 a.m. (prevailing Central Time)**. The Debtor may seek the entry of an order of this Court at the Sale Hearing approving and authorizing the Sale to the Stalking Horse Buyer or such other Prevailing Purchaser, as applicable, on terms and conditions consistent with the applicable purchase agreement. The Sale Hearing may be adjourned or rescheduled without notice other than a notice filed with the Court or by an announcement of the adjourned date at the Sale Hearing.

15. Objections, if any, to the sale of the Seller Assets to the Prevailing Purchaser

(including the Stalking Horse) or the Back-Up Bidder or other Qualified Bidders must: (a) be in writing and filed with this Court; (b) comply with the Bankruptcy Rules; and (c) be served upon (such as to be **received** by) the Objection Notice Parties, **on or before 5:00 p.m. (prevailing Central Time) on December 9, 2013** (the "Sale Objection Deadline"; except that any Qualified Bidder (as defined in the Bidding Procedures) shall have until **12:00 p.m. (prevailing Central Time) on December 12, 2013** to object to the Sale solely based on actions or events occurring at the Auction.

16. Notice of the Motion as provided therein shall be deemed good and sufficient notice, and the requirements of Bankruptcy Rule 6004(a) is satisfied by such notice or otherwise deemed waived.

17. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

18. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

19. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

20. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

SO ORDERED.