

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address RON BENDER (SBN 143364) JULIET Y. OH (SBN 211414) LEVENE, NEALE, BENDER, YOO & GOLUBCHIK L.L.P. 2818 La Cienega Avenue Los Angeles, California 90034 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 Email: rb@lnbyg.com; jyo@lnbyg.com <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor and Debtor in Possession	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY DIVISION**

In re: ACTION FACE, INC., Debtor(s).	CASE NO.: 1:24-bk-10180-MB CHAPTER: 11 <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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Sale Date: 04/18/2024	Time: 10:00 am
Location: Virtual (instructions to be provided to parties who submit a Qualified Bid)	

Type of Sale: Public Private **Last date to file objections:** 04/10/2024

Description of property to be sold: Substantially all of the Debtor's assets, as described in the form Asset Purchase Agreement ("APA") attached as Exhibit 1 hereto.

Terms and conditions of sale: See APA attached as Exhibit 1 hereto.

Proposed sale price: To be determined

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

Overbid procedure (if any): See Bidding Procedures attached as Exhibit 2 hereto.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Date: April 24, 2024
Time: 10:00 a.m.
Place: 21041 Burbank Blvd.
Courtroom 303
Woodland Hills, CA 91367

The hearing will also be conducted remotely via ZoomGov video/audio: <https://cacb.zoomgov.com/j/1601453298>
Meeting ID: 160 145 3298; Password: 575018
Telephone: (669) 254-5252 or (646) 828-7666

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Hilco IP Services, LLC dba Hilco Streambank
Gabriel Fried
Tel: (617) 458-9355; Email: gfried@hilcoglobal.com

Jordon Parker
Tel: (719) 821-0894; Email: jparker@hilcoglobal.com

Stella Silverstein
Tel: (646) 651-1953; Email: ssilverstein@hilcoglobal.com

Date: 04/03/2024

EXHIBIT 1

INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of April __, 2024 (“Effective Date”), by and between _____, a [state] [entity type] (“Buyer”), and Action Face, Inc., a Delaware corporation and the undersigned debtor and debtor in possession in the Bankruptcy Case (“Seller”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

RECITALS

A. On February 5, 2024 (the “Petition Date”), the Seller filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Central District of California, San Fernando Valley Division (the “Bankruptcy Court”) under Case No. 1:24-bk-10180-MB (the “Bankruptcy Case”). Seller continues to operate its business and manage its financial affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On March 18, 2024, Seller filed the *Notice of Motion and Motion for Entry of Order Establishing Bidding Procedures for Sale of Substantially All Assets of the Debtor* (the “Bidding Procedures Motion”).

C. On _____, 2024, the Bankruptcy Court issued the *Order Establishing Bidding Procedures for Sale of Substantially All Assets of the Debtor* (the “Bidding Procedures Order”), a copy of which is attached hereto as Exhibit A, which granted the Bidding Procedures Motion and authorized the Seller to sell the Acquired Assets (as defined herein) in accordance with the procedures set forth in the Motion, subject to the provisions of the Bidding Procedures Order (the “Bidding Procedures”).

D. The Bidding Procedures Order established a deadline for Seller to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Bidding Procedures Order also provides that the Seller will seek the entry of a Bankruptcy Court order approving and authorizing the sale of the Acquired Assets to Buyer (the “Sale Order”), substantially in the form of the attached Exhibit B, at a hearing to be held on April 23, 2024 at 1:30 pm (Pacific Time) or such other date and time as the Court may set (“Sale Hearing”).

E. Seller desires to sell to Buyer all of the Acquired Assets, and Buyer desires to purchase from Seller the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.

F. Pursuant to the Bidding Procedures, to the extent any portion of the consideration to be paid by Buyer is in the form of cash, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) of the Purchase Price (the “Deposit”).

G. The execution and delivery of this Agreement and Seller’s ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code.

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

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Seller agrees to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets or any group of assets that includes all or any material portion of the Acquired Assets or a reorganization of Seller pursuant to a plan approved by the Bankruptcy Court.

“Assumable Agreements” means the executory contracts and unexpired leases set forth on Schedule 1.5, to which Seller is a party and which may be assumed by Seller and assigned to Buyer.

“Auction” has the meaning ascribed to such term in the Bidding Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Bidding Procedures.

“Bankruptcy Case” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Bidding Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Bidding Procedures Motion but subject to the provisions of the Bidding Procedures Order.

“Bidding Procedures Order” has the meaning set forth in the Recitals.

“Books and Records” means copies or originals of all files and records, archived files, artwork, development and design work, graphics and design work, technical files, and operational

manuals and documentation specifically relating to the Acquired Assets, to the extent such documents are in Seller's possession or control, all in any form or medium, including electronic and computer files stored or maintained on Third Party Platforms.

