ATTORNEYS GENERAL OF THE STATE OF
NEW YORK AND THE STATE OF NEW JERSEY

In the Matter of

Assurance No. 24-050

Investigation by

LETITIA JAMES,

Attorney General of the State of New York, and

MATTHEW J. PLATKIN,

Attorney General of the State of New Jersey, of

Guardian Service Industries, Inc.

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York and the Office of the Attorney General of the State of New Jersey (collectively, "the OAGs") have commenced investigations pursuant to state and federal antitrust law into the potential harm to competition caused by the use of restrictive provisions between competitors in various labor markets, including the building service contractor ("Contractor") industry ("the Investigation"). As part of their investigation of Guardian Service Industries, Inc. ("Guardian"), the OAGs have specifically considered the harm to competition caused by agreements between Guardian and its labor market competitors ("Competitors")—including residential and commercial properties ("Properties").

The OAGs, among other things, reviewed documents and information produced by Guardian, such as contracts and communications between Guardian and the Properties.

This Assurance of Discontinuance ("Assurance") contains the findings of the OAGs' investigation, and the relief agreed to by the OAGs and Guardian (collectively, the "Parties").

OAGS' FINDINGS

1. Guardian is one of the largest building services contractors in the Tri-State Area.

2. Guardian is a building services contractor for residential and commercial properties in New York and New Jersey.

3. The labor market for employees who provide services to residential and commercial buildings, which includes both employees of building services contractors and employees who work directly for properties ("Employees"), is a relevant antitrust market. New York and New Jersey are both relevant geographic markets.

4. Contractors and Properties compete for employees on the basis of salaries, benefits, and career opportunities.

5. "No-poach Agreements" are agreements among two or more companies not to solicit, recruit or hire each other's employees; these agreements can be written or verbal. In a well-functioning labor market, employers compete to attract the most valuable talent for their needs. No-poach Agreements reduce competition for employees and can disrupt the normal compensation-setting mechanisms that apply in labor markets, to the detriment of the affected employees who may be deprived of competitively important information and access to better job opportunities.

6. The OAGs have determined that Guardian entered into No-poach Agreements with some of its Property customers in New York and New Jersey. These agreements reduced competition for employees between Guardian and the Properties in New York and New Jersey.

7. The OAGs did not find any valid procompetitive justifications for these agreements.

8. The OAGs find that Guardian's entry into No-poach Agreements with the Properties is likely in violation of the Donnelly Act, N.J.S.A. 56:9-3, Section 1 of the Sherman Act, and Section 63(12) of the New York Executive Law.

9. Guardian enters into this Assurance for the purpose of resolving the OAGs' Investigation only, and this Assurance does not create any rights for any third party. Guardian neither admits nor denies the OAGs' findings above. Guardian is cooperating with the OAGs' Investigation.

10. The OAGs find the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAGs are willing to accept this Assurance pursuant to Executive Law § 63(15) and N.J.S.A. 56:9-6, in lieu of commencing a statutory proceeding for violations of the Donnelly Act, Gen. Bus. Law § 340 et. seq., N.J.S.A. 56:9-3, the Sherman Act, § 1 (15 U.S.C. § 1), and Executive Law § 63(12) based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

11. Guardian shall not engage, or attempt to engage, in agreements restricting competition in the labor market with its labor market Competitors, including but not limited to attempting to enter into, entering into, maintaining or enforcing any No-poach Agreements with any Competitor. Guardian shall also not agree with any Competitor to in any way refrain from,

request that any Competitor in any way refrain from, or pressure any Competitor in any way to refrain from soliciting, recruiting, hiring or otherwise competing for Employees.

12. Guardian will not enforce No-poach Agreements in any of its existing agreements with Competitors, and will terminate any ongoing No-poach Agreements with Competitors, whether written or verbal, within thirty (30) days of this Assurance.

13. Within fourteen (14) days of execution of this Assurance, Guardian will, as necessary, update the language in its standard contracts with Properties to remove any No-poach Agreements.

14. Guardian will notify any Property with a current No-poach Agreement of the entry of this Assurance and provide them with a copy within fourteen (14) days of executing this Assurance.

15. Until the date when the OAGs notify Guardian that the Investigation is concluded, Guardian agrees to continue to provide full, complete and prompt cooperation with the OAGs in related proceedings and actions, against any other person, corporation or entity. Guardian agrees to use its best efforts to secure the full and truthful cooperation of current officers, directors, employees and agents with the OAGs' Investigation and any related proceedings and actions.

16. For ten (10) years following the date of this Assurance, Guardian will promptly notify the OAGs if it learns of any violation of this Assurance. Descriptions of violations of this Assurance shall include, to the extent practicable, a description of any communications constituting the violation, including the date and place of the communication, the persons involved, and the subject matter of the communication.

17. For ten (10) years following the date of this Assurance, Guardian will promptly notify the OAGs if it learns of any effort by a Competitor to enter into or enforce a No-poach Agreement.

