

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “**Agreement**”) is made and entered into as of the 30th day of September, 2022 (the “**Closing Date**”), by and among **FLINT EQUIPMENT COMPANY**, a Georgia corporation (“**Seller**”), **THOMAS C. CANNON**, an individual resident of Georgia (“**Cannon**”), **CANNON DGT TRUST U/A DATED JULY 14, 2011**, a trust formed under Georgia law (the “**Cannon Trust**”) and **TONY B. SAMMONS**, an individual resident of Georgia (“**Sammons**”) (Cannon, Cannon Trust and Sammons are each individually, a “**Shareholder**” and collectively, the “**Shareholders**”), and **DOBBS EQUIPMENT SOUTHEAST, LLC**, a Delaware limited liability company (“**DESE**”), or any person, or persons, or any entity or entities to which DESE may assign its rights, or any part thereof in accordance with the provisions of this Agreement (“**Purchaser**”, and with Seller and the Shareholders, each a “**Party**” and collectively, the “**Parties**”).

W I T N E S S E T H

WHEREAS, Seller owns and operates construction and forestry equipment dealerships (each a “**Dealership**”) located in the states of Alabama, Georgia and South Carolina (the “**Business**”), it being understood that Seller owns and operates other businesses which are not subject to this Agreement;

WHEREAS, Seller desires to sell the Purchased Assets (defined below) to Purchaser, subject to, and in accordance with, the terms and conditions of this Agreement;

WHEREAS, Purchaser desires to purchase the Purchased Assets from Seller and to secure dealer sales and service agreements from each of the Manufacturers appointing Purchaser as an authorized distributor of the Manufacturer’s products at the Dealership Premises (defined below);

WHEREAS, the real property as described on Exhibit A hereto (the “**Owned Premises**”) is owned by Seller, and Purchaser, through its Affiliate, DJD Southeast Real Estate Holdings, LLC (the “**Premises Purchaser**”), proposes to enter into a purchase and sale agreement (the “**PSA**”) with Seller pursuant to which the Owned Premises will be sold to the Premises Purchaser, the closing of which shall occur simultaneously with the closing of this Transaction (defined below);

WHEREAS, Seller also leases certain real property (the “**Leased Premises**”) pursuant to the leases listed on Exhibit B hereto (the “**Leases**”) from those landlords identified in the Leases (the “**Landlords**”), and Purchaser intends to assume the **Leases** in connection with the transactions described herein; and

WHEREAS, Seller also leases and/or owns certain real property as described on Exhibit C hereto (the “**Non-Acquired Premises**”) at which certain assets related to the Business are located that will be included in the Purchased Assets (as hereinafter defined), it being understood that the Non-Acquired Premises will be retained by Seller.

NOW, THEREFORE, in consideration of the premises, mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. DEFINITIONS

1.1 **Certain Definitions.** For purposes of this Agreement, the following terms shall have the meanings set forth below:

“**A/R Period**” shall have the meaning as set forth in Section 4.6(c) hereof.

“**Accountants**” shall have the meaning as set forth in Section 4.6(e)(ii) hereof.

“**Accountants’ Report**” shall have the meaning as set forth in Section 4.6(e)(ii) hereof.

“**Accounts Receivable**” shall mean all of Seller’s trade accounts receivable related to or arising from the Business and shall not include any CIT receivables, intercompany receivables or accounts owed by Affiliates of Seller or any Shareholder.

“**Accrued Benefits**” shall have the meaning as set forth in Section 2.4(a)(vi) hereof.

“**Affiliate**” of a Person shall mean a Person that, directly or indirectly, controls, is controlled by or is under common control with the first Person.

“**Agreement**” shall have the meaning set forth in the introductory paragraph above.

“**Alamo**” means Alamo Group, Inc.

“**Applicable Law**” shall mean all applicable provisions of any federal, state, local, municipal, foreign or international constitution, statute, law, common law, permit, ordinance, code, rule, regulation, decision, order, decree, treaty or judgment enacted, promulgated or issued by any Governmental Authority.

“**Assignment**” shall have the meaning as set forth in Section 4.4(a) hereof.

“**Assumed Buyback Obligations**” shall have the meaning set forth in Section 2.4(a)(viii) hereof.

“**Assumed Contracts**” shall have the meaning set forth in Section 2.1(f) hereof.