"Business Day" means any day of the year, other than a Saturday or Sunday, on which national banking institutions in Los Angeles, California, are open to the public for conducting business and are not required or authorized by Law to close.

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

"Buyer Termination Notice" has the meaning set forth in Section 10.1(c)(i).

"Closing" has the meaning set forth in Section 3.4.

"Closing Date" has the meaning set forth in Section 3.4.

"Closing Date Cash Payment" has the meaning set forth in Section 3.3.

"Closing Legal Impediment" has the meaning set forth in Section 8.3.

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

"Competing Bids" has the meaning set forth in Section 6.2(a).

"Customer Database" means the list of customers described in Schedule [].

"Deposit" has the meaning set forth in the Recitals.

"Domain Names" means the Internet resource names and associated uniform resource locaters of Seller that are owned by Seller and set forth on Schedule 1.3.

"Effective Date" has the meaning set forth in the Preamble.

"Encumbrance" means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

"Governmental Authority" means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

"Hilco Streambank" means Hilco IP Services, LLC, d/b/a Hilco Streambank.

"Knowledge" means, with respect to any matter in question, in the case of Seller, the actual knowledge of Kenneth Davis (CEO, Action Face, Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Seller’s ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Case, including, without limitation, the Auction and any announced liquidation of Seller’s assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Seller operates.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in Section 10.1(b)(ii).

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Seller.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means any taxable period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

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

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Bidding Procedures.

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

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Seller” has the meaning set forth in the Preamble.

“Seller Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Social Media Accounts” means the online account registrations of Seller described in Schedule 1.4.

“Successful Bidder” has the meaning set forth in the Bidding Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Technology Codebase” means the source and object code and other related assets described in Schedule 1.1.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Trademarks” means the trademarks, service marks, trade names, logos, slogans, designs, common law trademarks and service marks, and trademark and service mark registrations therefor that are owned by Seller and are set forth in Schedule 1.2.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) 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 will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

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

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

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

ARTICLE II

PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Seller will sell, transfer, assign, convey, and deliver, or cause to be sold, transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and Buyer will purchase, assume, and accept from Seller, all right, title, and interest of Seller in, to, or under the following (collectively, the “Acquired Assets”):

(a) Technology Codebase;

(b) the Trademarks;

(c) the Domain Names;

- (d) the Customer Database;
- (e) the Social Media Accounts;
- (f) the Assumable Agreements;
- (g) the Books and Records; and
- (h) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Seller and not specifically sold and transferred to Buyer.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Seller from ceasing operations or winding up Seller’s affairs and liquidating following the Closing. Upon the completion of the winding up of Seller’s affairs and liquidation, Seller will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing, Seller will use commercially reasonable efforts to convey such Acquired Assets to Buyer as promptly as practicable after the Closing.

ARTICLE III

PURCHASE PRICE; CLOSING

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Seller in cash the sum of _____ (\$ _____) (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Bidding Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Seller or Buyer. The Deposit will be retained by Seller at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment. At the Closing, (a) Buyer will pay to Seller, or to an account designated by Seller, in cash by wire transfer of immediately available funds an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Seller will direct Hilco Streambank to indefeasibly transfer the Deposit, and Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated by Seller.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the “Closing”) will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Seller may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the “Closing Date.”

Section 3.5 Buyer’s Deliveries to Seller. At the Closing, Buyer will deliver to Seller each of the following:

- (a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Seller in accordance with Section 3.3(b);
- (b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;
- (c) the certificates of Buyer to be received by Seller pursuant to Section 9.1 and Section 9.2; and
- (d) such assignments in form reasonably satisfactory to Seller as Seller may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Seller’s Deliveries to Buyer. At the Closing, Seller will deliver to Buyer each of the following:

- (a) a direction to Hilco Streambank, duly executed by Seller, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Seller in accordance with Section 3.3(b);
- (b) each other Transaction Document to which Seller is a party, duly executed by Seller;
- (c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;
- (d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Seller’s right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances;
- (e) with respect to the Domain Names and the Social Media Accounts, if an Acquired Asset or Acquired Assets, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Seller and Buyer; and

(f) the Books and Records, if an Acquired Asset.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Seller is an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of Seller's organization. Subject to the limitations imposed on Seller as a result of the Bankruptcy Case, (x) Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Seller as a result of the Bankruptcy Case, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Case, as applicable, this Agreement and the other Transaction Documents constitute, with respect to Seller, the legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Case, Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 Legal Proceedings. As of the date hereof, except for the Bankruptcy Case, there is no Proceeding or order pending or, to Seller's Knowledge, threatened in writing against Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.4 Brokers or Finders. Except for Hilco Streambank, Seller has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other

Transaction Documents to which Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.

