

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

In re:

BLITZ U.S.A., Inc., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 11-[ ] ( )  
)  
) (Joint Administration Requested)  
)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING  
THE RETENTION AND EMPLOYMENT OF KURTZMAN CARSON  
CONSULTANTS LLC AS NOTICE AND CLAIMS AGENT FOR THE DEBTORS  
AND DEBTORS IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE**

Blitz U.S.A., Inc. ("**Blitz**") and certain of its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), file this Motion (this "**Motion**") for the entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the Debtors to retain Kurtzman Carson Consultants LLC ("**KCC**") as notice and claims agent to the Debtors in connection with these chapter 11 cases, effective *nunc pro tunc* to the Petition Date (as defined herein). In support of the Motion, concurrently herewith, the Debtors submit the Declaration of Albert H. Kass, Vice President of Corporate Restructuring Services (the "**Kass Declaration**"), which is attached hereto as **Exhibit B** and incorporated by reference herein. Also in support of this Motion, the Debtors submit the *Declaration of Rocky Flick, President and Chief Executive Officer of Blitz U.S.A., Inc. in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "**First Day Declaration**") and respectfully state as follows:

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. (8825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); Blitz U.S.A., Inc. (8104); and F3 Brands LLC (2604). The location of the Debtors' corporate headquarters and the Debtors' service address is: 404 26th Ave. NW Miami, OK 74354.



### **Jurisdiction and Venue**

1. The United States Bankruptcy Court for the District of Delaware (the “*Court*”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 156(c) of title 28 of the United States Code, section 503(b) of title 11 of the United States Code (the “*Bankruptcy Code*”), and Rules 2002-1(f) and 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “*Local Bankruptcy Rules*”).

### **Introduction**

4. As described in the First Day Declaration, the Debtors are the industry leader in portable fuel containment. Since its inception as the supplier of the traditional, olive-drab jerry can to the U.S. military throughout World War II, Blitz and its predecessor companies have evolved into the producer of the best fuel containment products in the world. Today, the red plastic jerry can is an American icon. With their global headquarters in Miami, Oklahoma, the Debtors employ approximately 250 employees and achieve annual sales of approximately \$80 million. Through end of fiscal year 2011, the Debtors generated \$80 million in revenue and \$6 million in adjusted EBITDA.

5. Notwithstanding its industry leading position and time-tested product line, the Debtors have recently become the subject of over 35 pending lawsuits alleging, among other things, certain product deficiencies. Despite the Debtors’ firm belief that their products are safe and free of deficiencies, on the date hereof (the “*Petition Date*”), each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code to address the challenges posed

by the overwhelming pending litigation. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated. Concurrently with the filing of this Motion, the Debtors have requested procedural consolidation and joint administration of these chapter 11 cases.

### **Relief Requested**

6. By this Motion, the Debtors seek entry of an order authorizing the employment and retention of KCC as the notice and claims agent in these chapter 11 cases, subject to that certain services agreement, dated November 1, 2011, by and between the Debtors and KCC (the “*Services Agreement*”), annexed as **Exhibit 1** to **Exhibit A** attached hereto, effective *nunc pro tunc* to the Petition Date.

### **The Debtors’ Retention of Notice and Claims Agent**

#### **I. KCC Qualifications**

7. The hundreds of creditors and other parties in interest involved in the Debtors’ chapter 11 cases may impose heavy administrative and other burdens on this Court and the Office of the Clerk of the Court (the “*Clerk’s Office*”). To relieve the Clerk’s Office of these burdens, the Debtors seek an order appointing KCC as the notice and claims agent in these chapter 11 cases pursuant to both 28 U.S.C. § 156(c) and Local Bankruptcy Rules 2002-1(f) and 9013-1(m). The Debtors’ have obtained and reviewed engagement proposals from other court-approved claims agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that KCC would provide the most cost-effective and efficient service as a claims agent for these chapter 11 cases.

8. The Debtors anticipate that there will be approximately 500 individual entities to be noticed, in addition to publication notices, in these chapter 11 cases. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of an outside claims agent is both necessary and in the best interests of the Debtors' estates, creditors, and parties in interest. By retaining KCC in these chapter 11 cases, the Debtors' estates, and particularly their creditors, will benefit because KCC has already developed efficient and cost-effective methods in its area of expertise. As set forth in the Kass Declaration, KCC has acted as the official claims agent in numerous cases of comparable size, including several cases which are currently pending in this Court.