“**Assumed Liability(ies)**” shall have the meaning as set forth in Section 2.4(a) hereof.

“**Assumptions of Lease**” shall have the meaning as set forth in Section 4.4(b) hereof.

“**Attachments**” means inventoried implements, attachments, or accessories that attach to Machines which are currently not attached or linked to Equipment. Attachments include but are not limited to the following: buckets, forks, hammers, tires and GPS machine monitoring equipment.

“**Balance Sheets**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Bill of Sale**” shall have the meaning as set forth in Section 4.4(a) hereof.

“**BOMAG**” means the BOMAG Americas, Inc.

“**Business**” shall have the meaning set forth in the recitals above.

“**Business Day**” shall mean any day excluding Saturday, Sunday and any day on which commercial banks are by law closed in the State of Georgia.

“**Cannon**” shall have the meaning set forth in the introductory paragraph above.

“**Cannon Trust**” shall have the meaning set forth in the introductory paragraph above.

“**CAP**” shall have the meaning as set forth in Section 6.3(c) hereof.

“**CIT**” means contracts in transit.

“**Closing**” shall have the meaning set forth in Section 4.1 hereof.

“**Closing Date**” shall have the meaning set forth in the introductory paragraph above.

“**Closing Payment**” shall have the meaning as set forth in Section 4.5(a) hereof.

“**Closing Liabilities**” shall mean (i) all amounts owed by Seller with respect to which any third party has been granted a valid and subsisting security interest in any of the Purchased Assets as of the Closing and (ii) any other obligations of Seller, other than Assumed Liabilities, which Seller directs Purchaser to pay at Closing, including any Seller transaction expenses.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended.

“**Consents**” shall mean all consents, approvals, authorizations or waivers of any Person, including any Governmental Authority.

“**Contracts**” shall mean all agreements, contracts, commitments, orders, licenses, leases and other instruments, arrangements and understandings (whether written or oral) to which a Person is a party, or by which any of its assets or properties are bound.

“**Control**” (including the terms “**controlled by**” and “**under common control with**”) means the possession of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Customer Deposits**” shall have the meaning as set forth in Section 2.4(a)(ii) hereof.

“**Customer Guaranty(ies)**” means any contractual guaranty(ies) provided in support of a customer’s lease or purchase obligations to a lessor or creditor.

“**Customer Support Obligations**” means a Customer Guaranty, LRC, DRO or RRS.

“**Dealership**” shall have the meaning set forth in the recitals above, provided that such term shall be deemed limited exclusively to Seller’s dealerships relating to the sale and repair of construction and forestry equipment and related parts and accessories.

“**Dealership Premises**” shall mean the Owned Premises and the Leased Premises, collectively.

“**Deductible**” shall have the meaning as set forth in Section 6.3(c) hereof.

“**Deere**” means Deere & Company, including (i) John Deere Construction & Forestry Company, a division of Deere & Company, and (ii) Deere & Company’s assigns and Affiliates.

“**DESE**” shall have the meaning set forth in the introductory paragraph above.

“**Disputed Machine**” shall have the meaning set forth in Section 4.6(j) hereof.

“**DOR**” shall have the meaning as set forth in Section 4.4(m) hereof.

“**DRO**” means any dealer recourse obligation.

“**Effective Time**” shall have the meaning as set forth in Section 4.1(a) hereof.

“**Employee(s)**” shall have the meaning as set forth in Section 5.2(g) hereof.

“Employee Benefit Plan” shall mean any (i) employee benefit plan within the meaning of Section 3(3) of ERISA, (ii) profit sharing, bonus, compensation, stock purchase, stock option, employment, termination, severance, retention or other similar plan, agreement or arrangement, and (iii) hospitalization, medical, life, or supplemental unemployment benefits plan, program, agreement or arrangement, which are or have been sponsored, maintained or contributed to or required to be contributed to by Seller, any of its subsidiaries or any ERISA Affiliate for the benefit of any former or current employee, whether formal or informal and whether legally binding or not and with respect to which Seller, any of its subsidiaries or any ERISA Affiliate has any Liability other than an immaterial Liability.

“Encumbrance” shall mean any charge, claim, community property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income, or exercise of any other attribute of ownership that is imposed by agreement, understanding, Applicable Law or otherwise, whether of record or otherwise.