Section 4.5 Free and Clear. Pursuant to the Sale Order, at Closing, Seller's sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.6 "As-is, Where-is". Except for Seller's representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS**. Seller expressly disclaims all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Seller has not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Seller expressly disclaims.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is a [_____], duly organized, validly existing, and in good standing under the laws of the jurisdiction of Buyer's organization. Buyer has the requisite power and authority to own or lease and to operate and use Buyer's properties and to carry on Buyer's business as now conducted.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.

Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or

conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Seller in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Seller or any of its attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Seller. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Seller is selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Seller is or will become liable following the Closing.

ARTICLE VI

ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Seller covenants and agrees that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the

Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Seller will use commercially reasonable efforts, taking into account Seller's status as a debtor-in-possession in the Bankruptcy Case, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Seller will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Seller of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Seller has declared a Successful Bid pursuant to the Bidding Procedures, Seller is permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Seller has the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Bidding Procedures or the Bankruptcy Code.

(b) Seller will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Seller selects it as such in accordance with the Bidding Procedures.

ARTICLE VII

ADDITIONAL AGREEMENTS

Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with

the sale or transfer of the Acquired Assets (“Transfer Taxes”), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be borne entirely by Buyer. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Seller and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Seller agree to furnish or cause to be furnished to each other (and, in the case of Seller, to any successor-in-interest of Seller, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Seller); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Seller have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Seller or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Seller hereby waive compliance with all “bulk sales,” “bulk transfer,” and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Seller will be liable for the proportionate amount of any personal property or similar Taxes applicable to the Acquired Assets that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period.

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Seller (or any Affiliate of Seller) will continue in full force and

effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Seller will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Seller be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Seller will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

Section 7.4 Preservation of Books and Records. After the Closing Date, Buyer will provide Seller (including any successor-in-interest to Seller, such as a liquidating trust or other entity) and their Affiliates and Representatives (after reasonable notice and during normal business hours and without charge to Seller other than the costs of copying, if any) reasonable access to, including the right to make copies of, all Books and Records, to the extent necessary to permit Seller to determine any matter relating to its rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter), for periods prior to the Closing and will preserve such books and records until the later of (i) such period as will be consistent with Buyer's records retention policy in effect from time to time, (ii) the retention period required by applicable Law, (iii) the conclusion of all bankruptcy proceedings relating to the Bankruptcy Case, and (iv) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access will include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller has the right to retain originals or copies of all of Books and Records included in or related to the Acquired Assets for periods prior to the Closing.

ARTICLE VIII

CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Seller contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.4, the condition in this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Seller's Performance. Seller has performed and complied in all material respects with the covenants and agreements that Seller is required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a "Closing Legal Impediment"); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Seller's Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

ARTICLE IX

CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLER TO CLOSE

Seller's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Seller (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Seller will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer's Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Seller will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Seller has taken all actions required to be taken by Seller by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer's Deliveries. Each of the deliveries required to be made to Seller pursuant to Section 3.5 has been delivered.

Section 9.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

ARTICLE X TERMINATION

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written consent of Seller and Buyer; or
- (b) by either Seller or Buyer:

- (i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;

- (ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;

- (iii) if the Sale Order is vacated;

- (iv) if Seller enters into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Bidding Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;

- (v) Seller files any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or

- (c) by Buyer:

- (i) in the event of any breach by Seller of any of Seller's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Seller to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would

result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Seller in writing (the “Buyer Termination Notice”) of Buyer’s intention to exercise Buyer’s rights under this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Seller is allegedly in breach;

(ii) if the Bankruptcy Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Seller:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer’s agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Seller Termination Notice; provided, however, that Seller (1) is not itself in material breach of any of Seller’s representations, warranties, covenants, or agreements contained herein, and (2) Seller notifies Buyer(s) in writing (the “Seller Termination Notice”) of Seller’s intention to exercise Seller’s rights under this Section 10.1(d)(i) as a result of the breach, and Seller specifies in the Seller Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Seller has provided Buyer with written notice that Seller is prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within one Business Day of Seller providing Buyer with such notice.

Section 10.2 Effect of Termination and Liquidated Damages.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Seller as liquidated damages (and Seller will be permitted to direct Hilco Streambank to disburse the Deposit to Seller), and the retention thereof will constitute the sole and exclusive remedy of Seller in the event of such a termination hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Seller will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Bidding Procedures, and the return thereof will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Seller or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another

Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.

