

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION**

In re:	§	
	§	Chapter 7
Atalo Holdings, LLC,	§	
	§	Case No. 20-50447
Debtor.	§	

AGREED ORDER APPROVING THE SALE OF DEBTOR’S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES PURSUANT TO SECTION 363(B) AND 363(F) OF THE BANKRUPTCY CODE

Came on for consideration the Chapter 7 Trustee’s *Notice of Intention to Sell Property at Private Sale* [Dkt. No. 34] (the “**Sale Notice**”); and upon this Court finding it has jurisdiction over the Sale Notice and the relief sought in the Sale Notice; and upon this Court finding venue for the Sale Notice is proper in this Court; and upon the Court noting that pursuant to Federal Rule of Bankruptcy Procedure 2002(a)(2), the negative notice period has expired; and the Court finding that due and sufficient notice of the Sale Notice and the relief sought in the Sale Notice having been given under the circumstances; and it appearing no other or further notice need be provided; and the Court having reviewed the Sale Notice, the filings in support of the Sale Notice, and all objections to the relief sought in the Sale Notice (the “**Objections**”); the Court having noted the Notice of Withdrawal [Dkt. No. 77] of the Limited Objection of Notice of Intent to Sell (the “**CBD Shaman Objection**”) [Dkt. No. 70]; and the Court having been advised of the resolution by agreement of all other Objections to the Sale Notice at the expedited hearing on the Sale Notice on June 4, 2020 at 9:00 a.m. and determining that the hearing on the Sale Notice set for June 18, 2020 at 9:00 a.m. should be cancelled; and the Court having found that the AVF CBD, LLC (the “**Buyer**”) is a good faith purchaser under section 363(m) of the Bankruptcy Code and is entitled to protections of section 363(m) of the Bankruptcy Code; and it appearing that the relief requested in

the Sale Notice is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and after due deliberation and good and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The relief sought pursuant to the Sale Notice is granted.
2. Pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, Mark T. Miller, the Chapter 7 Trustee in this case (the “*Trustee*”) is authorized to sell the assets identified in Schedule B (the “*Purchased Assets*”) attached to the *General Bill of Sale and Assignment* (the “*Bill of Sale*”), attached hereto as **Exhibit 1**, to the Buyer for the amount of \$500,000 (the “*Purchase Price*”), and to execute all instruments and documents necessary to convey the Purchased Assets to Buyer and to consummate the transaction contemplated under the Sale Notice and this Order.
3. The sale of the Purchased Assets to Buyer shall be made “as is” with no representation or warranties of any kind, except as set forth in the Bill of Sale.
4. The sale shall be free and clear of all liens, claims, licenses, encumbrances, and interests, with any such liens, claims, licenses, encumbrances, and interests in the Purchased Assets attaching to the sale proceeds.
5. The sale of the Purchased Assets to Buyer is without collusion and in good faith, as that term is defined in sections 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale of the Purchased Assets shall not affect the validity of such sale unless such authorization and such sale are duly stayed pending such appeal. The Buyer is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code. The Bill of Sale and the transactions contemplated thereby cannot be avoided by section 363(n) of the Bankruptcy Code. The Debtor and Buyer have not engaged in

any conduct that would cause or permit the Bill of Sale or the consummation of the transaction contemplated thereby to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code. As a good faith buyer of the Purchased Assets, Buyer has not colluded with any potential purchasers or any other parties interested in the Purchased Assets, and, therefore, neither the Debtor nor any successor in interest to the Debtor's estate shall be entitled to bring an action against the Buyer, and the sale may not be avoided pursuant to section 363(n) of the Bankruptcy Code.

6. Pursuant to Bankruptcy Rules 6004(h), this order shall be effective immediately upon its entry, and the Debtor and Buyer are authorized to close the sale of the Purchased Assets immediately.

7. All persons are prohibited from taking any action to adversely affect or interfere with the ability of the Debtor to transfer the Purchased Assets to the Buyer in accordance with the Sale Notice, Bill of Sale and this Sale Order. Debtor or Buyer may seek relief from this Court to enforce this or any other provisions of this Order.

