

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

AN GLOBAL LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

Re: Docket Nos. 11 & 62

**FINAL ORDER ESTABLISHING NOTIFICATION PROCEDURES AND APPROVING
RESTRICTIONS ON CERTAIN TRANSFERS OF INTERESTS IN THE
DEBTORS' ESTATES**

Upon the motion (the "Motion"),² of the above-captioned debtors and debtors-in-possession in the Chapter 11 Cases ("Debtors"), pursuant to sections 105(a) and 362 of title 11 of the United States Code (the "Bankruptcy Code"), for an order to approve notification procedures and restrictions on certain transfers of equity interests in the Debtors' estates as more fully described in the Motion; the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29,

¹. The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source Holding Corp. (9629); 4th Source Mexico, LLC (7552); 4th Source, LLC (7626); AgileThought Brasil-Consultoria Em Tecnologia LTDA (01-42); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Costa Rica S.A. (6822); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AgileThought Servicios Administrativos, S.A. de C.V. (4AG1); AgileThought Servicios México S.A. de C.V. (8MY5); AgileThought, S.A.P.I. de C.V. (No Tax ID); AGS Alpama Global Services USA, LLC (0487); AN Data Intelligence, S.A. de C.V. (8I73); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN USA (5502); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Entrepids Technology Inc. (No Tax ID); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); and QMX Investment Holdings USA, Inc. (9707); AgileThought Argentina, S.A. (No Tax ID); AGS Alpama Global Services México, S.A. de C.V. (No Tax ID); and Tarnow Investment, S.L. (No Tax ID). The Debtors' headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.

². Capitalized terms not otherwise herein defined shall have the meanings ascribed to such terms in the Motion.



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2012; and the consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given to the Notice Parties as provided in the Motion, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided other than as provided herein; and a hearing having been held on August 29, 2023 to consider the relief requested in the Motion on an interim basis (the “Interim Hearing”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (the “Interim Order”); and upon the Motion, the papers in support thereof and the responses thereto, if any, the record of the Interim Hearing, and all of the proceedings had before the Court; and the appearances of all interested parties having been noted in the record of the Interim Hearing; and the Court having found and determined that the Debtors’ net operating loss carryforwards (“NOLs”) and certain other tax attributes (together with the NOLs, the “Tax Attributes”) are property of the Debtors’ estates and are protected by section 362(a) of the Bankruptcy Code; and the Court having found and determined that unrestricted trading in equity interests in the Debtors before the Debtors’ emergence from chapter 11 could severely limit the Debtors’ ability to use the Tax Attributes for purposes of the Internal Revenue Code of 1986, as amended (the “Tax Code”), as set forth in the Motion; and the Court having found and determined that the Procedures (as hereinafter defined) are necessary and proper to preserve the Tax Attributes and are therefore in the best interests of the Debtors, their estates, and their creditors; and the Court having found and determined that the relief requested in the Motion is authorized under sections 105(a) and 362 of the Bankruptcy Code; and this Court having determined that the relief sought in the Motion is in

the best interests of the Debtors, their creditors, and all parties in interest; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis to the extent set forth herein.
2. Any objections to the Motion that have not been withdrawn or resolved by the Interim Order or by this Final Order are overruled in all respects.
3. Effective as of the Petition Date the following procedures and restrictions are imposed and approved:
 - a. Notice of Substantial Equityholder Status. Any Person who is or becomes a Tax Owner of at least 2,357,366 shares of the common stock of AgileThought, Inc. or any beneficial interest therein (“Stock”), which represent approximately 4.5 percent of the issued and outstanding Stock as of the Petition Date (a “Substantial Equityholder”), must, on or before the later of: (a) fifteen (15) days after the Court’s entry of this Final Order approving these Procedures or (b) ten (10) days after that Person becomes a Substantial Equityholder, serve on: (i) the Debtors, (ii) counsel for the Debtors, Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Kathryn A. Coleman, Esq. (katie.coleman@hugheshubbard.com) & Christopher Gartman, Esq. (chris.gartman@hugheshubbard.com)); (iii) co-counsel for the Debtors, Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19801 (Attn: Jeremy W. Ryan, Esq. (jryan@potteranderson.com) & Gregory J. Flasser, Esq. (gflasser@potteranderson.com)); (iv) counsel for Blue Torch Finance LLC, as the administrative agent and collateral agent for the prepetition first lien lenders and the