ARTICLE XI
GENERAL PROVISIONS

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

To Buyer:

Attention: _____

[address]

[address]

with a copy to:

Attention: _____

[address]

[address]

To Seller:

Action Face, Inc.
Attention: Kenneth Davis

1001 Keith Avenue
Berkeley, California 94708

with a copy to:

Levene, Neale, Bender, Yoo & Golubchik L.L.P.
Attention: Ron Bender and Juliet Y. Oh
2818 La Cienega Avenue
Los Angeles, California 90034

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and written. This Agreement will be binding upon the Parties and their respective successors and assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Seller, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose “ink original” or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing (“Pre-Closing Covenants”) contained in this Agreement or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Seller’s intellectual property advisor.

[Signature page follows]

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

Buyer:

_____ [Entity name] _____

By: _____
[Name, title]

Seller:

Action Face, Inc.

By: _____
[Name, title]

Exhibit A

Bidding Procedures Order

Attached.

Exhibit B

(Proposed) Sale Order

Attached.

Schedule 1.1

Technology Codebase

Source and object code enabling Action Face’s software platform and mobile application, including repositories of code written predominantly in JSON, Ruby On Rails, Swift, SCSS, Python, and Java coding languages, as indexed below:

Repository	Size (file count)	Size (Mb)	Description
actionface-customizer	2400	200.05	Customizer Web app, APIs
actionface-scanapp	1752	2026.36	iOS App (Swift)
af-tools	953	324.47	Miscellaneous tools and helper scripts
cafe	758	21.17	Cafe Web app
actionface-auto-wdio	292	464.3	Automated QA Tests
AF_Batch	61	28.47	Gen2 Blending, pipeline scripts, pre-rendered animation processing
resque-job-stats	33	0.76	in-house fork to show more job stats
order-checker	15	0.02	Service Lambda to Slack report - check for orphaned shopify orders
texture_creator	14	0.12	CustomAF / Texture Creator
pendings_figs_and_fullfilled_orders_checker	14	0.02	Service Lambda to Slack report - checking pending figs; update fulfillments
delivery_failures_report	14	0.01	Service Lambda to Slack report - reports on Failed delivery attempts (USPS, FedEx, etc.)
url_shortener_cleaner	14	0	Service Lambda to remove expired shortened URLs
orders_with_mismatched_quantity	14	0	Service Lambda to Slack report - check orders with qty issues
batched_and_unbatched_figs	13	0.02	Service Lambda to Slack report
service-tools	6	17.86	create PDF of voucher codes on business card paper from template
worker-checker	6	0	This job checks if any workers are running and warns on Slack if not
ActionFaceTurk	5551	7519.14	AFE - Gen1 Blending - Unity/C#
af-game	4247	621.42	Unity game demo with your avatar
actionface-stitcher	693	121.83	maybe an original test app for bellus SDK

af-scanapp	92	2.1	r&d app to test facial reconstruction from ARKit
actionface-automation	86	94.35	(Nico says I can delete this)
usdpython	46	42.77	Legacy AR - pipeline usd converter for backend AR that made usdz files to open in iOS / glb for Android
actionface-watertight	42	28.92	r&d for automated print prep for avatars
ActionFaceTurkiOS	37	0.12	r&d app with combination of scan cutting and hair customization etc.
ar_creator	25	21.9	proof of concept pipeline tool to use blender to make USD of figs using Blender
realitykittest	23	15.42	r&d with apple reality kit for AR loading s3 resources
gtavmodelexporter	23	1.11	r&d using blender python to export avatars to use in GTA V mods
ActionFaceAzureKinect	16	0.38	r&d project to capture scans using Xbox Kinect device
af-scantools	15	101.65	cli tool to batch process scans with AFE and render them for testing params etc
in-app-customizer-sandbox	13	0.01	r&d for putting Customizer web into native iOS app
expired_urls_deletion	8	0	was a test project for url_shortener_cleaner and can be removed
ShopifyChromeExtension	4	0.04	rpa tool for fulfillment automation
project5D	3	0	r&d for 2D to 3D facial reconstruction using AI - mesh parameterization
shopify-static-page	1	0.01	static page to use in Shopify for Abu Dhabi 2022

Schedule 1.2

Trademarks

Country	Mark	App. Filing Date	Serial No.	Registration No.	Status
United States	ACTION FACE	2/9/2021	90521372	6618892	LIVE
United States		2/9/2021	90521441	6618893	LIVE
United States		2/9/2021	90521497	6602285	LIVE

Schedule 1.3

Domain Names

Domain Name	Domain Registrar
actionface.app	GoDaddy
actionface.me	AWS
actionface.net	AWS
myaf.me	GoDaddy
actionface.shop	GoDaddy
actionface.ai	GoDaddy
actionface.myshopify.com	Shopify hosted
actionfaceme.com	GoDaddy
actionfaces.com	GoDaddy
makeaf.me	GoDaddy
makeface.fun	GoDaddy
myaf.fun	GoDaddy

