

PARTNERSHIP INTEREST PURCHASE AND SALE AGREEMENT

(D. F. Associates)

THIS PARTNERSHIP INTEREST PURCHASE AND SALE AGREEMENT (this "Agreement") is executed as of the ____ day of _____, 2020, by and between Insolvency Services Group, Inc., a California corporation, acting solely in its capacity as Assignee for the benefit of creditors of Prospect Enterprises, Inc. (the "Seller") and _____ (the "Purchaser").

WITNESSETH:

WHEREAS, Prospect Enterprises, Inc. executed a General Assignment for the Benefit of Creditors in favor of the Seller, dated _____, 2020 (the "General Assignment").

WHEREAS, the Seller is the duly acknowledged assignee of a partnership interest in D. F. Associates, a California partnership (the "Partnership") pursuant to that certain Agreement of Partnership dated August 12, 1988, as amended by the First Amendment to Agreement of Partnership of D. F. Associates dated August 30, 1988, the Second Amendment to Agreement of Partnership of D. F. Associates dated September 30, 1991, the Third Amendment to Agreement of Partnership of D. F. Associates dated December 15, 2014, the Fourth Amendment to Agreement of Partnership of D. F. Associates dated January 5, 2015, and the Fifth Amendment to Agreement of Partnership of D. F. Associates dated _____, 2020 [It is contemplated that a Fifth Amendment will be required to provide DF's consent to partner Prospect's making of its General Assignment and consenting to assignment of Prospect's partnership interest to Assignee and to buyer from Assignee.] (collectively, the "Partnership Agreement");

WHEREAS, the Purchaser is a _____.

WHEREAS, on the Closing Date (as hereinafter defined), the Seller shall sell and Purchaser shall purchase all of Seller's right, title and interest in the Partnership consisting of an 80% general partner interest in the Partnership ("Purchased Interest"), and on the Closing Date, the Seller shall own an 80% general partnership interest in the Partnership pursuant to the terms of the Partnership Agreement;

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I.
PURCHASE AND SALE OF THE PURCHASED INTEREST**

1.1 Purchase and Sale of the Purchased Interest. Upon the terms and conditions hereinafter set forth, Seller agrees to sell, transfer, convey, assign and deliver to the Purchaser or

its assignee(s), and the Purchaser or its assignee(s) agrees to purchase, acquire and accept from the Seller, all of the Seller's right, title and interest in and to one hundred percent (100%) of the Purchased Interest. The transfer of ownership of the Purchased Interest shall be evidenced by that certain Assignment and Assumption Agreement in the form as attached hereto as "Exhibit A" (the "Assignment") to be executed by Seller and Purchaser and delivered on the Closing Date (hereinafter defined).

1.2 Purchase Price of the Purchased Interest. On the Closing Date, the Purchaser shall pay Seller a purchase price for the Purchased Interest ("Purchase Price") equal to _____ and 00/100 Dollars (\$_____.00).

1.3 Transaction Costs. The Seller and the Purchaser shall each pay their respective costs for the Closing (hereinafter defined) and the sale and purchase of the Purchased Interest as described in this Agreement, including their respective attorney fees.

1.4 Apportionments. All items of income and expense with respect to the Purchased Interest shall be apportioned between the Seller and the Purchaser as of 11:59 p.m. on the day immediately preceding the Closing Date.

1.5 Closing. The closing of the purchase and sale of the Purchased Interest (the "Closing") shall occur on _____, 2020 (the "Closing Date").

1.6 Deposit. Purchaser shall provide to Seller a deposit of ten percent (10%) of the Purchase Price (the "Deposit") upon execution of this Agreement, to be held by Seller pending the Closing. The Deposit shall be credited to the Purchase Price at the Closing.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of Seller. Seller represents and warrants that all of the following statements are true, accurate and correct:

- (a) Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of California.
- (b) As assignee, Seller has all requisite power and authority to enter into and deliver this Agreement and to perform its obligations hereunder and under the General Assignment. The signing, delivery and performance by Seller of this Agreement, and the consummation of all of the transactions contemplated hereby, have been duly and validly authorized by Seller. To the best of Seller's knowledge, the General Assignment was duly authorized by Assignor's partners and is a valid agreement binding on the Assignor and Seller. This Agreement, when signed and delivered by Seller, will be duly and validly executed and delivered and will be the valid and binding obligation of Seller, enforceable against Seller, as assignee, in accordance with its terms as governed by applicable law, regulations and rules. Neither the signing and delivery of this Agreement by Seller, nor the performance

by Seller of its obligations under this Agreement, will (i) violate Seller's Articles of Organization or Bylaws, or (ii) to the best of Seller's knowledge, violate any law, statute, rule or regulation or order, judgment, injunction or decree of any court, administrative agency or government body applicable to Seller.

