



2021 Alexander L. Paskay Memorial Virtual Bankruptcy Seminar

Retail: Lessons Learned from Recent Retail Cases

Hon. Lori V. Vaughan, Moderator

U.S. Bankruptcy Court (M.D. Fla.) | Orlando

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Retail: Lessons Learned from Recent Retail Cases

This panel will discuss several key and unique issues that have arisen in a national sampling of retail chapter 11 cases, including the effects of the COVID-19 pandemic. The panelists will explore the cases' varied results, the processes employed to reach each conclusion, and the issues that arose along the way. Specifically, topics include "GOB" sale processes, consignments, sales of intellectual property, § 503(b)(9) claims, cash collateral and DIP lending, landlord/tenant disputes, and certain case-specific nuances.

Panelists:

- *Hon. Lori V. Vaughan*, Moderator
U.S. Bankruptcy Court (M.D. Fla.) | Orlando
- *Ryan E. Davis*
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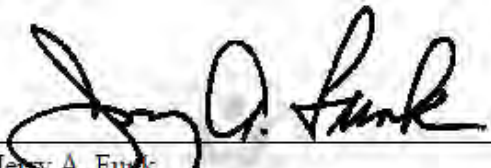
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I.A. Stein Mart GOB Sale Order

Dated: September 15, 2020

ORDERED.



Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:	Chapter 11
STEIN MART, INC.	Case No. 3:20-bk-2387
	Jointly Administered with
STEIN MART BUYING CORP.	Case No. 3:20-bk-2388
STEIN MART HOLDING CORP.,	Case No. 3:20-bk-2389
Debtors.	

**ORDER PURSUANT TO 11 U.S.C. §§ 102 AND 105(A) AND
BANKRUPTCY RULES 2002(M) AND 9007 ESTABLISHING CERTAIN
CASE MANAGEMENT AND NOTICE PROCEDURES AND NUNC PRO TUNC
APPROVAL OF GOING OUT OF BUSINESS NOTICE**

THIS CASE came for consideration upon the motion (the “Motion”)¹ [Docket No. 155] of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Proposed Order”), establishing certain case management and notice procedures in Debtors’ chapter 11 case and nunc pro tunc approval of the GOB Notice; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334; and that this Court may enter a final order consistent with Article III of the United States

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§1408 and 1409; and this Court having found that the added cost of serving employees warrants limiting service of the GOB Notice to creditors other than employees and the United States Trustee; and this Court having found that the GOB Notice complies with Bankruptcy Rule 2002; and this Court having Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court on September 11, 2020; 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 of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED:

1. The Motion is granted as set forth herein.
2. The Limited Notice Matters, shall be served to only those parties on the Limited Service List, defined below, and in certain special circumstances, to those parties on the Special Service List, defined below, and Debtors and all other parties serving notice of Limited Notice Matters shall be and hereby are relieved from any obligation to serve any other parties.
3. The following pleadings or types of pleadings (the "Limited Notice Pleadings") shall be served to the Limited Service List (defined below) and the Special Service List, if applicable:
 - (a) any proposed use, sale, or lease of property of the estate pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(2), 4001(b), and 6004 (except a sale of substantially all assets of the Debtors—~~see~~ Exempt Matters List);
 - (b) any proposed extension of the Debtors' exclusive time to file plans of reorganization and solicit acceptance thereof (including, without limitation,

the time to file disclosure statements) pursuant to section 1121 of the Bankruptcy Code and Bankruptcy Rule 3016;

- (c) any proposed approval of a compromise or settlement of a controversy pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(3) and/or 9019;
- (d) any proposed abandonment or disposition of property of the estate pursuant to section 554 of the Bankruptcy Code and Bankruptcy Rules 6007(a) or (c);
- (e) any proposed assumption or rejection of contracts or leases under section 365 of the Bankruptcy Code and Bankruptcy Rule 6006;
- (f) any proposal to prohibit or condition the use, sale or lease of property pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 4001(a);
- (g) any proposal to obtain credit on a secured basis or out of the ordinary course of business or grant a lien pursuant to Bankruptcy Code section 364 and Bankruptcy Rule 4001(b) or (c);
- (h) any proposed agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale or lease of property, providing adequate protection, use of cash collateral and obtaining credit pursuant to Bankruptcy Code sections 361, 362, 363, or 364 and Bankruptcy Rule 4001(d);
- (i) any proposed application for employment of professionals pursuant to sections 327, 1103, or 1104 of the Bankruptcy Code or Bankruptcy Rule 2014;
- (j) any proposed application for compensation or reimbursement of expenses of professionals, pursuant to sections 328, 329, 330, or 331 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(6), 2016, 2017, and 6005;
- (k) a hearing on any contested matter in this case that requires notice to all creditors or equity holders pursuant to the Bankruptcy Code, Bankruptcy Rule 9014, or the Local Bankruptcy Rules;
- (l) any motion to dismiss or convert this chapter 11 case pursuant to section 1112 of the Bankruptcy Code;
- (m) any motion to appoint a trustee or examiner pursuant to section 1104 of the Bankruptcy Code; and
- (n) all other pleadings, papers, and requests for relief or other order of the Court not specifically excluded on the Exempt Matters List as set forth in paragraph 12 below.

4. Notice of the Limited Notice Pleadings shall be limited to the following persons (the “Limited Service List”): (1) the Debtors; (2) the Office of the U.S. Trustee; (3) secured creditors, excluding taxing authorities with liens on Debtors’ property unless they are on the Special Service List; (4) any Official Committee of Unsecured Creditors, if appointed, but not any particular unsecured creditor, unless such creditor files a written request for notice with the Court; (5) counsel, creditors and other interested parties who file with the Court a written request for notice in this case or in related adversary proceedings.