Schedule 1.4

Social Media Accounts

Platform	Handle	Reach
Facebook	Action Face	94 followers
Twitter	@actionfaceme	7 followers
LinkedIn	Action Face	257 followers
Instagram	@actionfaceme	486 followers
YouTube	@actionfaceme	18 subscribers

Schedule 1.5

Assumable Agreements

1. NBALAB Sub-License Agreement originally entered into May 11, 2022, renewed March 6, 2024.
2. HP

Schedule ____

Customer Database

[TBD]

EXHIBIT 2

BIDDING PROCEDURES

1
2 On March 18, 2024, Action Face, Inc., the debtor herein (the “Debtor”), filed a motion
3 seeking the entry of a Court order approving certain bidding procedures (collectively, the
4 “Bidding Procedures”) to be utilized in connection with the sale of substantially all of the
5 Debtor’s assets [Doc. No. 19] (the “Bidding Procedures Motion”).

6 On March 29, 2024, the Court entered an order granting the Bidding Procedures Motion
7 and approving the Bidding Procedures as proposed by the Debtor, except to modify the date of
8 the hearing to consider approval of the sale of the Debtor’s assets (the “Sale Hearing”) from
9 April 23, 2024 to April 24, 2024 [Doc. No. 29] (the “Bidding Procedures Order”).

10 The following is a description of the Bidding Procedures approved by the Court pursuant
11 to the Bidding Procedures Order:

- 12 a. Bid Deadline. **April 16, 2024**. An interested party that desires to make a
13 bid on substantially all of the Debtor’s assets (the “Assets”) (or a certain
14 subset thereof) must deliver written copies of its bid in both Portable
15 Document Format (.pdf) and Microsoft Word (.doc/.docx) format to Hilco
16 Streambank, Attn: Gabriel Fried (gfried@hilcoglobal.com), Jordon Parker
17 (jparker@hilcoglobal.com) and Stella Silverstein
(ssilverstein@hilcoglobal.com). The Debtor may extend the Bid Deadline
18 once or successively, but it is not obligated to do so; provided that, if the
19 Debtor extends the Bid Deadline, it will promptly notify all bidders who
20 have entered into NDAs of such extension.
- 21 b. Qualified Bid. To be a qualified bid (a “Qualified Bid”), a bid must meet the
22 following requirements, as determined by the Debtor in its reasonable
23 business judgment in consultation with its advisors:
 - 24 i. Purchase Agreement. Enclose a proposed written asset purchase
25 agreement that specifically identifies the Assets proposed to be
26 purchased, which may be all or a portion of the Assets, and the
27 proposed consideration, and a blackline against the Debtor’s form
28 APA;
 - ii. Irrevocable. Confirm that the offer shall remain open and
irrevocable, whether or not the bidder participates in the Auction,
until the closing of the sale of the Assets to the Successful Bidder or
the Next Highest Bidder (each as defined herein);
 - iii. Minimum Deposit. If any portion of the consideration is in the form
of cash, then it must be accompanied by a wire transfer in an amount
equal to 10% of the purchase price identified in the APA as a
minimum good faith deposit (the “Minimum Deposit”), which

- 1 Minimum Deposit shall be used to fund a portion of the purchase
2 price provided for in the bid. The Successful Bidder(s) and Next
3 Highest Bidder(s) may be required to top up their Minimum
4 Deposits in an amount sufficient to equal 10% of their respective
5 purchase prices at the conclusion of the Auction;
- 6 iv. No Contingencies. Not be conditioned on obtaining financing or the
7 outcome of any further due diligence by the bidder;
- 8 v. Disclosure of Identity. Fully disclose the identity of each entity that
9 will be bidding for the Assets or otherwise participating in
10 connection with such bid, and the complete terms of any such
11 participation;
- 12 vi. Corporate Authority. Include written evidence reasonably acceptable
13 to the Debtor demonstrating that the bidder has full power and
14 authority (including full corporate or other organizational power and
15 authority) to consummate the proposed transaction contemplated by
16 the bid;
- 17 vii. Proof of Financial Wherewithal. If any portion of the consideration
18 is in the form of cash, then include current financial bank
19 statements, screenshot(s) of bank account balance(s), or a letter from
20 the bank of the potential bidder that demonstrates (to the reasonable
21 satisfaction of the Debtor) sufficient financial wherewithal to be able
22 to close on a purchase of the Assets. The proof of financial
23 wherewithal should contain the following: (i) bank name, (ii) name
24 of the account holder, (iii) amount of available funds, (iv) date of the
25 statement, screenshot, or letter indicating the availability of the
26 funds, and (v) if the account holder is different from the bidding
27 entity, additional documentation demonstrating the relationship
28 between the two, such that the bid is not contingent on financing.
Bidders should be prepared to provide additional proof of financial
wherewithal at the Auction in the event bidding exceeds the amount
of wherewithal previously provided;
- viii. Affirmative Statement. Contain an affirmative statement that: (i) the
bidder submitting such bid has acted in good faith consistent with
section 363(m) of the Bankruptcy Code and has not engaged in any
collusion with respect to such bid, (ii) the bidder submitting such bid
has and will continue to comply with these Bidding Procedures, (iii)
the bid does not entitle such bidder to, and such bidder disclaims any
right to, any expense reimbursement or break-up, termination, or
similar fee or payment (unless designated as a stalking horse bidder
and approved by the Bankruptcy Court), and (iv) the bidder
submitting such bid waives any substantial contribution
(administrative expense) claims under section 503(b) of the
Bankruptcy Code related to the bidding for the Debtor's Assets or
otherwise participating in the Auction; and