postpetition lenders (the “Administrative Agent”), Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036-8704, Attn. Gregg Galardi, Esq. (gregg.galardi@ropesgray.com), and Leonard Klingbaum, Esq. (Leonard.Klingbaum@ropesgray.com) and Lindsay Barca, Esq. (lindsay.barca@ropesgray.com) and Chipman Brown Cicero & Cole, LLP, 1313 N. Market Street Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers (desgross@chipmanbrown.com)); (v) counsel for the Official Committee of Unsecured Creditors (the “Committee”), Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, Delaware 19801 (Attn: Bradford J. Sandler (bsandler@pszjlaw.com) and Cia H. Mackle (cmackle@pszjlaw.com)); and (vi) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Benjamin Hackman, Esq. (benjamin.a.hackman@usdoj.gov)), a notice (the “Substantial Equityholder Notice”) containing the Tax Ownership information substantially in the form attached as **Exhibit A-1** to the Motion.

- b. Restrictions and Procedures for Trading in Stock. Any Person that, after the Petition Date:
- i. is not a Substantial Equityholder and wishes to purchase or otherwise acquire Tax Ownership of an amount of Stock that would cause the Person to become a Substantial Equityholder;
 - ii. is a Substantial Equityholder and wishes to purchase or otherwise acquire Tax Ownership of any additional Stock; or
 - iii. is a Substantial Equityholder and wishes to sell or otherwise dispose of Tax Ownership of any Stock,

must, at least twenty (20) days prior to the consummation of any such transaction, file with the Court (at the holder’s election, in a redacted form that does not include such holder’s taxpayer identification number and the aggregate number of shares of Stock that such holder beneficially

owns), and serve on (i) the Debtors, (ii) counsel for the Debtors, (iii) counsel for the Administrative Agent, (iv) counsel for the Committee, and (v) the U.S. Trustee, an unredacted notice in the form attached as **Exhibit A-2** to the Motion, in the case of a proposed acquisition of Stock, or attached as **Exhibit A-3** to the Motion, in the case of a proposed disposition of Stock, including the case of a 50 Percent Shareholder who intends to claim a worthlessness deduction with respect to such Stock (either such notice, a “Proposed Stock Transaction Notice”). The Debtors shall consult with counsel to the Administrative Agent and counsel to the Committee prior to responding to any Proposed Stock Transaction Notice. If written approval of the proposed transaction is filed with the Court by the Debtors within twenty (20) calendar days following the receipt of a Proposed Stock Transaction Notice, then the transaction may proceed. If written approval of the proposed transaction is not filed by the Debtors with the Court within such period, then the transaction may not be consummated unless approved by a final and nonappealable order of the Court. Further transactions within the scope of this section (b) must be the subject of additional notices as set forth herein with additional waiting periods.

c. **Confidentiality.** The Debtors, their proposed counsel, counsel to the Administrative Agent, and counsel to the Committee shall keep all information provided in all notices delivered pursuant to this Final Order strictly confidential and shall not disclose the contents thereof to any person (including any member of the Committee), except (i) to the extent necessary to respond to a petition or objection filed with the Court, (ii) to the extent otherwise required by law or (iii) to the extent that the information contained therein is already public; *provided, however,* that the Debtors, the Administrative Agent and the Committee may disclose the contents thereof to their professional tax and financial advisers, who shall keep all such notices strictly confidential and shall not disclose the contents thereof to any other person subject to further

Court order. To the extent confidential information is necessary to respond to a petition or objection filed with the Court, such confidential information shall be filed under seal or in redacted form, without prejudice to the rights of any party in interest to seek to make public any portion of the pleadings and/or documents filed under seal pursuant to this Final Order.