“Environmental Condition” shall have the meaning as set forth in Section 4.6(g)(i) hereof.

“Environmental Consultant” shall have the meaning as set forth in Section 4.6(g)(ii) hereof.

“Environmental Laws” shall mean any and all federal, state, or local statutes or regulations relating to the release of Hazardous Substances into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the investigation, removal, treatment, mitigation, remediation, and/or control of any release of Hazardous Substances.

“Environmental Liabilities” shall mean any Losses, claims, judgments, suits, proceedings, damages, natural resource damages, losses, penalties, fines, liabilities, encumbrances, obligations, orders, assessments, liens, violations, costs and expenses (including attorneys and consultants fees), which arise from or relate to (A) the existence of Hazardous Substances in, on, under, at or migrating from the Dealership Premises, or (B) any Environmental Laws relating to or arising from the ownership or operation of the Dealership Premises.

“Equipment Buyback Obligations” means the obligations of Seller to repurchase equipment from an equipment buyer at a specified date, hours of service and price in accordance with the terms and conditions of the sales contract between Seller and the buyer of the equipment.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” shall mean any trade or business, whether or not incorporated, that together with Seller or any of its subsidiaries would be deemed a **“single employer”** within the meaning of Section 4001(b)(1) of ERISA.

“Escrow Agent” shall mean Truist Bank.

“Escrow Agreement” means the escrow agreement entered into by Purchaser, Seller and Escrow Agent dated as of the Closing Date.

“Escrow Amount” means **Five Million and 00/100 Dollars (\$5,000,000.00)**.

“Escrow Fund” means the Escrow Amount, including any interest or other amounts earned thereon and less any disbursements therefrom in accordance with the Escrow Agreement.

“**Estimated Closing Statement**” shall have the meaning as set forth in Section 4.1(b) hereof.

“**Excluded Assets**” shall have the meaning set forth in Section 2.3 hereof.

“**Extended Limitations Period**” shall have the meaning as set forth in Section 6.3(a).

“**Final Closing Payment**” shall have the meaning as set forth in Section 4.6(e)(i) hereof.

“**Financial Statements**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Finn**” means Finn Corporation.

“**Fixed Assets**” shall have the meaning set forth in Section 2.1(a) hereof.

“**Fundamental Cap**” shall have the meaning as set forth in Section 6.3(d) hereof.

“**Fundamental Reqs**” shall have the meaning as set forth in Section 6.3(a) hereof. “**GAAP**” means the United States generally accepted accounting principles consistently applied.

“**GLB Act**” shall have the meaning as set forth in Section 5.2(u) hereof.

“**Goodwill**” shall have the meaning set forth in Section 2.1(r) hereof.

“**Governmental Authority**” means any nation or government, any state or other political subdivision thereof, any entity exercising legislative, executive, judicial, quasi-judicial, regulatory or administrative functions of or pertaining to government, any tribunal or arbitrators of competent jurisdiction, or any self-regulatory organization.

“**Hazardous Substances**” shall mean any and all chemicals, materials, substances, constituents, contaminants, wastes or pollutants regulated under any Environmental Law for health and safety purposes, including the following:

(i) any toxic or hazardous wastes, materials, pollutants or substances, including petroleum products and by-products, flammable explosives, radioactive materials, asbestos, polychlorinated biphenyls, pesticides, herbicides, and industrial process sludge;

(ii) any substances defined as “**hazardous substances**” or “**toxic substances**” or similarly identified in or pursuant to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq., as amended);

(iii) “**hazardous materials**” as identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., as amended;

(iv) any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, 15 U.S.C. § 2601 et seq., as amended;

(v) any “**toxic pollutant**” under the Clean Water Act, 33 U.S.C. § 466 et seq., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. § 7401 et seq., as amended; or

(vi) any toxic or hazardous wastes, materials, pollutants or substances regulated under any other Environmental Law including any so-called “**Super Fund**” or “**Super Lien**” legislation, now existing, pertaining to hazardous materials, pollutants or wastes.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“**Income Statements**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Indemnified Party**” shall have the meaning as set forth in Section 6.2(c) hereof.

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“**Interim Balance Sheet**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Interim Income Statement**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Key Reps**” shall have the meaning set forth in Section 6.3(a).