8. To the extent there is any dispute between GenCanna Global USA, Inc. ("GenCanna") and the Debtor or Buyer as to the ownership of certain assets set forth on the Bill of Sale, the Buyer and the Debtor shall cooperate with GenCanna for thirty (30) days after entry of this Order to resolve any such dispute. To the extent any such dispute cannot be resolved between GenCanna and the Buyer, either GenCanna or the Buyer may seek a determination from this Court as to whether any such assets are Purchased Assets.

9. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this order.

Have Seen and Agreed:

/s/ Mark T. Miller, Trustee
Mark T. Miller, Trustee

/s/ Charles E. Johnson, Esq.
Charles E. Johnson, Esq.
Attorney for FSI Group, LLC

/s/ Andrea R. Cunha, Esq.
Andrea R. Cunha, Esq.
Attorney for Buyer

/s/ Jamie Harris, Esq.
Jamie Harris, Esq.
Attorney for Kevin Cornett

/s/ J. Ross Stinetorf, Esq.
J. Ross Stinetorf, Esq.
Attorney for Grower Plaintiffs

/s/ Brian N. Thomas, Esq.
Brian N. Thomas, Esq.
Attorney for Brennan Gilkinson

/s/ Donald R. Rose, Esq.
Donald R. Rose, Esq.
Attorney for Cabo Holdings, LLC

/s/ Weston E. Overturf, Esq.
Weston E. Overturf, Esq.
Attorney for Farm Credit Mid-America, PCA and
Farm Credit Mid-America, FLCA

/s/ James R. Irving, Esq.
James R. Irving, Esq.
Attorney for GenCanna Global
USA, Inc.

/s/ James D. Lyon, Esq.
James D. Lyon
Attorney for David Shepherd

Copies to:
U.S. Trustee
Charles E. Johnson, Esq.
Andrea R. Cunha, Esq.
Jamie Harris, Esq.
Tom Bullock, Esq.
Brian N. Thomas, Esq.
Donald R. Rose, Esq.
Weston E. Overturf, Esq.
James R. Irving, Esq.
James D. Lyon, Esq.

EXHIBIT 1

Bill of Sale

GENERAL BILL OF SALE AND ASSIGNMENT

THIS GENERAL BILL OF SALE AND ASSIGNMENT (“*Bill of Sale*”) is entered into as of May ___, 2020, by and between Atalo Holdings, LLC (“*Debtor*” or “*Seller*”) and AVF CBD, LLC (“*Buyer*”) (the foregoing parties, collectively, the “*Parties*”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the attached Schedule A.

RECITALS

A. Pursuant to the agreement between the Parties as evidenced by the *Notice of Intention to Sell Property at Private Sale* (the “*Sale Notice*”) filed by Mark T. Miller, Trustee, in Seller’s bankruptcy proceeding captioned *In re Atalo Holdings, LLC*, Case No. 20-50447, in the United States Bankruptcy Court for the Eastern District of Kentucky, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from the Seller, the Purchased Assets.

B. The parties are entering into this Bill of Sale to memorialize the sale of the Purchased Assets.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and other agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor and Buyer hereby agree as follows:

1. Sale and Assignment. Debtor hereby irrevocably and unconditionally sells, assigns, conveys, transfers and delivers to Buyer, its successors and assigns forever, all of Debtor’s rights, title and interest to the Purchased Assets, free and clear of all liens, licenses, claims or encumbrances, to have and to hold the same and each and all thereof unto Buyer, its successors and assigns forever, to its own use and benefit forever.

2. Further Assurances. Debtor covenants that it will do or cause to be done all such further acts, and shall execute and deliver, or cause to be executed and delivered, all transfers, assignments and conveyances, evidences of title, notices and assurances reasonably necessary or appropriate to assure fully to Buyer and its respective successors or permitted assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges relating to the Purchased Assets intended to be conveyed to Buyer pursuant to the transactions contemplated by the Sale Notice.