5. In the case of all filings for which particularized notices are required by Rules 2002(a)(2) and (3), 4001, 6004, 6006, 6007, or 9019, notice shall be provided to the following persons (the “Special Service List”), in addition to the Limited Service List, unless otherwise ordered by the Court:

- (a) Filings related to the use, sale, lease or abandonment of property other than in the ordinary course of business shall be served on each person having an interest in the property;
- (b) Filings related to relief from, or otherwise related to, the automatic stay shall be served on each person having a lien or encumbrance on the affected property;
- (c) Filings relating to the use of cash collateral or obtaining credit shall be served on each person with an interest in the cash collateral or each entity with a lien or other interest in property on which a lien is proposed to be granted;
- (d) Filings relating to approval of proposed compromises or settlements shall be served on any person that is a party to the compromise or settlement or which may be directly adversely affected thereby;
- (e) Filings relating to rights under section 365 of the Code shall be served on each party to the executory contract(s) or unexpired lease(s) affected thereby; and
- (f) Filings relating to applications for payment of compensation or reimbursement of expenses shall be served on each professional person who is seeking payment of compensation or reimbursement of expenses, and whose retention has been authorized by the Court in this case.

6. Notices of the matters or proceedings described in the following Bankruptcy Rules shall be exempt from application of the Limited Service List (the “Exempt Matters List”):

- (a) Bankruptcy Rule 2002(a)(1) (i.e., any meetings of creditors pursuant to section 341 of the Bankruptcy Code);
- (b) Bankruptcy Rule 2002(a)(2) (i.e., any proposed use, sale or lease of property of the estate, other than in the ordinary course of business, to the extent that such use, sale or lease concerns all or substantially all of Debtors’ assets—otherwise, the Limited Service List and the Special Service List shall be used);
- (c) Bankruptcy Rule 2002(a)(5) (i.e., the time fixed to accept or reject a proposed modification of a plan);
- (d) Bankruptcy Rule 2002(b) (i.e., the time fixed for filing objections and any hearing to consider approval of a disclosure statement and the time fixed for filing objections and any hearing to consider confirmation of a plan);
- (e) Bankruptcy Rule 2002(f)(1) (i.e., the entry of an order for relief);
- (f) Bankruptcy Rule 2002(f)(7) (i.e., the entry of an order confirming a chapter 11 plan)
- (g) Service of a subpoena; and
- (h) Service of process to defendants in an adversary proceeding.

7. GOB Notice. The Court approves the GOB Notice attached as Exhibit B to the Motion nunc pro tunc and approves limiting notice to creditors, other than employees, and the United States Trustee.

8. Service on Counsel. If any party is represented by counsel in this case, service shall be to counsel and not to the party, provided that service of a subpoena or service of process in an adversary proceeding shall be to the applicable party, unless such counsel and party specifically consent to service of the subpoena or other process on counsel.

9. Notice Time. The amount of notice time shall be governed by the Bankruptcy Rules, the Local Bankruptcy Rules, and any order entered by the Court limiting the amount of notice.

10. Type of Service. For expedited notice of 10 days or less from the date of service, any party or its counsel that does not receive notice through ECF shall be provided notice by email, facsimile, hand delivery or overnight delivery whenever possible, and by U.S. Mail only if the other methods are not available or feasible. For all other matters, any party or its counsel that does not receive notice through ECF shall be given notice by U.S. Mail, which shall be adequate.

11. The Debtors shall keep an updated Limited Service List and provide same to any party requesting it.

12. Notwithstanding anything to the contrary in this Order, this Order shall in no way alter the Bankruptcy Rules and Local Bankruptcy Rules regarding service of a subpoena and service of process in an adversary proceeding.

13. Notice given in accordance with the foregoing notice procedures is be deemed adequate pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

14. Except as specifically provided herein, the notice procedures in the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules shall continue to apply.

15. This Court shall retain exclusive jurisdiction to enforce and interpret the terms of this Order.

Debtors' Counsel is directed to serve a copy of this order on interested parties who do not receive service by CM/ECF and file a proof of service within three days of entry of this order.

I.B. Stein Mart Final Order re Consulting Agreements

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

In re:)	
)	Chapter 11
)	
LOVES FURNITURE, INC., ¹)	Case No. 21-40083
)	Judge Thomas J. Tucker
Debtor.)	
)	

**FINAL ORDER (I) AUTHORIZING THE DEBTOR TO (A) ASSUME
PREPETITION CONSULTING AGREEMENTS; (B) ENTER INTO THE
CONSULTING AGREEMENT, (II) AUTHORIZING AND
APPROVING THE CONDUCT OF STORE CLOSING SALES, WITH
SUCH SALES TO BE FREE AND CLEAR OF ALL LIENS, CLAIMS,
AND ENCUMBRANCES, (III) AUTHORIZING AND APPROVING THE
STORE CLOSING PROCEDURES, AND (IV) GRANTING RELATED
RELIEF**

Upon the motion (Docket # 28, the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for entry of a final order (this “Final Order”): (a) authorizing the Debtor to (i) assume the Prepetition Consulting Agreements; and (ii) enter into the Consulting Agreement, (b) authorizing and approving the Store Closings in accordance with the terms of the Consulting Agreement and the Store Closing Procedures, with such sales to be free and clear

¹ Tax ID Number 85-0548667, located at 6500 E. 14 Mile Rd., Warren, MI 48092

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion or the Consulting Agreement, as applicable.

of all liens, claims, and encumbrances, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334 and L.R. 83.50 (E.D. Mich.); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion, the objections to the Motion, and having heard the statements in support of and opposing the relief requested therein at a hearing before this Court held on February 5, 2021 (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 of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor; and based on the stipulation filed February 5, 2021 (Docket # 190),

THE COURT FINDS AND CONCLUDES THAT:³

A. The Debtor has advanced sound business reasons for entering into the Consulting Agreement (including the assumption of the Prepetition Consulting Agreements) and adopting the Store Closing Procedures as set forth in the Motion and at the Hearing, as modified hereby, and entering into the Consulting Agreement, as modified hereby, is a reasonable exercise of the Debtor's business judgment and in the best interest of the Debtor and its estate.