## **II. Services to be Provided**

9. KCC, at the request of the Debtors or the Clerk's Office, may perform various notice and claims related services in accordance with the terms of the Services Agreement,<sup>2</sup> including, without limitation, the following:

- a. Notify all potential creditors of the filing of the bankruptcy petitions and of the setting of the first meeting of creditors, pursuant to section 341(a) of the Bankruptcy Code, under the proper provisions of the Bankruptcy Code and the Bankruptcy Rules as determined by Debtors' counsel;
- b. Prepare and serve required notices in these chapter 11 cases, including:
  - i. a notice of the commencement of these chapter 11 cases;
  - ii. the initial meeting of creditors under section 341(a) of the Bankruptcy Code;
  - iii. notices of objections to claims (if necessary);

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<sup>2</sup> The terms of the Services Agreement described in this Motion are a summary and for informational purposes only. Nothing in this Motion shall modify or amend the terms of the Services Agreement, and, in the event of a conflict or inconsistency between the summary in this Motion and the terms of the Services Agreement, the terms of the Services Agreement shall control.

- iv. notices of any hearings on a disclosure statement and confirmation of a plan or plans of reorganization; and
  - v. such other miscellaneous notices as the Debtors or Court may deem necessary or appropriate for an orderly administration of these chapter 11 cases.
- c. Maintain an official copy of the Debtors' schedules of assets and liabilities and statement of financial affairs (collectively, the "***Schedules and Statements***"), listing the Debtors' known creditors and the amounts owed thereto;
  - d. Provide access to the public for examination of copies of the proofs of claim or proofs of interest filed in these chapter 11 cases without charge during regular business hours (if necessary);
  - e. Furnish a notice of the last date for the filing of proofs of claims and a form for the filing of a proof of claim, after such notice and form are approved by the Court;
  - f. File with the Clerk's Office an affidavit or certificate of service which includes a copy of the notice, a list of persons to whom it was mailed (in alphabetical order), and the date mailed, within seven (7) days of service;
  - g. Docket all claims received by the Clerk's Office, maintain the official claims registers (collectively, the "***Claims Registers***") for each Debtor on behalf of the Clerk, and provide the Clerk with certified duplicate, unofficial Claims Registers on a monthly basis, unless otherwise directed;
  - h. Record all transfers of claims, pursuant to Bankruptcy Rule 3001(e) and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
  - i. Specify in the applicable Claims Register, the following information for each claim docketed: (1) the claim number assigned; (2) the date received; (3) the name and address of the claimant and agent, if applicable, who filed the claim; and (4) the classification(s) of the claim (e.g., secured, unsecured, priority, etc.);
  - j. Relocate by messenger all of the actual proofs of claim filed with the Court to KCC, not less than weekly;

- k. Upon completion of the docketing process for all claims received to date by the Clerk's Office for each case, turn over to the Clerk copies of the claims register for the Clerk's review;
- l. Make changes in the Claims Registers pursuant to any applicable order of the Court;
- m. Maintain the official mailing list for each Debtor of all entities that have filed a proof of claim, which list shall be available upon request by a party-in-interest or the Clerk;
- n. Provide such other claims processing, noticing, and administrative services that would fall within the purview of the Clerk's office as may be requested from time to time by the Debtors;
- o. File with the Court the final version of the claims register immediately before the close of these chapter 11 cases;
- p. Thirty (30) days prior to the close of these chapter 11 cases, an order dismissing KCC shall be submitted terminating the services of KCC upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases; and
- q. At the close of the case, box and transport all original documents, in proper format, as provided by the Clerk's Office, to the Federal Archives Record Administration, located at Central Plains Region, 200 Space Center Drive, Lee's Summit, MO 64064.

10. In addition to the foregoing, KCC will assist the Debtors with, among other things, performing other administrative tasks pertaining to the administration of these chapter 11 cases as may be requested by the Debtors or the Clerk's Office in accordance with the terms of the Services Agreement. KCC will follow the notice and claim procedures that conform to the guidelines promulgated by the Clerk of the Court and the Judicial Conference of the United States and as may be entered by the Court's order.

