**BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT**

This bill of sale and assignment and assumption agreement is entered into on \_\_\_\_\_, 20\_\_, between \_\_\_\_\_, a [STATE] [CORPORATION/LIMITED LIABILITY COMPANY] (the “**Buyer**”), and \_\_\_\_\_, a [STATE] [CORPORATION/LIMITED LIABILITY COMPANY] (the “**Seller**”), which is owned by \_\_\_\_\_ (the “**Owner**”).

The Seller owns and operates a \_\_\_\_\_ business known as \_\_\_\_\_ located at \_\_\_\_\_ (the “**Business**”).

The Seller has agreed to sell and the Buyer has agreed to purchase the Purchased Assets (as defined below).

The Owner owns 100% of the outstanding equity of the Seller and has agreed to join in this agreement for the purpose of making certain representations and agreements.

Therefore, the parties agree as follows:

1. Sale of the Purchased Assets; Assumption of the Assumed Contracts. Subject to the provisions set forth in this agreement, as of midnight at the beginning of the date of this agreement (the “**Effective Time**”), the Seller hereby sells, conveys, assigns, and transfers to the Buyer the assets set forth on Schedule 1 (the “**Purchased Assets**”) free and clear of any and all liens and encumbrances, and the Buyer hereby accepts the sale, conveyance, assignment, and transfer of the Purchased Assets and assumes the Buyer’s obligations under the contracts listed on Schedule 1 (the “**Assumed Contracts**”).

2. No Other Assumption of Liabilities. Except for the Assumed Contracts, the Buyer does not assume any obligation or liability of the Seller or the Owner, and the Seller or the Owner or both, as applicable, will continue to be liable for any and all liabilities of the Seller or the Owner or both. The Buyer does not assume any liability under the Assumed Contracts arising before the Effective Time. The Seller will not be responsible for any liability that arises from the Buyer’s operation of the Business after the Effective Time.

3. Purchase Price. The purchase price is $\_\_\_\_ (the “**Purchase Price**”). The parties agree to allocate the Purchase Price among the Purchased Assets for all purposes (including tax purposes) in accordance with the allocation schedule attached to this agreement as Schedule 3. The Buyer shall pay the Purchase Price as follows:

(1) $\_\_\_\_\_ deposit, which has already been paid, will be credited to the Buyer.

(2) $\_\_\_\_\_ will be paid at the Closing by wire transfer.

4. Representations and Warranties. The Seller and the Owner, jointly and severally, represent and warrant to the Buyer that all of the representations and warranties set forth on Schedule 4 are true and correct in all respects as of the date of this agreement.

5. Covenant Not to Compete; Nonsolicitation; Confidentiality. As further consideration for the Purchase Price, the Seller and the Owner each agree to abide by the noncompetition, nonsolicitation, and confidentiality obligations set forth on Schedule 5.

6. Proration of Expenses. Any costs associated with operating the Business in the ordinary course, including but not limited to payroll expenses and utility or similar charges, payable with respect to the period in which the Effective Time falls will be prorated based on the actual number of days applicable to the pre-Effective Time and post-Effective Time occupancy and use. The Seller will be liable for the prorated amount of all such expenses during the period through the Effective Time, and the Buyer will be liable for the prorated amount of all such expenses during the period after the Effective Time.

7. Survival.Except as otherwise provided in this agreement, the representations and promises of the parties contained in this agreement will survive (and not be affected in any respect by) the Effective Time for the applicable statute of limitations as well as any investigation conducted by any party and any information which any party may receive.

8. Further Actions. At any time and from time to time after the date of this agreement: (1) the Seller shall execute and deliver or cause to be executed and delivered to the Buyer such other instruments and take such other action, all as the Buyer may reasonably request, in order to carry out the intent and purpose of this agreement; and (2) the Buyer shall execute and deliver or cause to be executed and delivered to the Seller such other instruments and take such other action, all as the Seller may reasonably request, in order to carry out the intent and purpose of this agreement.

9. Governing Law; Venue. This agreement and the transactions contemplated hereby will be construed in accordance with and governed by the internal laws (without reference to choice or conflict of laws principles) of the State of Missouri. Any suit, action, or other proceeding brought against any of the parties to this agreement or any dispute arising out of this agreement or the transactions contemplated hereby must be brought either in the courts sitting in \_\_\_\_\_ County, \_\_\_\_\_, or in the United States District Court for the District of \_\_\_\_\_ and by its execution and delivery of this agreement, each party accepts the jurisdiction of such courts and waives any objections based on personal jurisdiction or venue.

10. Assignment. No party may assign either this agreement or any of its rights, interests, or obligations hereunder without the prior written approval of each other party, except that the Buyer may assign any or all of its rights under this agreement, in whole or in part, without obtaining the consent or approval of any other party, (1) to any current or future affiliate of the Buyer, (2) to any entity into which the Buyer may be merged or consolidated, (3) in connection with any acquisition, restructuring, merger, conversion, or consolidation to which the Buyer may be a party, or (4) to a lender to the Buyer or its affiliates as collateral security for current or future obligations owed by the Buyer or its affiliates to the lender.

11. Notices. All notices and other communications under this agreement must be in writing and given by first class mail, return receipt requested, nationally recognized overnight delivery service, such as Federal Express, or personal delivery against receipt to the party to whom it is given, in each case, at the party’s address set forth in this section 11 or such other address as the party may hereafter specify by notice to the other parties given in accordance with this section. Any such notice or other communication will be deemed to have been given as of the date the applicable delivery receipt for such communication is executed as received or in the case of mail, three days after it is mailed.

If to the Seller or: \_\_\_\_\_

the Owner \_\_\_\_\_

\_\_\_\_\_

Attention: \_\_\_\_\_

If to the Buyer \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attention: \_\_\_\_\_

12. Miscellaneous. This agreement contains the entire agreement between the parties with respect to the subject matter hereof and all prior negotiations, writings, and understandings relating to the subject matter of this agreement are merged in and are superseded and canceled by, this agreement. This agreement may not be modified or amended except by a writing signed by the parties. This agreement is not intended to confer upon any person or entity not a party (or their successors and permitted assigns) any rights or remedies hereunder. This agreement may be signed in any number of counterparts, each of which will be an original with the same effect as if the signatures were upon the same instrument, and it may be signed electronically. The captions in this agreement are included for convenience of reference only and will be ignored in the construction or interpretation hereof. If any date provided for in this agreement falls on a day which is not a business day, the date provided for will be deemed to refer to the next business day. Any provision in this agreement that is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction will be ineffective only to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof; provided, however, that the parties will attempt in good faith to reform this agreement in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. The Exhibits and Schedules to this agreement are a material part of this agreement and are incorporated by reference herein.

[Signature page follows.]

Each of the undersigned has caused this bill of sale and assignment and assumption agreement to be duly executed and delivered as of the date first written above.

**BUYER:**

\_\_\_\_\_

By:  
Name:  
Title:

**SELLER:**

\_\_\_\_\_

By:  
Name:  
Title:

**OWNER:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_