B. The Consulting Agreement, a copy of which is attached to this Final Order as **Schedule 1**, was negotiated, proposed, and entered into by the Agent and the Debtor without collusion, from arm's length bargaining positions, and in good faith as that term is used in sections 363(m) and 364(e) of the Bankruptcy Code. The Agent will be protected by sections 363(m) and 364(e) of the Bankruptcy Code in the event that this Final Order is reversed or modified on appeal. The Debtor was free to deal with any other party interested in acting as the agent in the transactions described in the Consulting Agreement. Neither the Debtor nor the Agent has engaged in any conduct that would cause or permit the Sales, the Consulting Agreement, or any related action or the transactions contemplated

³ Findings of fact will be construed as conclusions of law and conclusions of law will be construed as findings of fact where appropriate. *See* Fed. R. Bankr. P. 7052.

thereby to be avoided under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Agent has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Agent has not acted in a collusive manner with any person and was not controlled by any agreement among bidders. The Agent's prospective performance and payment of amounts owing under the Consulting Agreement are in good faith and for valid business purposes and uses.

C. The Agent is not an "insider" as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling stockholders exists between any of the parties comprising the Agent and the Debtor.

D. The Store Closing Procedures, which are attached hereto as **Schedule 2**, are reasonable and appropriate, and the conduct of the Sales in accordance with the Store Closing Procedures, subject to the provisions of this Order, will provide an efficient means for the Debtor to dispose of the Company Inventory, and are in the best interest of the Debtor's estate.

E. The relief set forth herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate and the Debtor has demonstrated good, sufficient and sound business purposes and justifications for the relief approved herein.

F. The Store Closings and Sales, undertaken in accordance with this Order, are in the best interest of the Debtor's estate.

G. The Dispute Resolution Procedures (as defined herein) are fair and reasonable, and comply with applicable law.

H. The Debtor has represented that it intends to neither sell nor lease personally identifiable information under the relief requested in the Motion, although the Agent will be authorized to distribute emails and promotional materials to the Debtor's customers consistent with the Debtor's existing policies on the use of consumer information.

I. The entry of this Final Order is in the best interests of the Debtor and its estate, creditors, and interest holders and all other parties in interest herein.

IT IS ORDERED THAT:

1. The Motion is granted, as modified herein, on a final basis as set forth in this Final Order.

2. The Debtor is authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Final Order.

3. To the extent of any conflict between this Final Order, the Store Closing Procedures, and the Consulting Agreement,⁴ the terms of this Final Order will control over all other documents, and the Store Closing Procedures will control over the Consulting Agreement.

4. Entry into the Consulting Agreement is undertaken by the parties thereto in good faith, as that term is used in sections 363(m) and 364(e) of the Bankruptcy Code, and Agent will be protected by sections 363(m) and 364(e) of the Bankruptcy Code in the event that this Final Order is reversed, or modified on appeal or vacated by the Court under a subsequent order or by another court. The reversal or modification on appeal of the authorization provided herein to enter into the Consulting Agreement and consummate the transactions contemplated thereby will not affect the validity of such transactions, unless such authorization is duly stayed pending such appeal. The Agent is entitled to all of the benefits and protections afforded by sections 363(m) and 364(e) of the Bankruptcy Code and no appeal, modification, amendment or vacatur will affect the validity and enforceability of the sale or the liens or priority authorized or created under the Consulting Agreement and this Final Order. The transactions contemplated by the

⁴ All references to the Consulting Agreement in the Ordered paragraphs herein mean the Consulting Agreement as modified by and otherwise subject to the terms and conditions of this Order.

Consulting Agreement are not subject to avoidance under section 363(n) of the Bankruptcy Code.

5. The Debtor's prepetition secured creditors are adequately protected through replacement liens on the Debtor's share of proceeds of the Sales, and other rights and remedies, all as granted in the other Order entered today, entitled "Order (I) Granting Debtor's Motion For Entry Of Order Authorizing (A) Use Of Cash Collateral Under 11 U.S.C. § 363, (B) Permitting Use Of Inventory Potentially Subject To Security Interests And Liens And Preventing Interference With Such Use; And (C) Granting Of Superpriority Claims And Adequate Protection On A Final Basis As To All Parties Other Than Penske Logistics, LLC, And (II) Scheduling Further Hearing As To Penske, Logistics, LLC, Including A Final Hearing," as may be continued or modified by further order of the Court from time to time (Docket # 189, the "Cash Collateral Order"). No further adequate protection, beyond what is set forth in the Cash Collateral Order, is required, except with respect to PFP's replacement lien, which is specifically addressed in paragraph 10 herein as well as the Cash Collateral Order; *provided, however*, that the Cash Collateral Order is not a final order as to the sufficiency of adequate protection as to Penske Logistics.

I. Authority to Enter into the Consulting Agreement.

6. The Consulting Agreement entered into by the Debtor and the Agent, as modified hereby, is approved on a final basis under sections 105(a) and 363 the Bankruptcy Code and, as set forth in the Consulting Agreement, the Prepetition Consulting Agreements⁵ are assumed by the Debtor, as modified hereby, on a final basis under section 365 of the Bankruptcy Code. The Debtor, the Agent, and PFP are authorized, in accordance with this Final Order, the Consulting Agreement, and the Store Closing Procedures, to act and perform in accordance with the terms of the Consulting Agreement, and, to the extent applicable, the Prepetition Consulting Agreements, including (a) making payments required by the Consulting Agreement (and, to the extent applicable, the Prepetition Consulting Agreements) from the Sale Account, including fees and reimbursement of Non-Sale Expenses as approved by the Debtor, to the Agent without the need for any application of the Agent or a further order of this Court (and all such payments of fees and reimbursement of expenses will be free and clear of any and all liens and encumbrances), and (b) allowing the sale of the Company Inventory and Additional Inventory, all as permitted under the Consulting Agreement. The

⁵ All references to the Prepetition Consulting Agreements in the Ordered paragraphs herein mean the Prepetition Consulting Agreements as modified by and otherwise subject to the terms and conditions of this Order.