11. Furthermore, the Debtors respectfully submit that the fees and expenses incurred by KCC are administrative in nature and, therefore, should not be subject to the standard fee

application procedures for professionals. Specifically, the Debtors request authorization to compensate KCC, without further Court order and in the ordinary course of business, in accordance with the terms and conditions set forth in the Services Agreement, upon KCC's submission to the Debtors of invoices summarizing in reasonable detail the services rendered and expenses incurred in connection with services provided by KCC to the Debtors.

### **III. Compensation**

12. The Debtors propose that the cost of KCC's services be paid from the Debtors' estates as provided by 28 U.S.C. § 156(c) and section 503(b)(1)(A) of the Bankruptcy Code. The fees KCC will charge in connection with its services to the Debtors are set forth in the Services Agreement. The Debtors believe that KCC proposed rates are reasonable and appropriate for services of this nature. KCC rates are competitive and comparable to the rates KCC competitors charge for similar services. Additionally, KCC will seek reimbursement from the Debtors for reasonable expenses in accordance with the terms of the Service Agreement.

13. The Debtors paid KCC a retainer of \$25,000 under the terms of the Services Agreement that will be held as security for the payment of expenses (not fees) incurred pursuant to the Services Agreement.

### **IV. KCC Disinterestedness**

14. Although the Debtors do not propose to retain KCC under section 327 of the Bankruptcy Code, KCC has nonetheless conducted a conflicts analysis for the entities provided by the Debtors and, to the best of its knowledge, and except to the extent disclosed in the Kass Declaration, KCC neither holds nor represents an interest materially adverse to the Debtors' estates with respect to any matter for which it will be employed and KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

15. In connection with its retention as notice and claims agent, KCC represents, among other things, that:

- a. KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the notice and claims agent in these chapter 11 cases;
- b. By accepting employment in these chapter 11 cases, KCC waives any rights to receive compensation from the United States government in its capacity as the notice and claims agent in these chapter 11 cases;
- c. In its capacity as the notice and claims agent in these chapter 11 cases, KCC will not be an agent of the United States and will not act on behalf of the United States; and
- d. KCC will not employ any past or present employees of the Debtors in connection with its work as the notice and claims agent in these chapter 11 cases.

16. To the extent that KCC discovers any new relevant facts or relationships bearing on the matters described herein during the period of its retention, KCC will use reasonable efforts to supplement the Kass Declaration.

**V. Indemnification**

17. As part of the overall compensation payable to KCC under the terms of the Services Agreement, the Debtors have agreed to certain indemnification and contribution obligations. The Services Agreement provides that the Debtors will indemnify, defend and hold harmless KCC, its affiliates, parent, and each such entity's officers, members, directors, agents, representatives, managers, consultants, and employees under certain circumstances specified in the Services Agreement, but not in circumstances of losses resulting from KCC's gross negligence or willful misconduct. Both the Debtors and KCC believe that the indemnification obligations are customary and reasonable for notice, claims processing, and balloting agents retained in chapter 11 cases.



### **Basis for Relief**

18. This Motion is made pursuant to section 156(c) of title 28 of the United States Code, which governs the staffing and expenses of bankruptcy courts. Section 156(c) authorizes the Court to use “facilities” or “services” other than the Clerk’s Office for administration of bankruptcy cases. It states:

Any court may utilize facilities or services, either on or off the court’s premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

19. In addition, Local Bankruptcy Rule 2002-1(f) provides, in relevant part, as follows:

Notice and Claims Clerk. Upon motion of the debtor or trustee, at any time without notice or hearing, the Court may authorize the retention of a notice and/or claims clerk under 28 U.S.C. § 156(c). In all cases with more than 200 creditors or parties in interest listed on the creditor matrix, unless the court orders otherwise, the debtor shall file such motion on the first day of the case or within seven (7) days thereafter.

Del. Bankr. L.R. 2002 1(f).

20. Accordingly, section 156(c) of title 28 of the United States Code empowers the Court to utilize outside agents and facilities for notice and claims purposes, provided the Debtors’ estates pay the cost of such services. Additionally, Local Bankruptcy Rule 2002-1(f) requires, in all cases with over 200 creditors (such as these chapter 11 cases), a debtor to file a motion to retain a claims agent on the first day of the case or within seven days thereafter. Therefore, for all of the foregoing reasons, the Debtors believe that the retention of KCC as the

notice and claims agent in the chapter 11 cases is in the best interests of the Debtors, their estates and their creditors.