“**Knowledge of Seller**” or “**Seller’s Knowledge**” shall mean the actual knowledge of Cannon, Sammons, Flin Cannon or Billy Holliday (the “Knowledge Parties”) and for purposes of this Agreement, each of the Knowledge Parties shall be deemed to have actual knowledge of a particular fact or matter if (i) said Person is actually aware of such fact or matter or (ii) said Person would reasonably be expected to become aware of such fact or matter after reasonable inquiry.

“**Landlords**” shall have the meaning set forth in the recitals above.

“**Leased Premises**” shall have the meaning set forth in the recitals above.

“**Leases**” shall have the meaning set forth in the recitals above.

“**Liability**” or “**Liabilities**” shall mean with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

“**Licenses**” shall mean all licenses, grants, franchises, permits, Consents and other authorizations issued by any Governmental Authority to or maintained by Seller in connection with its ownership, possession, use, occupancy or operation of any of the Purchased Assets, or its operation of the Business.

“**Limitations Period**” shall mean the period ending 540 days after the Closing Date.

“**Losses**” shall have the meaning as set forth in Section 6.2(a) hereof.

“**LRC**” means any lease remarketing commitment obligation.

“**Machine**” means a motorized piece of construction and forestry equipment held for sale, lease or rent by Seller.

“**Manufacturer Discounts**” means any discounts provided to Seller by the Manufacturers on Machines or Parts but shall not include any discounts which are charged back to Seller by the Manufacturer and reissued to Purchaser.

“**Manufacturer Parts**” shall have the meaning set forth in Section 2.1(c) hereof.

“**Manufacturers**” means Deere, BOMAG, Finn, Alamo and NPK.

“**Net Proceeds**” shall have the meaning set forth in Section 4.6(j) hereof.

“**New Attachment**” means an Attachment less than twenty-four (24) months old in good working condition and not damaged.

“**New Deere Machine**” means a Machine that (i) was manufactured by Deere or Deere/ Hitachi, (ii) is less than one (1) year old, (iii) has fewer than five hundred (500) hours of operation and (iv) has never been sold or settled.

“**New Machine**” means any New Deere Machine, New Non-Deere Machine, New Rental Machine or New RPO Machine.

“**New Non-Deere Machine**” means a Machine that (i) was not manufactured by Deere, (ii) is less than one (1) year old, (iii) has fewer than five hundred (500) hours of operation and (iv) has never been sold or settled.

“**New Rental Machine**” means a Rental Machine less than twelve (12) months old.

“**New RPO Machine**” means an RPO Machine less than twenty-four (24) months old.

“**Noncompete Agreement**” means that Non-Competition and Non-Solicitation Agreement to be executed by (i) Seller and (ii) the Shareholders, in favor of Purchaser.

“**Notice**” shall have the meaning as set forth in Section 9.8 hereof.

“**NPK**” means NPK Construction Equipment, Inc.

“**OFAC**” shall have the meaning as set forth in Section 5.1(d) hereof.

“**Old Attachment**” means an Attachment twenty-four (24) months old or older.

“**Old Rental Machine**” means a Rental Machine twelve (12) months old or older.

“**Old RPO Machine**” means an RPO Machine twenty-four (24) months old or older.

“**Other Agreements**” shall mean collectively, the Bill of Sale, the Assignment, the Assumptions of Lease, the PSA, the Noncompete Agreement, the Escrow Agreement, together with any other agreements, instruments, certificates and documents executed by Seller, the Shareholders, or Purchaser in connection herewith or therewith.

“**Other Parts**” shall have the meaning set forth in Section 2.1(d) hereof.

“**Owned Premises**” shall have the meaning set forth in the recitals above.

“**Parts**” shall have the meaning set forth in Section 2.1(d) hereof.

“**Party(ies)**” shall have the meaning set forth in the introductory paragraph above.

“**Permit**” shall have the meaning as set forth in Section 5.2(t) hereof.

“**Permitted Encumbrances**” means (a) liens for Taxes not yet due and payable;(b) mechanics’, carriers’, workmen’s, repairmen’s, or other like liens arising or incurred in the ordinary course of business

for amounts not yet due or payable and (c) Encumbrances securing indebtedness or other monetary obligations that constitute an Assumed Liability (as defined in Section 2.4 below).