Agent's fees and expenses will be paid from the proceeds of the Sales without adherence to any weekly, monthly, or aggregate limitation in any DIP financing or cash collateral budget entered in connection with this chapter 11 case, but will be subject to the terms of the Consulting Agreement itself.

7. The Agent is authorized to supplement the Company Inventory in the Sales with Additional Inventory in accordance with the Consulting Agreement.

8. Sales of Company Inventory and Additional Inventory may be run through the Debtor's cash register systems or through systems established by the Agent; *provided, however*, that, if the Debtor's cash register systems are used, the Agent must mark the Additional Inventory using either a "dummy" SKU or department number or in such other manner so as to distinguish the sale of Additional Inventory from the sale of Company Inventory. For the avoidance of doubt, in the ordinary course of business, the proceeds of the Additional Inventory and the Company Inventory must be deposited into the Sale Account. The funds deposited in the Sale Account will, as detailed in the Consulting Agreement, be used to (a) repay the Advance and Augment Fee (including the Advance set forth in the Pre-Bankruptcy Agreements), (b) pay Sale Expenses (including, but not limited to, the Company Inventory Payment), approved Non-Sale Expenses, and advances under Section 2.1(d) of the Consulting Agreement, and (c) to the extent any Sales proceeds remain after all other payments required to be made under the

Consulting Agreement are made, such remaining proceeds will be distributed as “Profits of the Sale” under Section 7 of the Consulting Agreement. For the avoidance of doubt, the above sentence does not constitute a waterfall with respect to the proceeds of the Sales but is solely intended to demonstrate the uses for such proceeds under the Consulting Agreement. Upon commencement of the payment of the Company Inventory Payment, a portion of each Company Inventory Payment, on a not less than weekly basis, will be transferred from the Sale Account to an account to be designated by the Debtor and the Committee following entry of this Order, in an amount of the lesser of (a) 8% of gross receipts from the Debtor from the Company Inventory Payments or (b) \$100,000 per week, starting the week beginning February 15, 2021⁶ to fund the Professional Fee Carveout and the Unsecured Creditors Escrow. If the Professional Fee Carveout and the Unsecured Creditors Escrow have not been fully funded prior to the determination of the Profits of the Sale, then such portion of the Debtors’ share of Profits of the Sale, if any and after payment of the Prepetition Consulting Agreement Claim, necessary to complete funding thereof will be so used.

⁶ To the extent that a weekly payment is less than \$100,000, the cap on payments on subsequent weeks will be lifted to the extent to catch up for any reduced payments.

9. All transactions relating to the Additional Inventory are, will be construed as, and are acknowledged by the Debtor to be, a true consignment from Agent to the Debtor under Article 9 of the Uniform Commercial Code in effect in the applicable state (the “UCC”) and not a consignment for security purposes. The Agent will not be required to file UCC financing statements or notify any prior secured parties of the consignment and the Agent’s security interest in the Additional Inventory and proceeds thereof as set forth in the following paragraph (provided that the Agent is hereby authorized to deliver any notices and file any financing statements and amendments thereof under the applicable UCC identifying the Agent’s interest in the Additional Inventory (and any proceeds thereof) as consigned goods thereunder and the Debtor as the consignee therefor, and the Agent’s security interest in such Additional Inventory and proceeds). At all times and for all purposes, except as set forth in this Final Order or the Consulting Agreement, the Additional Inventory and their proceeds will be the exclusive property of the Agent, and no other person or entity (including, without limitation, the Debtor, its estate, any third person claiming a security interest in the Debtor’s property, including any of the Debtor’s secured lenders, or any party in interest in the chapter 11 case or otherwise) will have any interest in or claim against any of the Additional Inventory (except as to the Debtor’s interest in the proceeds of the Additional Inventory consistent with this Order and the Consulting

Agreement); *provided* that nothing in this Final Order will modify or extinguish the rights or contractual arrangements between the Agent, on the one hand, and the providers of consigned goods, on the other hand. The Additional Inventory will at all times remain subject to the exclusive control of the Agent. The Debtor must insure the Additional Inventory and, if required, promptly file any proofs of loss with regard thereto, with such insurance being paid by the proceeds of the Sales as a Sale Expense.

10. Effective upon the date of payment of the Advance and the Augment Fee (except with respect to Additional Inventory and related proceeds, which security interest will be effective as of the date of the Interim Order), the Agent will have valid, duly perfected first priority, senior security interests in and lien upon the Debtor's Company Inventory, Additional Inventory and all the proceeds (within the meaning of section 9-102(a)(64) of the UCC) and accounts of and to all of the foregoing, whether now owned or hereafter acquired, wherever located (all of which are collectively referred to herein as the "Agent Proceeds") to secure the full payment or reimbursement of the Advance, any other postpetition advance provided by the Agent to the Debtor under Section 2.1(d) of the Consulting Agreement, the Augment Fee, and Sale Expenses owed to the Agent under the Consulting Agreement. Upon entry of this Final Order, the security interest and liens granted to the Agent hereunder will be deemed properly perfected on a final

basis without the necessity of filing UCC-1 financing statements or any other documentation (provided that the Agent is hereby authorized to deliver any notices and file any financing statements and amendments thereof under the applicable UCC identifying the Agent's security interest in the Agent Proceeds). Without any further act by or on behalf of the Agent or any other party (including without limitation any of the Debtor's secured lenders and the Debtor), the Agent's security interests and liens in the Agent Proceeds created hereunder are (a) validly created, (b) effective as of the date of the Interim Order, perfected, and (c) senior to all other liens and security interests. The Debtor must reasonably cooperate with the Agent with respect to all filings (including, without limitation, UCC-1 financing statements) and other actions to the extent reasonably requested by the Agent in connection with the security interests and liens granted under the Consulting Agreement. The Debtor will not sell, grant, assign or transfer any security interest in, or permit to exist any encumbrance on, any of the Agent Proceeds other than in favor of the Agent, except to the extent that such security interest in or encumbrance on any of the Agent Proceeds is junior in priority to the senior security interests granted herein to the Agent. In the event of a default by the Debtor under the Consulting Agreement, in any jurisdiction where the enforcement of its rights hereunder is sought, the Agent will have, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC, *provided*