d. Sanctions for Noncompliance. Acquisitions and dispositions of Tax Ownership of Stock in violation of the restrictions and procedures set forth in section (b) shall be void *ab initio* as an act in violation of the automatic stay under section 362 of the Bankruptcy Code and pursuant to the Bankruptcy Court's equitable powers under section 105(a) of the Bankruptcy Code, and the sanction for violating section (b) shall be reversal of the noncompliant transaction or such other (or additional) measures as the Court may consider appropriate.

e. Discretionary Waiver by Debtors. The Debtors, with the consent of the Administrative Agent and the Committee, or pursuant to an order of the Court, may waive any sanctions, stays, remedies or notification procedures imposed by this Final Order; *provided, however,* that any such waiver shall be filed with the Court.

f. Notice Procedures. Within three (3) business days of the entry of this Final Order, the Debtors shall (i) submit a publication notice of the entry of this Final Order (substantially in the form attached as **Exhibit B** to the Motion) for posting on the Bloomberg newswire service; (ii) post such notice together with a copy of this Final Order on the Debtors' case information website (<http://www.kccllc.net/AgileThought>); and (iii) serve a notice of the entry of this Final Order (substantially in the form attached as **Exhibit C-1** to the Motion) on (i) the U.S. Trustee; (ii) counsel for the Administrative Agent; (iii) those parties listed on the list of creditors holding the twenty largest unsecured claims against the Debtors (on a consolidated basis), as identified in their chapter 11 petitions; (iv) all the parties that have requested notice in this

proceeding pursuant to Bankruptcy Rule 2002; (v) any identified Substantial Equityholders; (vi) the Internal Revenue Service; (vii) the Securities Exchange Commission; and (viii) the United States Attorney's Office for the District of Delaware.

Upon receipt of such notice of entry of this Final Order, any Agent of a beneficial holder of the Stock will be required, within five (5) business days of receipt of such notice and on at least a quarterly basis thereafter, to send the notice of entry of this Final Order to all beneficial holders of the Stock on whose behalf such Agent holds Stock. To the extent such beneficial holder is also an Agent, such Agent must, in turn, promptly provide the notice of entry of this Final Order to any holder for whose account such holder holds Stock, and so on down the chain of ownership.

g. Continued Compliance with Other Applicable Laws and Rules. The requirements set forth in this Final Order are in addition to the requirements of Bankruptcy Rule 3001(e) and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

g. Definitions.

For purposes of this Final Order:

"50 Percent Shareholder" means any Person who, at any time during the three-year period ending on the Petition Date, has had Tax Ownership of 50% or more of the Stock (determined in accordance with section 382(g)(4)(D) of the Tax Code and the applicable regulations thereunder).

"Agent" means a broker, account manager, agent, custodian, nominee, prime broker, clearinghouse or trustee (including a Trustee but not including a trustee qualified under section 401(a) of the Tax Code).

"Person" means a person or Entity (as such term is defined in Treasury regulations section 1.382-3(a)).

"Tax Ownership" means beneficial ownership of Stock as determined in accordance with applicable rules under section 382 and, to the extent provided in those rules shall include, but not be limited to, direct, indirect and constructive ownership (e.g., a holding company would be considered to have Tax Ownership of all shares owned or acquired by its 100% owned subsidiaries and a partner in a

partnership would be considered to beneficially own its proportionate share of any equity securities owned by such partnership), ownership by members of a person's family and persons acting in concert and, in certain cases, the creation or issuance of an option (in any form). Any variation of the term Tax Ownership shall have the same meaning and an "option" to acquire stock shall include any contingent purchase, warrant, convertible debt, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

4. Notwithstanding the applicability of Bankruptcy Rule 6003 and the possible applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

5. The relief provided in this Final Order is in addition to, and not in lieu of, any and all other rights and remedies available to the Debtors.

6. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

7. This Court retains jurisdiction with respect to all matters arising from or related to the interpretation, implementation, and enforcement of this Final Order.

Dated: October 2nd, 2023
Wilmington, Delaware


J. KATE STICKLES
UNITED STATES BANKRUPTCY JUDGE