3. Entire Agreement. This Bill of Sale supersedes any and all prior agreements, either oral or written, between the parties with respect to the subject matter of this Bill of Sale (including any term sheet or similar agreement or document relating to the transaction contemplated hereby) other than any such agreements contemplated by the Sale Notice, or the other transaction documents entered into pursuant to the terms and conditions of the Sale Notice (the “*Transaction Documents*”). This Bill of Sale, together with the Sale Notice and other Transaction Documents, constitutes the entire agreement between the parties with respect to the subject matter hereof.

4. Waiver. No waiver of any term or condition of this Bill of Sale shall be valid or enforceable unless and until made in writing and signed by all parties hereto. A waiver on one

occasion shall not be deemed to be a waiver of the same or any other breach, provision or requirement on any other occasion.

5. Amendment. This Bill of Sale may be modified or amended only by a written instrument duly executed by each of the parties hereto.

6. Counterparts and Facsimile Signatures. This Bill of Sale may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, binding on all of the parties hereto. Facsimile signatures or a PDF copy of the signature of any party hereto on this Bill of Sale shall be deemed to be original signatures for all purposes.

7. No Third Party Beneficiary. The terms and provisions of this Bill of Sale are intended solely for the benefit of the parties hereto and their respective permitted successors and assigns or delegates, and it is not the intention of the parties to confer, and, this Bill of Sale shall not confer, third party beneficiary rights upon any other Person or entity.

8. Binding Effect. Subject to provisions herein to the contrary, this Bill of Sale shall inure to the benefit of and be binding upon the parties and their respective legal Representatives, successors and permitted assigns and delegates.

9. Governing Law. The parties agree that this Bill of Sale shall be governed by and construed in accordance with the applicable laws of the State of Kentucky without giving effect to any choice or conflicts of law provision or rule thereof that would result in the application of the applicable Laws of any other jurisdiction other than the applicable Laws of the United States of America, where applicable. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN CONNECTION WITH ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS BILL OF SALE.

10. Construction. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, the feminine or the neuter gender shall include the masculine, feminine and neuter. No provision of this Bill of Sale shall be interpreted for or against any party hereto on the basis that such party was the draftsman of such provision, each party having participated equally in the drafting hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Bill of Sale.

11. Headings. The divisions of this Bill of Sale into sections and the use of the captions and headings in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Bill of Sale.

12. Severability; Invalid Provisions. If any provision of this Bill of Sale is held to be illegal, invalid or unenforceable under any present or future Law and if the rights or obligations of Debtor or Buyer under this Bill of Sale will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Bill of Sale will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of

this Bill of Sale will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Bill of Sale a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

13. Conflicts Between Agreements. If any conflicts exist between this Bill of Sale and the Sale Notice, the Bill of Sale shall control.

[SIGNATURE PAGES FOLLOW]

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

DEBTOR:

ATALO HOLDINGS, LLC,

By: _____

Name: Mark T. Miller

Title: Chapter 7 Trustee

BUYER:

AVF CBD, LLC

By: _____

Name: Greg Martini

Title: COO/CFO

SCHEDULE A

Definitions

1. “**Accounts Receivable**” means, other than items included in the definition of Excluded Assets, all accounts, notes, interest and other receivables of Debtor, and all claims, rights, interests and proceeds related thereto, arising from the operation of the Business, billed and unbilled, recorded and unrecorded (including any accounts previously written off or charged off as bad debts), for services and goods provided by the Debtor.

2. “**Business**” means everything reasonably associated with the business; including, without limitation, the Purchased Assets, the Excluded Assets, Business IP, all tangible and intangible goods and operations of Debtor directly or indirectly associated with and being a part of the making, manufacturing, selling and distributing of the hemp.

3. “**Business IP**” means all of the Intellectual Property owned by Debtor or currently being used by Debtor in furtherance of the Debtor’s Business, including but not limited to the Intellectual Property set forth on Schedule B.