that during this Bankruptcy Case, the Bankruptcy Court will retain jurisdiction over any dispute. PFP is hereby granted a replacement lien to the same extent and in the same priority as PFP's pre-petition secured security interest as of the Petition Date related to advances made by PFP to the Debtor under the Prepetition Consulting Agreements, which replacement lien will attach to the Sales proceeds. After the completion of the Sales—and after reimbursement to the Agent for the Advance, Augment Fee, advances under Section 2.1(d) of the Consulting Agreement, Sale Expenses, and approved Non-Sale Expenses—to the extent PFP remains unpaid for advances owed to it by the Debtor under the Prepetition Consulting Agreements (such amount being not more than \$1,400,000, the “Prepetition Consulting Agreement Claim”), PFP is authorized to exercise its rights of setoff or recoupment or as otherwise permitted under applicable law and be repaid from the Debtor's share of proceeds in the “Profits of Sale” per Section 7 of the Consulting Agreement; *provided, however*, that if there are insufficient remaining funds in the Sale Account to pay PFP's Prepetition Consulting Agreement, PFP retains all of its rights and remedies against the Debtor as set forth in the Cash Collateral Order; *provided, further*, that PFP's prepetition claims and liens (including the Prepetition Consulting Agreement Claim) will be subject to the challenge period as set forth in the Cash Collateral Order. For the avoidance of doubt, the repayment of the Prepetition Consulting Agreement Claim will be prior

to the payment of (i) any amounts to the Debtor under Section 7 of the Consulting Agreement and (ii) any amounts to the Professional Fee Carveout and the Unsecured Creditors Escrow from the Debtor's share of Profits of the Sale.

11. Subject to the restrictions set forth in this Final Order and the Store Closing Procedures, the Debtor and the Agent are hereby authorized to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and the Sales, and each of the transactions contemplated by the Consulting Agreement, and any actions taken by the Debtor and the Agent necessary or desirable to implement the Consulting Agreement and/or the Sales prior to the date of this Final Order, are hereby approved and ratified, *provided* that the Debtor must use its best efforts to include the Committee in communications related to such actions and to inform the Committee of any such actions in advance, and if unable to do so, as soon as practicable thereafter.

12. The Consulting Agreement may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of this Court, *provided, however*, that the Debtor must consult with the Committee prior to agreeing to any such modification, amendment or supplement, so long as the interest of counterparties to leases of non-residential real property are not adversely affected without their consent or as otherwise ordered by this Court.

13. Notwithstanding anything contrary in the Consulting Agreement, the Debtor and its estate will not indemnify the Agent for any damages arising primarily out of the Agent's fraud, willful misconduct, or gross negligence.

14. Any amount owed by the Debtor to the Agent under the Consulting Agreement for the Advance, any other postpetition advance provided by the Agent to the Debtor under Section 2.1(d) of the Consulting Agreement, the Augment Fee or for payments made by the Agent (including for Sale Expenses) will be granted superpriority claim status in the Debtor's chapter 11 case under Bankruptcy Code section 364(c) senior to all other claims and superpriority claims, including, without limitation, any superpriority claims of any of the Debtor's secured lenders.

15. Notwithstanding any provision of the Consulting Agreement to the contrary, the Agent and its affiliates, if any, may not charge or be paid any surcharge, fee, profit or markup of any kind for Sale Expenses under Section 4.4 of the Consulting Agreement, including without limitation Additional Inventory.

16. The Debtor agrees to not seek relief in the Bankruptcy Court with respect to any lease without first providing the Committee 48 hours' prior notice and consultation regarding such relief.

17. PFP, the Agent and the Debtor agree to be bound by all provisions of the Cash Collateral Order, *provided, however*, that to the extent of any conflict

between this Final Order and the Cash Collateral Order, the terms of this Final Order will control.

II. Authority to Engage in Sales and Conduct Store Closings.

18. The Debtor is authorized on a final basis, under sections 105(a) and 363(b)(1) of the Bankruptcy Code, to continue to conduct the Sales at the Closing Stores in accordance with this Final Order, the Store Closing Procedures, and the Consulting Agreement, as may be modified by any Side Letters (as defined below) between the Debtor and/or the Agent and the landlords at the Closing Stores.

19. The Store Closing Procedures are approved in their entirety on a final basis, except as expressly modified herein.

20. The Debtor is authorized to discontinue operations at each Closing Store upon the conclusion of the Sale Term at each Closing Store in accordance with this Final Order and the Store Closing Procedures. Upon mutual agreement of the Debtor and Agent, the Debtor and Agent may terminate the Sales at a Closing Store prior to the end of the Sale Term.

21. All entities that are presently in possession of some or all of the Company Inventory in which the Debtor holds an interest that are or may be subject to the Consulting Agreement or this Final Order hereby are directed to surrender possession of such Company Inventory to the Debtor or the Agent.

22. Neither the Debtor nor the Agent nor any of their officers, employees, or agents will be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined under section 101(27) of the Bankruptcy Code) or landlord, to conduct the Sales and Store Closings and to take the related actions authorized herein.

III. Conduct of the Sales.

23. All newspapers and other advertising media in which the Sales and Store Closings may be advertised and all landlords are directed to accept this Final Order as binding authority so as to authorize the Debtor and the Agent to conduct the Sales and Store Closings under the Consulting Agreement, including, without limitation, to conduct and advertise the sale of the Company Inventory and Additional Inventory in the manner contemplated by and in accordance with this Final Order, the Store Closing Procedures, and the Consulting Agreement.