- 1 ix. Consent to Jurisdiction as Condition to Bidding. Contain an
2 affirmative statement that all entities that participate in the bidding
3 process of the Auction shall be deemed to have knowingly and
4 voluntarily submitted to the exclusive jurisdiction of the United
5 States Bankruptcy Court for the Central District of California, San
6 Fernando Valley Division with respect to all matters related to the
7 terms and conditions of the transfer of the Assets, the Auction, and
8 any transaction contemplated by these Bidding Procedures.
- 9 c. Stalking Horse. At any time prior to the Bid Deadline, the Debtor may
10 enter into one or more APAs, subject to higher and better bids, which will
11 serve as the “stalking horse” bid for the Assets (each, a “Stalking Horse
12 Agreement”). Promptly upon entering into a Stalking Horse Agreement, the
13 Debtor shall notify all bidders who have entered into NDAs of the Debtor’s
14 entry into a Stalking Horse Agreement and shall provide such bidders with a
15 copy of the Stalking Horse Agreement.
- 16 d. Auction. If the Debtor receives more than one Qualified Bid for the Assets
17 (or a certain subset of the Assets), an auction (“Auction”) shall be
18 conducted virtually on **April 18, 2024**, at 10:00 a.m. (Pacific Time), or such
19 later time or different place as the Debtor may determine, so long as such
20 change is communicated reasonably in advance by the Debtor to all bidders
21 and other invitees.
- 22 e. Auction Rules. If an Auction is held, the following rules for the Auction’s
23 conduct will be observed:
- 24 i. Only a bidder who has submitted a Qualified Bid (a “Qualified
25 Bidder”) will be eligible to participate at the Auction and will be
26 entitled to be present for all subsequent bids at the Auction, with the
27 understanding that the true identity of each Qualified Bidder at the
28 Auction will be fully disclosed to all other Qualified Bidders at the
Auction and that all material terms of each subsequent bid at the
Auction will be fully disclosed to all other bidders throughout the
entire Auction; provided that all Qualified Bidders wishing to
participate in the Auction must have at least one individual
representative with authority to bind such Qualified Bidder attend
the Auction.
- ii. A minimum bid amount for the Assets (or any portions thereof) may
be announced to Qualified Bidders and/or posted by the Debtor prior
to or at the commencement of the Auction. Such minimum bid
amounts, if any, may be established based upon a variety of factors,
including, but not limited to, the highest bids received prior to the
Auction. The Debtor reserves the right to adjust any minimum bid
amounts at any time within their discretion in order to maximize the
value of the Assets.