- (c) To the best of Seller's knowledge after reasonable inquiry, including, without limitation, competent assessment of the applicable UCC search in Assignor's state of incorporation, Seller, as assignee, has good and marketable title to the Purchased Interest, subject to the security interest of Wells Fargo Bank, National Association, which has agreed to release such security interest as to the Purchased Interest as of the Closing. Seller sells, assigns, transfers and conveys the Purchased Interest to Purchaser on an "AS IS" and "WHERE IS" basis, with no representations or warranties as to merchantability, fitness or use.

(i) **AS-IS SALE; DISCLAIMERS. IT IS UNDERSTOOD AND AGREED THAT, UNLESS EXPRESSLY STATED HEREIN, SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PURCHASED INTEREST, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

(ii) **PURCHASER ACKNOWLEDGES AND AGREES THAT UPON THE CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PURCHASED INTEREST "AS IS, WHERE IS, WITH ALL FAULTS." PURCHASER HAS NOT RELIED UPON AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PURCHASED INTEREST OR RELATING THERETO MADE OR FURNISHED BY SELLER OR ITS REPRESENTATIVES TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, EXCEPT AS EXPRESSLY STATED HEREIN. PURCHASER ALSO ACKNOWLEDGES THAT THE PURCHASE PRICE REFLECTS AND TAKES INTO ACCOUNT THAT THE PURCHASED INTEREST IS BEING SOLD "AS IS, WHERE IS, WITH ALL FAULTS."**

(iii) **PURCHASER ACKNOWLEDGES TO SELLER THAT PURCHASER WILL HAVE THE OPPORTUNITY TO CONDUCT PRIOR TO CLOSING SUCH INSPECTIONS AND INVESTIGATIONS OF THE PURCHASED INTEREST AS PURCHASER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE PURCHASED INTEREST AND ITS ACQUISITION THEREOF. PURCHASER FURTHER WARRANTS AND REPRESENTS TO SELLER THAT PURCHASER**

WILL RELY SOLELY ON ITS OWN REVIEW AND OTHER INSPECTIONS AND INVESTIGATIONS IN THIS TRANSACTION AND NOT UPON THE INFORMATION PROVIDED BY OR ON BEHALF OF SELLER, OR ITS AGENTS, EMPLOYEES OR REPRESENTATIVES WITH RESPECT THERETO. PURCHASER HEREBY ASSUMES THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, LATENT OR PATENT DEFECTS, ADVERSE PHYSICAL OR OTHER ADVERSE MATTERS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S REVIEW AND INSPECTIONS AND INVESTIGATIONS.

- (d) To the best of Seller's knowledge, no authorization, approval, consent of, or filing with any governmental body, department, bureau, agency, public board, authority or other third party is required for the consummation by Seller of the transactions contemplated by this Agreement.
- (e) All rights of Seller with regard to the ownership and possession of the Purchased Interest are rights held as assignee pursuant to the General Assignment made by Assignor. Pursuant to the General Assignment, Assignor has informed Seller that it transferred to Seller all of Assignor's right, title and interest in and to the Purchased Interest. Pursuant to this Agreement, Seller, solely in its capacity as assignee, will at Closing sell, assign, and transfer all of its right, title and interest in and to the Purchased Interest to Purchaser.
- (f) No event of bankruptcy or insolvency has occurred with respect to the Seller.
- (g) Except for the Braun Company, no broker, finder or investment banker is entitled to any brokerage, finders or other fee or commission in connection with the transaction contemplated by this agreement based upon arrangements made by or on behalf of the Seller.
- (h) To the best of Seller's knowledge, there is no litigation, proceeding or action pending or threatened against or relating to the Seller which might materially and adversely affect the Seller's interests, rights or obligations with regard to the Purchased Interest or which question the validity of this Agreement or any action taken or to be taken by the Seller pursuant hereto.
- (i) Except as set forth in the Partnership Agreement, the Seller has not entered into any contracts to sell all or any part of the Purchased Interest nor granted any option or other right to purchase all or any part of the Purchased Interest other than to the Purchaser or its affiliate.