21. Courts in this District have recognized the efficacy of appointing KCC as notice and claims agent and compensating them on an administrative priority basis as proposed herein. *See, e.g., In re NewPage Corp.*, No. 11-12804 (KG) (Bankr. D. Del. Sept. 8, 2011); *In re Neb. Book Co.*, No. 11-12005 (PJW) (Bankr. D. Del. June 28, 2011); *In re DSI Holdings, Inc.*, No. 11-11941 (KG) (Bankr. D. Del. June 28, 2011); *In re Caribe Media Inc.*, No. 11-11387 (KG) (Bankr. D. Del. May 5, 2011); *In re Barnes Bay Dev., Ltd.*, No. 11-10792 (PJW) (Bankr. D. Del. Mar. 21, 2011); *In re Appleseed's Intermediate Holdings LLC*, No. 11-10160 (KG) (Bankr. D. Del. Jan. 20, 2011); *In re Local Insight Media Holdings, Inc.*, No. 10-13677 (KG) (Bankr. D. Del. Nov. 19, 2010).<sup>3</sup>

**Waiver of Bankruptcy Rule 6004(a) and 6004(h)**

22. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

**Notice**

23. The Debtors have provided notice of the Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 50 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition secured lenders; (e) the Internal Revenue Service; and (f) any

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<sup>3</sup> Because of the voluminous nature of the orders cited herein, such orders are not attached to this Motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

party that may have a particular interest in this motion. As this Motion is seeking “first day” relief, within two business days of the hearing on this Motion, the Debtors will serve copies of this Motion and any order entered in respect to this Motion as required by Local Bankruptcy Rule 9013-1(m). In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

**No Prior Request**

24. No prior request for the relief sought in this Motion has been made to this or any other court.

*[Remainder of Page Intentionally Left Blank]*

WHEREFORE, the Debtors respectfully request that the Court enter an order granting the relief requested herein and granting such other further relief as is just and proper.

Dated: November 9, 2011  
Wilmington, Delaware

**RICHARDS, LAYTON & FINGER, P.A.**



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**EXHIBIT A**

**Proposed Order**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

BLITZ U.S.A., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 11-[\_\_\_\_\_] (\_\_\_\_\_)  
)  
) (Joint Administration Requested)  
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**ORDER AUTHORIZING THE RETENTION AND  
EMPLOYMENT OF KURTZMAN CARSON CONSULTANTS  
LLC AS NOTICE AND CLAIMS AGENT FOR THE DEBTORS AND  
DEBTORS IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE**

Upon the Motion (the “**Motion**”)<sup>2</sup> of Blitz U.S.A., Inc. (“**Blitz**”) and certain of its affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of an order (this “**Order**”) authorizing the Debtors to employ and retain Kurtzman Carson Consultants LLC (“**KCC**”) as notice and claims agent in these chapter 11 cases; and upon the *Declaration of Rocky Flick, President and Chief Executive Officer of Blitz U.S.A., Inc. in Support of the Debtors’ Chapter 11 Petitions and First Day Motions* (the “**First Day Declaration**”); and upon the Declaration of Albert H. Kass, Vice President of Corporate Restructuring Services (the “**Kass Declaration**”), in support of the Motion; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and the Court having found that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. § 1408; and this Court having found that the relief requested is in the best interests of the Debtors’ estates, their creditors, and other

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. (8825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); Blitz U.S.A., Inc. (8104); and F3 Brands LLC (2604). The location of the Debtors’ corporate headquarters and the Debtors’ service address is: 404 26th Ave. NW Miami, OK 74354.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

parties in interest; and notice of the Motion appearing adequate and appropriate under the circumstances; and this Court having found that no other or further notice need be provided; and this Court having reviewed the Motion and having heard statements in support of the relief requested therein at a hearing held before this Court (the "**Hearing**"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized to retain and employ KCC as their notice and claims agent in accordance with the Motion and subject to the terms of the Services Agreement *nunc pro tunc* to the Petition Date.
3. Subject to the terms of this Order, the terms of the Services Agreement are approved.
4. KCC is authorized to perform the services set forth in the Motion, this Order and the Services Agreement.
5. Without further order of this Court, the Debtors are authorized to pay KCC fees and expenses as set forth in the Services Agreement in the ordinary course of business and without the necessity of KCC filing fee applications with this Court; *provided, however*, that KCC shall provide copies of its invoices to the Office of the United States Trustee and any official committee of creditors appointed in these chapter 11 cases; *provided, further*, that this Court retains jurisdiction to resolve any disputes regarding, *inter alia*, the reasonableness of KCC's compensation and reimbursement requests.

6. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC incurred pursuant to the Services Agreement shall be an administrative expense of the Debtors' estates.

7. KCC may hold its retainer under the Services Agreement during the chapter 11 cases as security for the payment of expenses only (and not fees) under the Services Agreement.

8. KCC is appointed as agent for the office of the Clerk of this Court (the "*Clerk's Office*") and, as such, is designated as the authorized repository for all proofs of claim and proofs of interest filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors and to provide the Clerk's Office with a certified duplicate thereof as the Clerk's Office may direct.

9. The indemnification provisions in Article IX of the Services Agreement are approved, subject to the following clarifications:

- a. KCC shall not be entitled to indemnification, contribution, or reimbursement for services other than the services to be provided under the Services Agreement, the Motion, and this Order, unless such additional services and the indemnification, contribution, or reimbursement therefore are approved by the Court;
- b. Notwithstanding anything to the contrary in the Services Agreement, the Debtors shall have no obligation to indemnify any person, or provide contribution or reimbursement to any person, for any claim or expense that is either (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from KCC gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtors allege breach of KCC contractual obligations under the Services Agreement unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution, or reimbursement under the terms of the Services Agreement as modified by the Motion and Order; and



- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Services Agreement (as modified by this Order), including without limitation the advancement of defense costs, KCC must file an application before this Court, and the Debtors may not pay any such amounts before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for payment related to indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC.

10. Notwithstanding anything to the contrary in the Services Agreement, (a) there shall be no limitation of liability in favor of KCC and (b) this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

11. If these cases convert to cases under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services until the claims filed in the chapter 11 cases have been completely processed; if claims agent representation is necessary in the converted chapter 7 cases, KCC will continue to be paid in accordance with section 156(c) of title 28 of the United States Code under the terms set out in the Services Agreement and this Order; provided, however, that nothing herein obligates a successor chapter 7 trustee or chapter 11 trustee to employ KCC.

12. KCC shall not cease providing claims processing services during the chapter 11 cases for any reason without prior order of this Court authorizing KCC to do so; provided, however, that KCC may seek such an order on expedited notice by filing a request with the Court with notice of such request to be served on the Debtors, the Office of the United States Trustee and any official committee of creditors appointed in these cases by facsimile or overnight

delivery; provided further, that except as expressly provided herein, the Debtors and KCC may otherwise terminate or suspend other services as provided under the Services Agreement.

13. The relief requested herein shall continue to apply to any of the Debtors' affiliates and their respective estates that subsequently commence chapter 11 cases without the need for any further requests or motions.

14. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied by the contents of the Motion.

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

16. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

Dated: \_\_\_\_\_, 2011  
Wilmington, Delaware

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United States Bankruptcy Judge

**EXHIBIT 1**

**Services Agreement**

## KCC AGREEMENT FOR SERVICES

and the Section 156(c) Order shall be reasonably acceptable to KCC. If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services in accordance with Section 156(c) and under the terms of this Agreement.

G. To the extent permitted by applicable law, KCC shall receive a retainer in the amount of \$25,000 (the "Retainer") that may be held by KCC as security for the Company's payment obligations under the Agreement. The Retainer is due upon execution of this Agreement. KCC shall be entitled to hold the Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Retainer that remains following application of the Retainer to the payment of unpaid invoices.

### III. RIGHTS OF OWNERSHIP

A. The parties understand that the software programs and other materials furnished by KCC pursuant to this Agreement and/or developed during the course of this Agreement by KCC are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Company agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement.

B. The Company further agrees that any ideas, concepts, know-how or techniques relating to data processing or KCC's performance of its services developed or utilized during the term of this Agreement by KCC shall be the exclusive property of KCC. Fees and expenses paid by the Company do not vest in the Company any rights in such property, it being understood that such property is only being made available for the Company's use during and in connection with the services provided by KCC under this Agreement.

### IV. NON-SOLICITATION

The Company agrees that neither it nor its subsidiaries or other affiliated companies shall directly or indirectly solicit for employment, employ or otherwise retain employees of KCC during the term of this Agreement and for a period of twelve (12) months after termination of this Agreement unless KCC provides prior written consent to such solicitation or retention.