- 1 iii. At the Debtor’s discretion, bidding at the Auction may be conducted
2 in one or multiple formats, including but not limited to, open cry or
3 sealed bid, or a combination thereof, and may be modified
4 throughout the Auction at the Debtor’s discretion in order to
5 maximize the value of the Assets, and the Debtor may employ and
6 announce at the Auction additional procedural rules that are
7 reasonable under the circumstances (*e.g.*, the amount of time allotted
8 to make subsequent bids or requiring subsequent bids be the
9 Qualified Bidders’ final and best bids) for conducting the Auction,
10 provided that such rules are (i) not inconsistent with these Bidding
11 Procedures, the Local Rules, the Bankruptcy Code, or any order of
12 the Court entered in connection herewith, and (ii) disclosed to each
13 Qualified Bidder at the Auction..
- 14 iv. At the Auction, Qualified Bidders will be permitted to increase their
15 bids, and bidding at the Auction will continue until such time as the
16 highest or otherwise best offer is determined in accordance with
17 these Bidding Procedures or until such Auction is adjourned by the
18 Debtor. If adjourned, reasonable notice of the time and place for the
19 resumption of the Auction will be given to all Qualified Bidders. For
20 the purposes of these Bidding Procedures, each additional bid
21 received by a Qualified Bidder at the Auction shall be deemed a
22 Qualified Bid if, in the Debtor’s sole discretion, such Qualified
23 Bidder meets or could reasonably meet the requirements for a
24 Qualified Bid.
- 25 v. Immediately prior to concluding the Auction, the Debtor shall, in
26 consultation with its advisors, (a) review each Qualified Bid on the
27 basis of its financial and contractual terms and the factors relevant to
28 the Bidding Procedures and the best interests of the Debtor’s estate
 and creditors; (b) determine and identify the highest or otherwise
 best Qualified Bid (the “Successful Bid”) and the Qualified Bidder
 submitting such bid (the “Successful Bidder”); and (c) have the right
 to reject any and all bids.
- vi. Within one business day of the completion of the Auction, the
 Successful Bidder shall complete and execute all agreements,
 instruments, or other documents evidencing and containing the
 terms and conditions upon which the Successful Bid was made. The
 Debtor may, but is not required to, determine and identify the next
 highest or otherwise best Qualified Bid after the Successful Bid (the
 “Next Highest Bid”) and the Qualified Bidder submitting such bid
 (the “Next Highest Bidder”).
- f. One Qualified Bid. If the Debtor only receives one Qualified Bid, the Debtor
 shall determine whether to identify such Qualified Bid as the Successful Bid
 and promptly proceed to seek entry of the appropriate order approving the
 transaction with such bidder.

- 1 g. Acceptance of Successful Bid. If an Auction is held, the Debtor shall be
2 deemed to have accepted a Qualified Bid only when (i) such bid is declared
3 the Successful Bid on the record at the Auction and (ii) definitive
4 documentation has been executed in respect thereof. Such acceptance is
5 conditioned upon approval by the Court of the Successful Bid and the entry
6 of an Order approving the Sale and such Successful Bid. The Debtor will
7 sell the Assets to the Successful Bidder pursuant to the terms of the
8 Successful Bid (or, under certain circumstances described herein, the Next
9 Highest Bidder) upon the approval of such Successful Bid (or Next Highest
10 Bidder if applicable) by the Court at the Sale Hearing. The determination of
11 the Successful Bid and Next Highest Bid by the Debtor, at the conclusion of
12 the Auction, shall be final, subject to approval by the Court. The Debtor's
13 selection of and presentation to the Court of the Successful Bid and, if
14 applicable, the Next Highest Bid will not constitute the Debtor's acceptance
15 of either of such bids, which acceptance will only occur upon the approval
16 of such bids by the Court at the Sale Hearing.
- 17 h. Notice of Successful Bid(s). As soon as reasonably practicable following
18 the Debtor's receipt of the Successful Bidder's completed and executed
19 agreements, instruments, or other documents evidencing and containing the
20 terms and conditions upon which the Successful Bid was made at the
21 conclusion of the Auction, the Debtor shall file a Notice of Successful
22 Bid(s). The Notice of Successful Bid(s) shall identify the Successful
23 Bidder(s) and the Next Highest Bidder(s), if any, the amount of the
24 Successful Bid(s) and the Next Highest Bid(s), if any, and shall include a
25 substantially final version of the APA.
- 26 i. Sale Hearing. The Debtor will seek entry of the Sale Order from the Court
27 at the Sale Hearing to begin on **April 24, 2024 at 10:00 a.m.** to approve and
28 authorize the sale transaction(s) to the Successful Bidder(s) on terms and
conditions determined in accordance with the Bidding Procedures.
- 29 j. Closing with Next Highest Bidder. Following Court approval of the Sale to
30 the Successful Bidder, if the Successful Bidder fails to consummate the Sale
31 for any reason, then the Next Highest Bid will be deemed to be the
32 Successful Bid and the Debtor will be authorized, but not directed, to
33 effectuate a sale of the Assets to the Next Highest Bidder subject to the
34 terms of the Next Highest Bid of such Next Highest Bidder without further
35 order of the Court. The Next Highest Bid shall remain open until the earlier
36 of (a) the thirtieth (30th) calendar day following the conclusion of the
37 Auction, unless, prior to such date, the Debtor has delivered written notice
38 to the Next Highest Bidder that the transaction contemplated by the
39 Successful Bid will not occur and the Debtor intends to consummate the
40 transaction contemplated by the Next Highest Bid, in which case the terms
41 of the Next Highest Bid shall be enforceable and shall govern or (b) the
42 consummation of the Asset Sale to the Successful Bidder (the "Next
43 Highest Bid Expiration Date"). All Qualified Bids other than the Successful
44 Bid and the Next Highest Bid shall be deemed rejected by the Debtor on

1 and as of the date of approval of the Successful Bid and the Next Highest
2 Bid by the Court.