4. “**Excluded Assets**” shall mean all assets identified in Schedule C.

5. “**Governmental Authority**” means any federal, state, local or municipal government; any governmental or quasi-governmental authority; or any body exercising or entitled to exercise, any administrative, executive, judicial, legislative or taxing authority with respect to the Sellers including, but not limited to, the Food and Drug Administration.

6. “**Intellectual Property**” means all of the following in any jurisdiction throughout the world (i) all inventions, including proprietary plant varieties, plant breeds, plant types, plant genetic sequences, plant genetic resources, or other plant genetic materials (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissues, divisions, continuations, continuations-in-part, renewals, extensions, and foreign counterparts and equivalents thereof, (ii) all trademarks, service marks, logos, trade names, corporate names, and other source identifiers whether registered or unregistered (as the case may be), as well as all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) registrations for internet domain names, (iv) all rights protected by copyright law, including rights in registered and unregistered works of authorship, all rights to copy, distribute, modify, publicly perform, and publicly display such works, and all applications, registrations, and renewals in connection therewith, (v) all other confidential or proprietary information, including not limited to trade secrets, plant varieties, plant breeds, plant types, plant genetic sequences, plant genetic resources, other plant genetic materials, designs, techniques, technical information, unregistered names, marks, symbols and signs, customer lists, business plans, sales records, service records, social media account information (login information and credentials, profiles, usernames, hashtags or other profile tags, etc.), computer hardware and software, recipes, formulas, processes, molds, jigs, specifications, designs, patterns, and (vi) all rights of publicity or right to use the name and likeness of any person included in any of the foregoing.

7. “**Law**” means any federal, state, local or other statute, law, ordinance, regulation, rule, or Order of any Governmental Authority.

8. “**Order**” means any award, writ, injunction, judgment, order, ruling, decision, directive, or similar determination entered, issued, made or rendered by any Governmental Authority.

9. “**Person**” means an individual, corporation, partnership, limited liability company, limited liability partnership, trust, association, or organization, including any Governmental Authority.

10. “**Purchased Assets**” means the assets set forth on Schedule B to the Bill of Sale.

11. “**Representatives**” means, with respect to any Person, the officers, directors, principals, managers, employees, agents, attorneys, accountants, auditors, advisors, lenders and other representatives of such Person.

SCHEDULE B

Purchased Assets

Any and all assets of the Debtor, excluding those Excluded Assets set forth on Schedule C hereto, used in the operations of the Debtor including, but not limited to, the following assets:

1. All bank accounts of the Debtor;
2. Accounts Receivables;
3. Raw Materials:
 - Crude Oil, Decarboxilated Crude, In Product Crude, Amber Crude, Isolate, other than items included in the definition of Excluded Assets
 - Organic Hemp Seed Oil, MCT, Cream Base, other than items included in the definition of Excluded Assets
 - Containers (brown, blue, black, 1 oz, 2oz)
4. Packaging materials, equipment and supplies
5. Crops - planted or harvested:
 - 2016 Processed Floral
 - 2017 Processed Floral, Unseparated Floral, Seed
 - 2018 Processed Floral, Seed, Powder
 - 2019 Processed Floral, Cleaned Hybrid Seed, Seed
6. Farm machinery and equipment:
 - John Deere Tractor w/ Bucket
 - Farmall 140 Cultivating Tractor
 - Extraction equipment including sinks, dryers, work tables, pumps, tanks, capping machines, racks, totes, etc (more specifically listed in depreciation schedule of the Debtor)
 - Processing equipment including gravity table, screens, scales, molds, etc. (more specifically listed in depreciation schedule of the Debtor)
7. Office Furniture
8. Office Equipment including, but not limited to, all computer equipment and communication systems equipment and software, IT equipment including computers, software and monitors, etc. (more specifically listed on the Debtor's depreciation schedule)
9. Automobiles:
 - 16' trailer
 - 2004 Chevy Truck
 - 1987 Ford Bus, modified for farm
 - 1987 Ford Bus, modified for farm
10. Other machinery, fixtures and equipment (excluding farm machinery and equipment)
 - Lab Equipment: 3 laptops, waterbath sonicator, vortexer, laserjet printer, computer station, Dell monitor, HPLC, GC-FID, head space for GC, drying oven, refrigerator, stir plate, lab scale, etc. (more specifically listed on Debtor's depreciation schedule)
11. All intangibles and Intellectual Property.
12. All Patents, Copyrights, Trademarks and all Trade Secrets including, but not limited to:
 - Hemp Capital of America Trademark
 - Commonwealth CBD, LLC, Reservation of Reserved Name
 - Hemp Capital of the World Trademark