24. The Debtor and Agent are hereby authorized to take such actions as may be necessary and appropriate to implement the Consulting Agreement and to conduct the Sales and Store Closings without necessity of further order of this Court as provided in the Consulting Agreement and the Store Closing Procedures (subject to any Side Letters), including, but not limited to, advertising the sale as a “going out of business sale”, “store closing sale”, “sale on everything”, “everything must go”, or similar-themed sales as contemplated in the Store Closing

Procedures through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent the applicable closing location entrance does not require entry into the enclosed mall common area), use of sign walkers, A-frames, and other street signage, as contemplated in the Store Closing Procedures.

25. Notwithstanding anything herein to the contrary, and in view of the importance of the use of sign walkers, banners, and other advertising to the Sales of the Company Inventory and Additional Inventory, to the extent that disputes arise during the course of such sale regarding laws regulating the use of sign walkers, banners, or other advertising and the Debtor and the Agent are unable to resolve the matter consensually, any party may request an immediate telephonic hearing with this Court under these provisions. Such hearing may, to the extent practicable, be scheduled initially no later than within two (2) business days of such request. This interim scheduling procedure will not be deemed to preclude additional hearings for the presentation of evidence or arguments as necessary.

26. Except as expressly provided in the Consulting Agreement and the Store Closing Procedures, the sale of the Company Inventory and Additional Inventory will be conducted by the Debtor and the Agent notwithstanding any restrictive provision of any lease, sublease, restrictive covenant, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Store

Closings or the Sales (including the sale of the Company Inventory and Additional Inventory), and abandonment of assets or “going dark” provisions will not be enforceable in conjunction with the Store Closings or the Sales. Breach of any such provisions in this chapter 11 case in conjunction with the Store Closings or the Sales will not constitute a default under a lease or provide a basis to terminate the lease; *provided* that the Store Closings and Sales are conducted in accordance with the terms of this Final Order, any Side Letter, and the Store Closing Procedures. The Debtor and/or Agent and landlords of the Closing Stores are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures, without further order of the Court, and such Side Letters will be binding as among the Debtor, the Agent and any such landlords. In the event of any conflict between the Store Closing Procedures, the Consulting Agreement, this Final Order, and any Side Letter, the terms of such Side Letter will control. To the extent that the Agent and any landlord agree to an amount of post-petition rent or other charges to be paid to such landlord during the term of the Sale, the Debtor and its estate will not be liable for any amount in excess of the amount so agreed between the Agent and the landlord. In the event of a dispute between the Agent or the Debtor and a landlord on the terms of a Side Letter, the Agent and the Debtor and the landlord agree that they may seek an emergency hearing before the Court on no less than five (5) business days’ notice, unless the

parties agree to a hearing on a shorter notice, in each respect subject to the Court's availability.

27. Except as expressly provided for herein or in the Store Closing Procedures, no person or entity, including, but not limited to, any landlord, licensor, service providers, utilities, or creditors, may take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of the Sales or the sale of Company Inventory and Additional Inventory, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign walkers) of such Sales, and all such parties and persons of every nature and description, including, but not limited to, any landlord, licensor, service providers, utilities, and creditors and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closings, and/or (b) instituting any action or proceeding in any court (other than in the Court) or administrative body seeking an order or judgment against, among others, the Debtor, the Agent, or the landlords at the closing locations that might in any way directly or indirectly obstruct or otherwise interfere with or adversely affect the conduct of the Sales or sale of the Company Inventory and Additional Inventory or other liquidation sales at the closing locations and/or seek to recover damages for breach(es) of covenants

or provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

28. In accordance with and subject to the terms and conditions of the Consulting Agreement, the Agent will have the right to use the Closing Stores and all related Closing Store services, furniture, fixtures, equipment and other assets of the Debtor for the purpose of conducting the Sales, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Final Order.

29. All sales of Company Inventory and Additional Inventory will be “as is” and final. No returns related to the purchase of Company Inventory and Additional Inventory, nor of any merchandise sold by the Debtor prior to the Commencement Date, will be accepted at any Closing Stores or any stores that are not participating in the Store Closings; *provided, however*, that the Agent must accept return of any goods that contain a defect which the lay consumer could not reasonably determine was defective by visual inspection prior to purchase for a full refund, *provided* that the consumer must return the merchandise within the time period proscribed by the Debtor’s return policy that was in effect when the merchandise was purchased, the consumer must provide a receipt, and the asserted defect must in fact be a “latent” defect.

30. During the Sale Term, the Agent will not accept gift certificates, gift cards, rain checks, merchandise credits and the like, and Company's obligations under any barter agreement.

31. The Agent will not be liable for sales taxes except as expressly provided in the Consulting Agreement and the payment of any and all sales taxes is the responsibility of the Debtor. The Debtor is directed to remit all taxes arising from the Sales to the applicable Governmental Units as and when due, *provided* that in the case of a *bona fide* dispute the Debtor is only directed to pay such taxes upon the resolution of such dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtor will not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Agent must collect, remit to the Debtor, and account for sales taxes as and to the extent provided in the Consulting Agreement. This Final Order does not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state, provincial or federal law, and does not constitute a declaratory judgment with respect to any party's liability for taxes under state, provincial or federal law.

32. Under section 363(f) of the Bankruptcy Code, the Agent, on behalf of the Debtor, is authorized to sell the Company Inventory and all sales of Company

Inventory, whether by the Agent or the Debtor, will be free and clear of any and all liens, claims, encumbrances, and other interests; *provided, however*, that any such liens, claims, encumbrances, and other interests in the Company Inventory and proceeds of the Sales will attach only to the Debtor's interest in the Sales proceeds with the same validity, in the amount, with the same priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Company Inventory, subject to any claims and defenses that the Debtor may possess with respect thereto. Payment of fees and expenses to the Agent in accordance with this Final Order and the Consulting Agreement will be free and clear of any liens, claims, encumbrances, and other interests.