### V. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information.

## KCC AGREEMENT FOR SERVICES

### VI. SUSPENSION OF SERVICE AND TERMINATION

A. This Agreement shall remain in force until terminated or suspended by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

B. In the event that this contract is terminated, regardless of the reason for such termination, KCC shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions and KCC shall provide all necessary staff, services and assistance required for an orderly transfer. The Company agrees to pay for such services in accordance with KCC's then existing prices for such services. If such termination occurs following entry of the Section 156(c) Order, the Company shall immediately seek entry of an order (in form and substance reasonably acceptable to KCC) that discharges KCC from service and responsibility under Section 156(c) and this Agreement.

C. Any data, programs, storage media or other materials furnished by the Company to KCC or received by KCC in connection with the services provided under the terms of this Agreement may be retained by KCC until the services provided are paid for, or until this Agreement is terminated with the services paid in full. The Company shall remain liable for all fees and expenses imposed under this Agreement as a result of data or physical media maintained or stored by KCC. KCC shall dispose of the data and media in the manner requested by the Company. The Company agrees to pay KCC for reasonable expenses incurred as a result of the disposition of data or media. If the Company has not utilized KCC's services under this Agreement for a period of at least ninety (90) days, KCC may dispose of the data or media, and be reimbursed by the Company for the expense of such disposition, after giving the Company thirty (30) days' notice. Notwithstanding any term herein to the contrary, following entry of the Section 156(c) Order, the disposition of any data or media by KCC shall be in accordance with any applicable instructions from the clerk of the Bankruptcy Court, local Bankruptcy Court rules and orders of the Bankruptcy Court.

### VII. SYSTEM IMPROVEMENTS

KCC strives to provide continuous improvements in the quality of service to its clients. KCC, therefore, reserves the right to make changes in operating procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the KCC data center serving the Company, so long as any such changes do not materially interfere with ongoing services provided to the Company in connection with the Company's chapter 11 case.

## KCC AGREEMENT FOR SERVICES

### VIII. BANK ACCOUNTS

At the Company's request, KCC shall be authorized to establish accounts with financial institutions in the name of and as agent for the Company. To the extent that certain financial products are provided to the Company pursuant to KCC's agreement with financial institutions, KCC may receive compensation from such financial institutions for the services KCC provides pursuant to such agreement.

### IX. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

A. The Company shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance under this Agreement. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. The Company shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that the Company becomes aware of with respect to the services provided by KCC under this Agreement. The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

B. Except as provided herein, KCC's liability to the Company or any person making a claim through or under the Company for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable to the Company for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement.

C. The Company is responsible for the accuracy of the programs, data and information it or any Company Party submits for processing to KCC and for the output of such information. KCC does not verify information provided by the Company and, with respect to the preparation of schedules and statements, all decisions are at the sole discretion and direction of the Company. The Company reviews and approves all schedules and statements filed on behalf of, or by, the Company; KCC bears no responsibility for the accuracy or contents therein. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs and data submitted by the Company to KCC.

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

## KCC AGREEMENT FOR SERVICES

### X. FORCE MAJEURE

Whenever performance by KCC of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war condition, or by reason of any other matter beyond KCC's reasonable control, then such performance shall be excused and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

### XI. INDEPENDENT CONTRACTORS

The Company and KCC are and shall be independent contractors of each other and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of this Agreement.

### XII. NOTICES

All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or electronic mail or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth below:

Kurtzman Carson Consultants LLC  
2335 Alaska Ave.  
El Segundo, CA 90245  
Attn: Drake D. Foster  
Tel: (310) 823-9000  
Fax: (310) 823-9133  
E-Mail: [dfoster@kccllc.com](mailto:dfoster@kccllc.com)

Company  
Address  
City, ST Zip  
Attn:  
Tel:  
Fax:

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

### XIII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

### XIV. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, other agreements, and communications oral and written between the parties relating to the subject matter of this Agreement. The Company represents that it has the authority to enter into this

## KCC AGREEMENT FOR SERVICES

Agreement, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement may be modified only by a written instrument duly executed by an authorized representative of the Company and an officer of KCC.

### XV. COUNTERPARTS; EFFECTIVENESS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, which delivery may be made by exchange of copies of the signature page by facsimile or electronic mail.