- Trade Secrets: drying systems, mechanical harvesting, growing/planting/harvesting/fertilizer systems, solvent free extraction, seed technology, cold ethanol extraction system, CO2 extraction and post extraction, plant cultivation technology, transplant technology, seed breeding and development, grain harvesting and refinement, seed crushing, seed hybridization
 - Heart of Hemp County
13. Internet domain names and websites including, but not limited to:
- URLs: AtaloHoldings.com, AtaloHempStore.com, AtaloHempSuperfood.com, AtaloHempProducts.com, AtaloHempProtein.com, SuperfoodProcessing.com
 - Facebook Pages: Atalo Holdings, Kentucky CBD, Hemp Oil Kentucky, Hemp Research Center
 - LinkedIn: Atalo Hemp Products
 - Instagram: Atalo Hemp
14. Licenses, franchise and royalties:
- US Food and Drug Administration
 - Kentucky Kosher International
 - Validus Verification Services, LLC
 - Kentucky Department of Agriculture Industrial Hemp Research Pilot Program Processor/Handler License
 - Kentucky Department of Agriculture Industrial Hemp Research Pilot Program Grower License
 - Kentucky Seed Improvement Association Conditioning Plant
 - Kentucky Proud Member
 - Cabinet for Health and Family Services Permit to Operate
15. The goodwill associated with the Business including, but not limited to: customer lists, requirements, product formulation and specifications.

SCHEDULE C

Excluded Assets

1. 90kg of isolates owned by FSI Group, LLC
2. The following assets owned by Brennan Gilkinson:
 - Clipper/scalper used in the production of separating flora and seed; and
 - 2019 processed floral, cleaned hybrid seed, seed and powder
3. The following assets owned by Kevin Cornett:
 - 2019 processed floral, 27,006 pounds;
 - Raw material, 5,787 pounds; and
 - Powder, 11,661 pounds
4. The following assets owned individually or collectively by Jeff Dale, Robert Baldwin, Brandon White, Aaron Newcome, Eric Blandford, Robert Scott Lee, Jason Wage, Michael Watkins, Bradley Hord, Robert Livingood, David Livingood, Tyler Thompson, Joshua Hearn, Marion Buchanan, John Colligan, Jr., Chris Hickerson, Dustin Hickerson, Kevin Deckard, Lance Emmons, Ashley Emmons, James Keith, Jason Burgin, John Tuggle, Kevin Watkins, David Shepherd, and Landon Westbrook (collectively, the “***Grower Plaintiffs***”):
 - Hemp crops and any resulting material/byproduct grown by any of the Grower Plaintiffs.
5. The following assets for which GenCanna Global USA, Inc. holds a security interest:
 - 2018 processed floral, seed, and powder, other processed inventory, and all products and proceeds of any of the foregoing
6. The following assets for which Cabo Holdings, LLC holds a security interest:
 - 97,000 pounds of dried hemp in possession of the Debtor.
7. All leases, contracts and license agreements of the Debtor.

4818-4480-5053.4

The affixing of this Court's electronic seal below is proof this document has been signed by the Judge and electronically entered by the Clerk in the official record of this case.



Signed By:
Gregory R. Schaaf
Bankruptcy Judge
Dated: Friday, June 5, 2020
(grs)