“**Person**” shall mean any natural person, firm, partnership, association, corporation, company, limited liability company, trust, business trust, Governmental Authority or other entity (foreign or domestic).

“**Post-Cutoff Machines**” shall have the meaning set forth in Section 4.6(j) hereof.

“**Premises Purchaser**” shall have the meaning set forth in the recitals above.

“**Proceeding**” shall mean any action, claim, demand, suit, proceeding, arbitration, grievance, citation, summons, subpoena, inquiry or investigation, civil, criminal, regulatory or otherwise, in law or in equity.

“**PSA**” shall have the meaning as set forth in the recitals above.

“**Purchase Price**” shall have the meaning set forth in Section 3.1 hereof.

“**Purchased Assets**” shall have the meaning set forth in Section 2.1 hereof.

“**Purchaser**” shall have the meaning set forth in the introductory paragraph above.

“**Purchaser Fundamental Reps**” shall have the meaning as set forth in Section 6.3(a) hereof.

“**Purchaser Indemnitees**” shall have the meaning as set forth in Section 6.2(a) hereof.

“**Records**” shall have the meaning set forth in Section 2.1(m) hereof.

“**Remedial Action**” shall have the meaning as set forth in Section 4.6(g)(i) hereof.

“**Remediation Plan**” shall have the meaning as set forth in Section 4.6(g)(ii) hereof.

“**Rental Machine**” means a Machine that is held out for rental to customers identified by a “Rental” in columns A or D of the whole goods inventory file provided by Seller.

“**Retained Buyback Obligations**” shall have the meaning set forth in Section 2.4(a)(ii) hereof.

“**Retained Contracts**” shall mean those Contracts listed on Schedule 5.2(f)(i), which are not Assumed Contracts.

“**Retained Liability(ies)**” shall have the meaning set forth in Section 2.4(b) hereof.

“**Returned Accounts Receivable**” shall have the meaning as set forth in Section 4.6(c) hereof.

“**Returns**” shall mean any return, report, declaration, form, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto and any amendment thereof.

“**RPO Machine**” means a Machine that has been leased or rented to the customer in which the customer has the right but not the obligation to purchase a specific machine(s) for a pre-determined price. RPO Machines are identified by a “RPO” in column M of the whole goods inventory file provide by Seller.

“**RRS**” means any residual risk share guaranty.

“**Sammons**” shall have the meaning set forth in the introductory paragraph above.

“**Seller**” shall have the meaning set forth in the introductory paragraph above.

“**Seller Fundamental Reps**” shall have the meaning as set forth in Section 6.3(a) hereof.

“**Seller Indemnitees**” shall have the meaning as set forth in Section 6.2(b) hereof.

“**Settlement Date**” shall have the meaning as set forth in Section 4.6(d) hereof.

“**Shareholder(s)**” shall have the meaning set forth in the introductory paragraph above.

“**Shop Tools**” means any diagnostic, mechanical, electrical or other tools used in the operations of Seller to assist in the performance of work in the facilities to perform diagnostic or repair work on equipment owned in part or whole by the Company.

“**Site Closure**” shall have the meaning as set forth in Section 4.6(g)(ii) hereof.

“**Tax**” or “**Taxes**” shall mean any applicable federal, state, local, foreign or other income, alternative, minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, windfall profits, gross receipts, value added, sales (including, but not limited to, bulk sales), use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, , environmental (including, but not limited to, taxes under section 59A of the Code), real property, personal property, ad valorem, intangibles, rent, occupancy, license, occupational, employment, social security, payroll, withholding, estimated or other similar tax, duty or other governmental charge or assessment or deficiencies thereof, including, but not limited to, all interest and penalties thereon and additions thereto whether disputed or not.

“**Terminated Employee**” shall have the meaning as set forth in Section 4.6(g) hereof.

“**Trade-In Value**” shall have the meaning set forth in Section 4.6(j) hereof.

“**Transaction**” shall mean the sale by Seller, and the purchase by Purchaser, of the Purchased Assets, and the assumption by Purchaser of the Assumed Liabilities, in accordance with the terms of this Agreement.

“**Transition Services Agreement**” shall have the meaning as set forth in Section 2.3(j) hereof.