### XVI. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned without written consent by KCC to a wholly-owned subsidiary or affiliate of KCC.

### XVII. ARBITRATION

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) shall be entered in any court having jurisdiction thereof. For that purpose, the parties hereto consent to the jurisdiction and venue of an appropriate court located in Los Angeles County, State of California.

### XVIII. ATTORNEYS' FEES

In the event that any legal action, including an action for declaratory relief, is brought to enforce the performance or interpret the provisions of this Agreement, the parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs, and all other related expenses, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.

[SIGNATURE PAGE FOLLOWS]





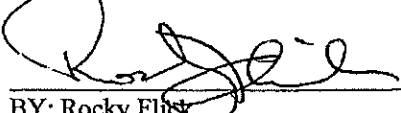
## KCC AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date mentioned above.

Kurtzman Carson Consultants LLC

  
BY: Albert H. Kass      DATE: 11/4/11  
TITLE: Vice President, Corporate Restructuring Services

Blitz U.S.A., Inc.

  
BY: Rocky Flisk      DATE: 11/4/11  
TITLE: Chief Executive Officer

**EXHIBIT B**

**Kass Declaration**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

BLITZ U.S.A., Inc., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 11-[ ] ( )  
)  
) (Joint Administration Requested)  
)

**DECLARATION OF ALBERT H. KASS IN SUPPORT OF  
THE DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING  
THE RETENTION AND EMPLOYMENT OF KURTZMAN CARSON  
CONSULTANTS LLC AS NOTICE AND CLAIMS AGENT FOR THE DEBTORS  
AND DEBTORS IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE**

I, Albert H. Kass, under penalty of perjury, declare as follows:

17. I am a Vice President of Corporate Restructuring Services for Kurtzman Carson Consultants LLC ("**KCC**"),<sup>2</sup> located at 2335 Alaska Avenue, El Segundo, California 90245. The matters set forth herein are made of my own personal knowledge and, if called and sworn as a witness, I could and would testify competently thereto.<sup>3</sup>

18. This Declaration is made in support of Debtors' Motion for Entry of an Order Authorizing the Retention and Employment of KCC as Notice and Claims Agent to Blitz U.S.A., Inc. ("**Blitz**") and certain of its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), which has been filed contemporaneously herewith (the "**Motion**").

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. (8825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); Blitz U.S.A., Inc. (8104); and F3 Brands LLC (2604). The location of the Debtors' corporate headquarters and the Debtors' service address is: 404 26th Ave. NW Miami, OK 74354.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

<sup>3</sup> Certain of the disclosures herein relate to matters within the knowledge of other professionals at KCC and are based on information provided by them.

19. As agent and custodian of the Court records pursuant to section 156(c) of title 28 of the United States Code, KCC will perform, at the request of the Office of the Clerk of the Court (the “*Clerk’s Office*”), the noticing and claims related services specified in the Services Agreement, the Motion, and the Order. In addition, at the Debtors’ request, KCC will perform such other noticing, claims, balloting, administrative, technical, and support services specified in the Services Agreement, the Motion, and the Order.

20. KCC is one of the country’s leading chapter 11 administrators, with experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases. Indeed, KCC has developed efficient and cost-effective methods to handle properly the voluminous mailings associated with the noticing, claims processing, and balloting portions of chapter 11 cases to ensure the orderly and fair treatment of creditors, equity security holders, and all parties in interest. Further, KCC will work with the Clerk’s Office to ensure that such methodology conforms with all of the Court’s procedures, the Local Rules, and the provisions of any orders entered by this Court.

21. KCC has substantial experience in the matters of this size and complexity, and has acted as the official notice and claims agent in many large bankruptcy cases pending in this District. *See, e.g., In re NewPage Corp.*, No. 11-12804 (KG) (Bankr. D. Del. Sept. 8, 2011); *In re Neb. Book Co.*, No. 11-12005 (PJW) (Bankr. D. Del. June 28, 2011); *In re DSI Holdings, Inc.*, No. 11-11941 (KG) (Bankr. D. Del. June 28, 2011); *In re Caribe Media Inc.*, No. 11-11387 (KG) (Bankr. D. Del. May 5, 2011); *In re Barnes Bay Dev., Ltd.*, No. 11-10792 (PJW) (Bankr. D. Del. Mar. 21, 2011); *In re Appleseed’s Intermediate Holdings LLC*, No. 11-10160 (KG) (Bankr. D. Del. Jan. 20, 2011); *In re Local Insight Media Holdings, Inc.*, No. 10-13677 (KG) (Bankr. D. Del. Nov. 19, 2010).