2.2 Representation and Warranties of the Purchaser. The Purchaser represents and warrants to the Seller that:

- (a) No event of bankruptcy or insolvency has occurred with respect to the Purchaser.

- (b) No broker or other such person has taken any action with the Purchaser's authority which would give rise to any claim against either the Seller or the Purchaser for a brokerage commission, finder's fee, or like payment in connection with the transfer of the Purchased Interest.
- (c) The Purchaser has all necessary power and authority to enter into this Agreement and perform its obligations hereunder.
- (d) This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (e) The execution and delivery of this Agreement and consummation of the transactions contemplated hereby will not result in a breach of any terms of, or constitute a default under, any agreement or instrument to which the Purchaser is a party or by which the Purchaser is bound.
- (f) Neither the entry into nor the performance of, nor compliance with, this Agreement will result or has resulted in any material violation of, or be in conflict materially with, or invalidate, cancel or make inoperative, or interfere materially with or constitute a material default under, any charter, by-law, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, lease, credit, agreement, franchise, permit, judgment, decree, order, easement, restriction or other charge, right or interest applicable to the Purchaser.
- (g) To the knowledge of the Purchaser, there is no litigation, proceeding or action pending or threatened against or relating to the Purchaser which might materially and adversely affect the Purchased Interest or which question the validity of this Agreement or any action taken to be taken by the Purchaser pursuant thereto.
- (h) Purchaser currently has available to it, and will have available to it at the Closing, sufficient funds to pay the Purchase Price to Seller at the Closing. Purchaser's ability to perform its financial obligations under this Agreement is therefore not subject to any financing contingency.

2.03 Survival of Representations. All representations and warranties made by Purchaser herein shall survive the Closing for a period of one (1) year after the Closing. All representations and warranties made by Seller herein shall terminate effective as of the Closing.

ARTICLE III. COVENANTS AND AGREEMENTS OF SELLER AND PURCHASER

3.1 Consents; Other Actions. The Seller and the Purchaser shall cooperate and respectively use all reasonable efforts to promptly make any filings, to give any notices, to obtain any consents, approvals or authorizations, and to take such other actions, as may be necessary or desirable for the consummation of the transactions contemplated thereby. Purchaser

acknowledges that Seller has obtained from the other partner in the Partnership a consent to the sale, assignment and transfer of the Purchased Interest in connection with the General Assignment, pursuant to Section 5.1 of the Partnership Agreement.

ARTICLE IV. CONDITIONS

4.1 Conditions to Obligations of Purchaser. The obligations of the Purchaser to consummate the transactions contemplated by this Agreement are subject to the satisfaction of each of the following conditions, any of which may be waived in whole or in part, in writing, by the Purchaser:

(a) The representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects when made and as of the Closing Date; and the covenants and agreements of the Seller contained herein to be performed on or prior to the Closing Date shall have been performed in all material respects.

(b) Execution and delivery of the Assignment from the Seller to the Purchaser as contemplated in this Agreement.

4.2 Conditions to Obligations of Seller. The obligations of the Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction of each of the following conditions, any of which may be waived in whole or in part, in writing, by the Seller:

(a) The representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects when made and as of the Closing Date; and the covenants and agreements of the Purchaser contained herein to be performed on or prior to the Closing Date shall have been performed in all material respects.

(b) The Seller shall have received the Purchase Price, plus or minus closing adjustments reasonably acceptable to the parties.

ARTICLE V. MISCELLANEOUS AND GENERAL

5.1 Release. Each party hereby releases and forever discharges the other, and their officers, directors, shareholders, partners, agents, employees, successors and assigns from all claims, liabilities, obligations, damages for money due, or cause of action of any kind or nature, whether known or unknown, fixed or contingent, liquidated or unliquidated, including, but not limited to, all claims arising out of or related to the performance or nonperformance by a party of its obligations and liabilities under the Partnership Agreement which the other party now has, ever had or may ever have in the future against the other by reason of any matter whatsoever arising from or related to the Partnership Agreement occurring on or at any time prior to the Closing Date, provided however that nothing in this Section 5.01 shall release the parties of their

rights or obligations under this Agreement. The provisions of this Section 5.01 shall survive Closing.