“**Treasury Regulations**” shall mean the Federal income tax regulations promulgated under the Code, as such Treasury Regulations may be amended from time to time.

“**Used Machine**” means any Machine that is not a New Deere Machine, New Non-Deere Machine, Rental Machine or RPO Machine in good working order and not damaged.

“**Vehicle**” means any titled motor vehicle used in or utilized in the operation of the Business.

“**We-Owes Schedule**” shall have the meaning set forth in Section 3.1(s) hereof.

“**WIP**” shall have the meaning set forth in Section 2.1(e) hereof.

“**Year-End Balance Sheets**” shall have the meaning as set forth in Section 5.2(j) hereof.

“**Year-End Income Statements**” shall have the meaning as set forth in Section 5.2(j) hereof.

1.2 Other Defined Terms. Certain other terms are defined in this Agreement and are used with the meanings so ascribed to them.

2. THE TRANSACTION

2.1 Purchased Assets. Upon the terms and subject to the conditions of this Agreement, on the date hereof, the Closing Date, Seller shall sell to Purchaser and Purchaser shall purchase from Seller, all of Seller's right, title and interest in and to the assets owned by and operated or used by Seller in the Business, other than the Excluded Assets (collectively, the "**Purchased Assets**"), free and clear of all Encumbrances (except Permitted Encumbrances), including the following:

(a) All of the furniture, fixtures, signs, product marketing displays, office equipment, computers, routers, servers, phone & phone systems, cell phones, tablets, mobile hotspots, printers, copiers, leasehold improvements, machinery and shop equipment, parts equipment, lifts, compressors, Vehicles, special tools, and other items of tangible personal property owned and used by Seller in the operation of the Business, including deposits and prepayments for such items to be delivered and/or installed in the future (the "**Fixed Assets**");

(b) New Machines, Used Machines, Old Rental Machines, Old RPO Machines, Old Attachments and New Attachments (with regard to Old Rental Machines, Old RPO Machines, Used Machines or Old Attachments, to the extent Seller and Purchaser agree on a price as detailed below);

(c) Seller's inventories of current, new and undamaged, returnable (pursuant to the applicable Manufacturer's return allowance program) parts and accessories in their original, unbroken packages, which are in Seller's possession as of the Closing Date, and which are listed in the respective Manufacturer's current parts and accessories price book/catalogues, with supplements in effect on the inventory date described in Section 3.1(k) below ("**Manufacturer Parts**");

(d) such of Seller's inventories of non-Manufacturer, non-stock, jobber, and/or NPN parts and accessories which are specified for Machines supplied or manufactured by any of the Manufacturers which are in Seller's possession as of the Closing Date, including but not limited to, tires, batteries, miscellaneous shop supplies, hardware (nuts and bolts), gas, oil, grease, fluids and solvents, all to be in unopened containers, other than fluids maintained and stored in bulk quantities (collectively, the "**Other Parts**" and together with Manufacturer Parts, collectively referred to herein as the "**Parts**");

(e) Seller's inventories of work in process repairs for pieces of equipment that are present at the Dealership Premises on the Closing Date for which Seller has a written repair order signed by the customer authorizing such repairs or is otherwise authorized to repair under applicable law (collectively, the "**WIP**");

(f) Seller's assignable rights and privileges under the Contracts related to the Business identified on Schedule 2.1(f) attached hereto (the "**Assumed Contracts**");

(g) the Accounts Receivable;

(h) all rights and privileges of Seller under any and all Assumed Liabilities;

(i) Seller's return privileges, if any, concerning the Parts;

(j) all intellectual property relating exclusively to the Business, computer software, licenses and sublicenses granted and provided with respect therewith, and Business email addresses, telephone and facsimile numbers (local and toll-free), as listed on Schedule 2.1(j);