3 k. Minimum Deposits. To the extent a Minimum Deposit was required, the
4 Minimum Deposit of any Next Highest Bidder shall be retained by the
5 Debtors until the Next Highest Bid Expiration Date and returned to the Next
6 Highest Bidder within five (5) Business Days thereafter or, if the Next
7 Highest Bid becomes the Successful Bid, shall be applied to the purchase
8 price to be paid by the Next Highest Bidder in accordance with the terms of
9 the Back-Up Bid. As applicable, the Minimum Deposits of Qualified
Bidders not selected as either the Successful Bidder or Next Highest Bidder
shall be returned to such bidders within five (5) Business Days of the date
of the approval by the Court of the Successful Bidder and the Next Highest
Bidder. As applicable, the Minimum Deposit of the Successful Bidder will
be dealt with in accordance with the terms of the Successful Bid.

10 1. Reservation of Rights. The Debtor reserves the right to seek approval of
11 one or more Asset Sales of portions of the Assets through separate APAs
12 with different purchasers in the event that the combination of such Asset
13 Sales is determined by the Debtor to obtain the highest value for the Assets.
14 The Debtor further reserves the right as it may reasonably determine to be
15 in the best interests of its estate to: (i) determine which bidders are
16 Qualified Bidders; (ii) determine which bids are Qualified Bids;
17 (iii) determine which Qualified Bid is the highest or otherwise best proposal
18 and which is the next highest or otherwise best proposal, (iv) reject any bid
19 that is (a) inadequate or insufficient, (b) not in conformity with the
20 requirements of the Bidding Procedures or the requirements of the
21 Bankruptcy Code or (c) contrary to the best interests of the Debtor and its
22 estate; (v) remove some or all of the Assets from the Auction(s); (vi) enter
23 into one or more Stalking Horse Agreements as described herein;
24 (vii) waive terms and conditions set forth in these Bidding Procedures with
25 respect to all potential bidders; (viii) impose additional terms and conditions
26 with respect to all potential bidders; (ix) extend the deadlines set forth
27 herein; (x) adjourn or cancel the Auction and/or Sale Hearing in open court
28 without further notice; and (xi) modify the Bidding Procedures as it may
determine to be in the best interests of its estate or to withdraw this Motion
at any time with or without prejudice.

m. The Debtor may announce at the Auction additional procedural rules (*e.g.*,
the amount of any required incremental overbids, the requirement that
parties submit “best and final” bids, and conducting an open cry auction,
one or more rounds of sealed bidding, or any combination of the foregoing)
for conducting the Auction or otherwise modify these Bidding Procedures;
provided that such rules (1) are not materially inconsistent with these
Bidding Procedures, the Bankruptcy Code, or applicable orders of the
Bankruptcy Court, and (2) are disclosed to each Qualified Bidder during the
Auction.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2818 La Cienega Avenue, Los Angeles, California 90034

A true and correct copy of the foregoing documents entitled (*specify*): **Notice Of Sale Of Estate Property** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **April 3, 2024**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyg.com
- Russell Clementson russell.clementson@usdoj.gov
- Juliet Y. Oh jyo@lnbyg.com, jyo@lnbyb.com
- United States Trustee (SV) ustpregion16.wh.ecf@usdoj.gov
- Larry D Webb Webblaw@gmail.com, larry@webblaw.onmicrosoft.com

2. **SERVED BY UNITED STATES MAIL**: On (*date*) **April 3, 2024**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Russell Clementson
Office of the U.S. Trustee
915 Wilshire Blvd., Suite 1850
Los Angeles, CA 90017

No RSN as of 4/3/2024

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **April 3, 2024**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 3, 2024
Date

Rebecka Merritt
Printed Name

/s/ Rebecka Merritt
Signature

Label Matrix for local noticing
0973-1
Case 1:24-bk-10180-MB
Central District of California
San Fernando Valley
Wed Apr 3 09:14:30 PDT 2024

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57 Old Forest Hill Rd
Toronto ON M5p 2r1
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1821746 Ontario Inc
45 Princeton Rd
Toronto ON M8x 2e3
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2005 Barrday Holding Inc.
260 Holiday Inn Dr, Suite 33 2005
Cambridge On N3c 4e8
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21255 Burbank Blvd Tenant LLC
C/O WeWork
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2244091 Ontario Inc.
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2451741 Ontario Inc.
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2592849 Ontario Inc.
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