5.2 Modification or Amendment. The parties hereto may modify or amend this Agreement only by written agreement executed and delivered by the respective parties.

5.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument. Facsimile or electronically transmitted signatures to this Agreement shall be as valid and binding as a signed original.

5.4 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California (excluding application of any choice of law doctrines that would make applicable the law of any other state or jurisdiction) and, where appropriate, applicable federal law. All claims and disputes arising under or in connection with this Agreement, whether for or in respect of, breach of contract, tort, equity, or otherwise, shall be adjudicated exclusively in federal or state courts located in Los Angeles County, California, and each party waives its right to a trial by jury of any such claims or disputes.

5.5 Entire Agreement; Assignment. This Agreement (including the Exhibits hereto), (a) constitute the entire agreement, and supersedes all other prior agreements, understandings, representations and warranties, both written and oral, between the parties with respect to the subject matter hereof (including any contrary provisions of the Partnership Agreement), and (b) shall not be assigned without the prior written consent of the parties, however, the Purchaser shall have the right to name one or more designees to take assignment of all or a portion of the Purchased Interest at Closing.

5.6 Captions. The article and section captions herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

5.7 Defined Terms. Capitalized terms not otherwise defined in this Agreement shall have the meaning set forth in the Partnership Agreement.

5.8 Default. Time is of the essence in this Agreement. If either party fails to fulfill its obligations hereunder by the Closing Date it shall be in default and the non-defaulting party at its option, may:

(a) terminate its obligation under this Agreement by further written notice thereof to the defaulting party in which event neither party shall have any claim against the other by virtue of this Agreement; provided that, (i) if the Purchaser is the defaulting party, Seller shall be entitled to retain the Deposit, and (ii) if the Seller is the defaulting party, the Purchaser shall be entitled to the return of the Deposit;

(b) waive the default and nevertheless consummate the transaction contemplated hereby;

(c) commence an action against the defaulting party for specific performance of the terms contained herein;

(d) avail itself of any other right or remedy available to such party under the Partnership Agreement, at law or in equity;

(e) extend the time for such performance for a period not to exceed thirty (30) days to enable such condition to be satisfied; or

(f) avail itself of any combination of the foregoing.

5.9 Costs and Fees to Prevailing Party. If any party brings any action or proceeding against the other party arising out of this Agreement, or is made a party to any action or proceeding brought by a third party arising out of this Agreement, then, as between the Seller and the Purchaser, the prevailing party shall be entitled to recover as an element of its reasonable costs of the suit and not as damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit whether or not such suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorneys' fees.

5.10 Obligation of Purchaser. In the event the Purchaser elects to have a designee acquire all or part of the Purchased Interest, the Purchaser shall nevertheless continue to be responsible for its obligations and agreements hereunder in the event such designee does not perform such obligations or agreements.

5.11 Additional Actions. Each of Seller and Purchaser agrees, at any time and from time to time after the Closing, to execute, acknowledge where appropriate, and deliver such further instruments and documents and to take such other action as the other party may reasonably request in order to carry out the intents and purposes of this Agreement, provided that such request is made by notice given within one (1) year after the Closing Date. If required by the other party, the party making the request will bear the reasonable cost involved. Neither party shall be required to execute any instrument or document pursuant to this Section 5.11 which would increase the liability or obligations of such party over that provided for in this Agreement and the instruments and documents executed by such party pursuant hereto. The provisions of this Section 5.11 shall survive the Closing.

5.12 Severability. If any one or more of the terms or conditions of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto on the date first written above.

SELLER:

Insolvency Services Group, Inc.,
Solely in its capacity as Assignee for the benefit of creditors of Prospect Enterprises, Inc., a California corporation

By: _____

Name:

Title:

PURCHASER:

[_____]

By: _____

Name:

Title:

EXHIBIT A
(ASSIGNMENT AND ASSUMPTION OF INTEREST)