- (k) all Shop Tools;
- (l) to the extent transferable, all Licenses related to the Business;
- (m) all of the following that are related to the Business: Seller's perpetual inventory records, copies of personnel records for personnel to be employed by Purchaser on Closing Date, sales records, customer lists, customer service records and all other customer data, deal jackets, supply and manufacturer lists, technical data, and sales and marketing literature, advertising materials, promotional materials, including Seller's right, title and interest in any merchandising literature from the applicable manufacturer, whether in hard or digital copies (the "**Records**");
- (n) all rights of Seller relating to deposits and prepaid expenses, claims for refunds and rights to offset in respect thereof, each of which relates to an Assumed Liability and which are not otherwise an Excluded Asset;
- (o) any rights relating to or arising out of or under any express or implied warranties from suppliers with respect to the Purchased Assets;
- (p) Seller's rights to all choses in action, claims and rights of recovery in any pending or future proceedings related to any of the Machines, including but not limited to any class actions, now pending or hereinafter commenced;
- (q) all assignable rights of Seller arising any non-compete or restrictive covenant agreements between Seller, former shareholder(s) and employees, current or former, of the Business;
- (r) all other assets owned by Seller and operated or used in the Business, including Seller's intangible property rights and goodwill associated with the Business, including, but not limited to, all assignable franchise rights under the respective Manufacturers' dealer sales and service agreements, all website domain addresses, website registries, hosted email exchange records or servers and historical email records of Employees, and any and all content related to all social and business media and other intellectual property used in the Business, and all other assets, rights and properties of Seller whatsoever, except as described in Section 2.3 (the "**Goodwill**").

Notwithstanding the foregoing, the transfer of the Purchased Assets pursuant to this Agreement shall not include the assumption of any Liability in respect thereof unless Purchaser expressly assumes such Liability pursuant to Section 2.4(a).

2.2 **Reserved.**

2.3 **Excluded Assets.** Notwithstanding any contrary provision contained herein, Seller shall retain, and shall not sell to Purchaser, the following assets, each of which are not included in the Purchased Assets (collectively, the "**Excluded Assets**"):

- (a) any assets not related to the Business;
- (b) the Purchase Price and Seller's rights under this Agreement and all other agreements referenced herein;
- (c) the property identified on Schedule 2.3(c);
- (d) originals of all personnel records;
- (e) all insurance contracts and rights to insurance proceeds;

(f) CIT receivables, notes receivable, inventory related return receivables and warranty receivables;

(g) all prepaid expenses and all credits and refunds for which Purchaser shall not receive the benefit after the Closing, including prepaid insurance and rights to recover for losses thereunder;

(h) all formation documents, qualification records to do business as a foreign entity, taxpayer identification number, minute books, and all other documents and records relating to the organization, maintenance, and existence of Seller as a legal entity;

(i) the following phone numbers: 229.888.1213, 229.888.1214, 229.888.3838, 229.420.4644;

(j) the following websites: www.flintequipco.com and www.flintholdings.com, provided Purchaser and Seller have developed a solution to re-direct website visitors and emails to the relevant site as set forth in the that certain transitional services agreement by and between Seller and Purchaser (the “**Transition Services Agreement**”);

(k) cash and cash equivalents on hand and in banks, certificates of deposit, commercial paper, stocks, bonds and other liquid investments;

(l) any intangible asset bearing or including the name “Flint”, including but not limited to “Flint Equipment Company” and “Flint Construction and Forestry Division”;

(m) any Old Rental Machine, Old RPO Machine, Used Machine or Old Attachment not purchased by Purchaser because Purchaser and Seller could not agree on a purchase price for such inventory asset;

(n) any Vehicle not purchased by Purchaser because Purchaser and Seller could not agree on a purchase price for such Vehicle; and

(o) all Employee Benefit Plans.

2.4 **Assumption of Liabilities.**

(a) At the Closing, Seller shall assign and Purchaser shall assume (and shall agree to discharge, pay and perform in accordance with their terms) only the following Liabilities of Seller (each an “**Assumed Liability**”, and collectively, the “**Assumed Liabilities**”), and no other liabilities or obligations of Seller whatsoever:

(i) all of Seller’s Liabilities under the Assumed Contracts arising on or after the Closing Date (other than any Liabilities arising out of any breach or default that occurred prior to the Closing Date) including, without limitation, Seller’s Liabilities under the Customer Support Obligations;

(ii) all of Seller’s Liabilities to customers under the conditions of Seller’s equipment order forms or special parts order forms arising with respect to any customer deposits received in the ordinary course consistent with past practices, to the extent that (A) the terms and conditions thereof are commercially reasonable and consistent with Seller’s past practices and current market, (B) the associated deposit is not escheatable or otherwise subject to forfeiture to a state as unclaimed property, and, along with any such Seller’s equipment order or special parts