33. The Debtor and/or the Agent (as the case may be) are authorized and empowered to transfer Company Inventory and Additional Inventory among, and into, the Closing Stores in accordance with the Store Closing Procedures, as applicable. The Agent is authorized to sell Company Inventory and Additional Inventory and abandon the same, in each case, as provided for and in accordance with the terms of the Consulting Agreement and the Store Closing Procedures and the Debtor is authorized to abandon owned FF&E.

34. During the Sale Term, as and to the extent provided for in the Consulting Agreement, the Agent will be granted a limited license and right to use the trade names, logos, mailing lists, e-mail lists, customer lists, e-commerce sites

(including without limitation websites and social media sites such as Facebook and Twitter) relating to and used in connection with the operation of the stores as identified in the Consulting Agreement, solely for the purpose of advertising the Sales in accordance with the terms of the Consulting Agreement; *provided*, *however*, that the Agent will not receive personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including but not limited to an individual's first name (or initial) and last name, physical address, electronic address, telephone number, social security number, date of birth, government-issued identification number, account number and credit or debit card number ("PII") of any customers) from the Debtor. Agent will have the exclusive right to use the Debtor's names, trademarks and trade names, intangible rights, other assets and the Closing Stores to conduct the Sales utilizing the phrase and concept in all advertising and at the Closing Stores or otherwise of "bankruptcy liquidation sale," and/or, "going out of business sale" and/or "store closing sale".

35. The Debtor must remove or cause to be removed any confidential and/or PII in any of the Debtor's hardware, software, computers or cash registers or similar equipment which are to be sold or abandoned so as to render the PII unreadable or undecipherable. At the conclusion of the Sales, the Agent must provide the Debtor with written verification that the Agent has not removed,

copied, or transferred any customer PII and that any records containing PII were shredded, erased or otherwise modified to render the PII unreadable or undecipherable.

IV. Dispute Resolution Procedures with Governmental Units.

36. Nothing in this Final Order, the Consulting Agreement, or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a Governmental Unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Final Order. Nothing contained in this Final Order, the Consulting Agreement, or the Store Closing Procedures will in any way:

(a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtor to comply with environmental laws consistent with its rights and obligations as debtor in possession under the Bankruptcy Code. The Store Closings and the Sales will not be exempt from laws of general applicability, including, without limitation, public health and safety, criminal, tax, (including, but not limited to, the collection of Sales Taxes), labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising, consumer protection, the sale of gift certificates, layaway programs,

return of goods, express or implied warranties of goods, and “weights and measures” regulation and monitoring (collectively, “General Laws”). Nothing in this Final Order, the Consulting Agreement, or the Store Closing Procedures, will alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Final Order will be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtor’s rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code or this Final Order. Notwithstanding any other provision in this Final Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Final Order and/or any applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Final Order will be deemed to have made any rulings on any such issues.

37. To the extent that the sale of Company Inventory and Additional Inventory is subject to any Liquidation Sale Laws (as defined below), including any federal, state or local statute, ordinance, rule, or licensing requirement directed at regulating “going out of business,” “store closing,” or similar inventory liquidation sales, or bulk sale laws, laws restricting safe, professional and non-

deceptive, customary advertising such as signs, banners, signage, and use of sign walkers solely in connection with the sale of the Company Inventory and Additional Inventory, including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Company Inventory and Additional Inventory, the dispute resolution procedures (the “Dispute Resolution Procedures”) in this section will apply:

- i. Provided that the Sales are conducted in accordance with this Final Order, and the Store Closing Procedures, the Debtor, the Agent, and the Debtor’s landlords will be deemed to be in compliance with any requirements of all county, parish, or municipal or other local government (hereinafter referred to as “Local”) and State requirements governing the conduct of the Sales of the Company Inventory and Additional Inventory, including but not limited to Local statutes, regulation and ordinances establishing licensing or permitting requirements, waiting periods or time limits, or bulk sale restrictions that would otherwise apply to the Sales and sales of the Company Inventory and Additional Inventory (collectively, the “Liquidation Sale Laws”) of any state or local Governmental Unit (as defined in section 101(27) of the Bankruptcy Code); *provided*, that the term “Liquidation Sale Laws” will be deemed not to include any public health or safety laws of any state (collectively, “Safety Laws”), and the Debtor and the Agent will continue to be required to comply, as applicable, with such Safety Laws and General Laws, subject to any applicable provision of the Bankruptcy Code and federal law, and nothing in this Final Order will be deemed to bar Governmental Units (as defined in section 101(27) of the Bankruptcy Code) or public officials from enforcing Safety Laws or General Laws.
- ii. Within three (3) business days after entry of this Final Order, the Debtor will serve, by first-class mail, copies of this Final Order, the Consulting Agreement, and the Store Closing Procedures on the

following: (a) the Attorney General's office for each state where the Sales are being held; (b) the county consumer protection agency or similar agency for each county where the Sales are being held; (c) the division of consumer protection for each state where the Sales are being held; and (d) the landlords for the Closing Stores (collectively, the "Dispute Notice Parties").

- iii. To the extent that there is a dispute arising from or relating to the Sales, this Final Order, the Consulting Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a "Reserved Dispute"), the Bankruptcy Court will retain exclusive jurisdiction to resolve the Reserved Dispute. At any time within ten (10) days following entry of this Final Order, any Governmental Unit may assert that a Reserved Dispute exists by sending a notice (the "Dispute Notice") explaining the nature of the dispute to: (a) proposed counsel to the Debtor, Butzel Long, P.C., 41000 Woodward Ave., Bloomfield Hills, MI 48304, Attn: Max J. Newman; (b) on behalf of the Agent, c/o (i) Hilco Merchant Resources, LLC, One Northbrook Place, 5 Revere Drive, Suite 206, Northbrook, Illinois 60062, Attn: Ian S. Fredericks, and (ii) Planned Furniture Promotions, Inc., 9 Moody Road, Bldg. D, Suites 17-18, Enfield, CT 06082, Attn: Tom Liddell; and (c) counsel to the Agent, (i) Troutman Pepper Hamilton Sanders LLP, 1313 N. Market Street, Suite 5100, Wilmington, DE 19801, Attn: Douglas D. Herrmann, Kay Kress, and Marcy McLaughlin Smith, and (ii) The Esses Law Group, LLC, 845 Third Avenue, 6th Floor, New York, NY 10022, Attn: Leo L. Esses; and (d) any affected landlord. If the Debtor and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the notice, the Governmental Unit may file a motion with the Bankruptcy Court requesting that the Bankruptcy Court resolve the Reserved Dispute (a "Dispute Resolution Motion").
- iv. In the event that a Dispute Resolution Motion is filed, nothing in the Interim Order or the Final Order, as applicable, will preclude the Debtor, a landlord, or any other interested party from asserting (A) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (B) that neither the terms of the Interim Order or the Final Order nor the conduct of the Debtor under the Interim Order or the Final Order, violates such Liquidation Sale Laws.