18. Cooperation shall also include, but is not limited to: (a) voluntarily, and promptly, producing, without service of subpoena, to the extent permitted by law or regulation, all information, documents or other tangible evidence reasonably requested by the OAGs that relates to the OAGs' Investigation; (b) promptly providing to the OAGs an oral proffer describing all material facts that are known or subsequently learned by Guardian related to any No-poach Agreements; (c) working, if requested by the OAGs, to ensure that current Guardian officers, directors, employees and agents attend, on reasonable notice, any proceedings (including but not limited to meetings, interviews, hearings, depositions, grand jury proceedings and trials) and answer completely, candidly, and truthfully any and all inquiries relating to the subject matter of the OAGs' Investigation that may be put to such persons by the OAGs (or any deputies, assistants or agents), without the necessity of a subpoena.

19. The cooperation set forth herein is subject to Guardian's right to withhold documents or testimony on the grounds of privilege, work-product or other legal doctrine, and Guardian does not waive any privilege, work-product or other legal doctrine applicable to disclosure of information by cooperating with the OAGs' Investigation.

20. Acceptance of this Assurance by the OAGs is not an approval or endorsement by OAGs of any of Guardian's policies, practices or procedures, and Guardian shall make no representation to the contrary.

21. For ten (10) years following the date of this Assurance, Guardian shall provide the OAGs with a certification affirming its compliance with the requirements set forth in this

Assurance, to be submitted to the OAGs on December 1 of each year, starting on December 1, 2024. This certification shall be in writing and be signed by Guardian. In any case where the circumstances warrant, the OAGs may require Guardian to file an interim certification of compliance upon thirty (30) days' notice.

22. All correspondence related to this Assurance must reference Assurance No. 24-050.

MISCELLANEOUS

Subsequent Proceedings:

23. Guardian expressly agrees and acknowledges that the OAGs may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to Paragraph 29 and agrees and acknowledges that in such event:

a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;

b. the OAGs may use statements, documents, or other materials produced or provided by Guardian prior to or after the effective date of this Assurance;

c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Guardian irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue;

d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15) and N.J.S.A. 56:9-6.

24. If a court of competent jurisdiction determines that Guardian has violated the Assurance, Guardian shall pay to the OAGs the reasonable cost, if any, of obtaining such

determination and of enforcing this Assurance, including, without limitation, legal fees, expenses, and court costs.

Effects of Assurance:

25. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Guardian. Guardian shall include in any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. Guardian shall notify the OAGs at least 30 days prior to (a) the dissolution of Guardian; (b) the acquisition, merger, or consolidation of Guardian; or (c) any other change in Guardian, including assignment and the creation, sale, or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Assurance.

26. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

27. Any failure by the OAGs to insist upon the strict performance by Guardian of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAGs, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Guardian.

Communications:

28. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 24-050, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows: If to Guardian, to Alan Bressler. If to the OAGs, to the persons

holding the titles of Bureau Chief, Antitrust Bureau, Deputy Bureau Chief, Antitrust Bureau, and Senior Enforcement Counsel, Antitrust Bureau.

Representations and Warranties:

29. The OAGs have agreed to the terms of this Assurance based on, among other things, the representations made to the OAGs by Guardian and their counsel and the OAGs' own factual investigation as set forth in the Findings. Guardian represents and warrants that neither it nor its counsel has made any material representations to the OAGs that are inaccurate or misleading. If any material representations by Guardian or their counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAGs in their sole discretion.

30. No representations, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Guardian in agreeing to this Assurance.

31. Guardian represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved. Guardian further represents and warrants that Alan Bressler, as the signatory to this Assurance, is a duly authorized officer acting on behalf of Guardian.

General Principles:

32. Unless a term limit for compliance is otherwise specified within this Assurance, Guardian's obligations under this Assurance are enduring. Nothing in this Assurance shall relieve Guardian of obligations imposed by any applicable state or federal law or regulation or other applicable law.

33. Guardian shall not in any manner discriminate or retaliate against any of their employees, including but not limited to employees who cooperated or are perceived to have cooperated with the investigation of this matter or any future investigation related to enforcing this Assurance.

34. Guardian agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance or creating the impression that this Assurance is without legal or factual basis. Nothing in this paragraph affects Guardian's right to take legal or factual positions in litigation or other proceedings in which the OAGs are not a party.

35. Nothing contained herein shall be construed to limit the remedies available to the OAGs in the event that Guardian violates this Assurance after its effective date.

36. This Assurance may not be amended except by an instrument in writing signed on behalf of the OAGs and Guardian.

37. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAGs, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

38. Guardian acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

39. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

40. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

41. This Assurance may be executed in multiple counterparts by the OAGs and Guardian. All counterparts so executed shall constitute one agreement binding upon the OAGs and Guardian, notwithstanding that the OAGs and Guardian are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

42. The effective date of this Assurance shall be June 20, 2024.

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