22. KCC represents, among other things, the following:

- a. KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the notice and claims agent in these chapter 11 cases;
- b. By accepting employment in these chapter 11 cases, KCC waives any rights to receive compensation from the United States government in its capacity as the notice and claims agent in these chapter 11 cases;
- c. In its capacity as the notice and claims agent in these chapter 11 cases, KCC will not be an agent of the United States and will not act on behalf of the United States; and
- d. KCC will not employ any past or present employees of the Debtors in connection with its work as the notice and claims agent in these chapter 11 cases.

23. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither KCC, nor any employee thereof, has any materially adverse connection with the Debtors, their creditors, or any other party in interest herein. KCC may have relationships with certain of the Debtors' creditors as vendors or in connection with cases in which KCC serves or has served in a neutral capacity as noticing, claims, and balloting agent for another chapter 11 debtor or as class action settlement claims administrator.

24. In addition, KCC personnel may have relationships with some of the Debtors' creditors or other parties in interest. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal nature and completely unrelated to these chapter 11 cases. KCC has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, KCC has had and will continue to have relationships in the ordinary course of its business with certain vendors, professionals, and other parties in interest that may be involved in the Debtors' cases in matters unrelated to these cases. KCC may also provide professional services to entities or persons that may be creditors or parties in interest in these chapter 11 cases,

which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors. To the best of my knowledge, neither KCC, nor any employees thereof, represent any interest materially adverse to the Debtors' estates with respect to any matter upon which KCC is to be engaged. Based on the foregoing, I believe that KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

25. KCC is an indirect subsidiary of Computershare Limited. Computershare Limited is a financial services and technologies provider for the global securities industry. Within the Computershare corporate structure, KCC operates as a separate, segregated business unit. As such, any relationships that Computershare Limited and its affiliates maintain do not create an interest of KCC that would be materially adverse to the Debtors' estates or any class of creditors or equity security holders.

26. Although the Debtors do not propose to retain KCC under section 327 of the Bankruptcy Code, KCC has nonetheless conducted a conflicts analysis to determine whether it has any relationships with the entities provided by the Debtors. At this time, we are not aware of any relationship which would present a disqualifying conflict of interest. Should KCC discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, KCC will use reasonable efforts to file promptly a supplemental declaration.

27. In performing the services of notice and claims agent, KCC will charge the Debtors the rates set forth in the Services Agreement, which is annexed as Exhibit 1 to Exhibit A to the Motion.

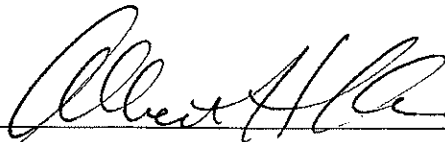
28. The proposed compensation arrangement is consistent with, and typical of, arrangements of KCC and its competitor firms to provide claims and noticing agent services in chapter 11 cases.

29. KCC requests that the Debtors pay its fees and expenses in accordance with the terms of the Services Agreement. KCC will submit invoices summarizing, in reasonable detail, the services and expenses for which compensation is sought.

30. KCC will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of section 156(c) of title 28 of the United States Code.

*[Remainder of Page Intentionally Left Blank]*

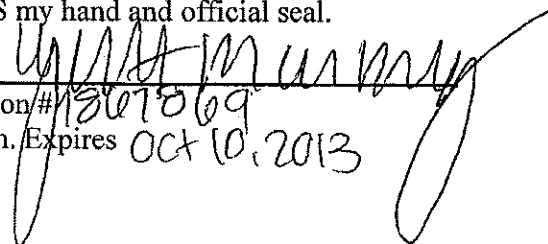
I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief, and that I executed this Declaration on November 8, 2011, in Los Angeles, California.

By:   
Albert H. Kass  
Vice President of Corporate Restructuring Services  
Kurtzman Carson Consultants LLC

State of California  
County of Los Angeles

Subscribed and sworn to before me on this 8<sup>th</sup> day of November 2011, by Albert Kass, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

WITNESS my hand and official seal.

Signature   
Commission # 1867869  
My Comm. Expires Oct 10, 2013