Filing a Dispute Resolution Motion as set forth herein will not be deemed to affect the finality of the Interim Order or Final Order or to limit or interfere with the Debtor's or the Agent's ability to conduct or to continue to conduct the Sales under the Interim Order or Final Order, as applicable, absent further order of the Bankruptcy Court. Upon the entry of this Final Order, the Bankruptcy Court grants authority for the Debtor and the Agent to conduct the Sales under the terms of the Final Order, the Consulting Agreement, and the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in the Interim Order or Final Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.

- v. If, at any time, a dispute arises between the Debtor and/or the Agent and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in the Interim Order or Final Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (iii) and (iv) above by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law will be made *de novo*.

38. Subject to paragraphs 36 and 37 above, each and every federal, state, or local agency, departmental, or Governmental Unit with regulatory authority over the Sales and all newspapers and other advertising media in which the Sales are advertised must consider this Final Order as binding authority that no further approval, license, or permit of any Governmental Unit will be required, nor will the Debtor or the Agent be required to post any bond, to conduct the Sales.

39. Provided that the Sales are conducted in accordance with the terms of this Final Order, the Consulting Agreement, and the Store Closing Procedures, and in light of the provisions in the laws that exempt court-ordered sales from their provisions, the Debtor and Agent will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Sales in accordance with the terms of this Final Order and the Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.

V. Other Provisions.

40. The Agent will not be liable for any claims against the Debtor nor will the Agent have any successorship liabilities whatsoever, and the Debtor will not be liable for any claims against Agent, in each case, other than as expressly provided for in the Consulting Agreement.

41. Other than Sale Expenses and approved Non-Sale Expenses, the Agent may not be charged, and the Agent's share of the proceeds or funds in the Sale Account cannot be used, for expenses of administration of this Debtor's chapter 11 case or any future proceeding or case, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code.

42. The Agent will be deemed to have a properly filed administrative expense claim against the Debtor under §§ 503(b)(1) and 507(a)(2) of the Bankruptcy Code for all amounts to be owed to the Agent by the Debtor under the

Consulting Agreement without having to file a proof of claim or request for payment of an administrative expense; *provided, however*, that the Agent is not hereby precluded from filing a proof of claim or request for payment of an administrative expense if it so chooses.

43. Invoices, bills and other demands for payment of Sale Expenses will be received and reviewed by the Debtor and provided by the Debtor to the Committee. Payment of Sale Expenses will be authorized by the Debtor to be paid by the Agent from the Sale Account if payment of the Sale Expenses is consistent with the Consulting Agreement. Amounts that are not consistent with the Consulting Agreement will be Non-Sale Expenses and obligations of the Debtor to pay or reimburse the Sale to the extent the Non-Sale Expenses are authorized expenses by the Debtor.

44. This Final Order and the terms and provisions of the Consulting Agreement will be binding on all of the Debtor's creditors (whether known or unknown), the Debtor, the Agent, and their respective affiliates, successors, and assigns, and any affected third parties including, but not limited to, all persons asserting an interest in the Company Inventory, notwithstanding any subsequent appointment of any trustee, party, entity, or other fiduciary under any section of the Bankruptcy Code with respect to the forgoing parties, and as to such trustee, party, entity, or other fiduciary, such terms and provisions likewise will be binding. The

provisions of this Final Order and the terms and provisions of the Consulting Agreement, and any actions taken pursuant hereto or thereto will survive the entry of any order that may be entered confirming or consummating any plan(s) of the Debtor or converting the Debtor's case from chapter 11 to chapter 7, and the terms and provisions of the Consulting Agreement, as well as the rights and interests granted under this Final Order and the Consulting Agreement, will continue in these or any superseding cases and will be binding upon the Debtor, the Agent, and their respective successors and permitted assigns, including any trustee or other fiduciary hereafter appointed as a legal representative of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code. The purpose of this provision is to ensure that the priorities and rights related to services already performed under the Consulting Agreement prior to the appointment of a trustee, if any, may not be reversed as a result of the appointment of a trustee. A subsequently appointed trustee may, at the trustee's discretion, continue to employ Agent after such trustee is appointed. Any trustee appointed in this case in chapter 11 or a converted chapter 7 case will be and hereby is authorized, ***but not required***, to operate the business of the Debtor to the fullest extent necessary to permit compliance with the terms of this Final Order and the Consulting Agreement, and Agent and the trustee will be and hereby are authorized to perform under the Consulting Agreement upon the appointment of the trustee without the need for further order of this Court.

45. On a confidential basis and for “professionals’ eyes only, the Debtor must provide the Committee and the Office of the United States Trustee, if requested, copies of periodic reports concerning the Sales that are prepared by the Debtor, its professionals or the Agent, including daily sales reports, weekly expense reports, and reports regarding Sale Locations, *provided*, that the foregoing will not require the Debtor, its professionals, or the Agent to prepare or undertake to prepare any additional or new reporting not otherwise being prepared by the Debtor, its professionals, or the Agent in connection with the Sales. The Agent will provide to the Debtor and the Committee weekly reports of the results of the Sales. The Debtor will accumulate that information for purposes of filing monthly operating reports and otherwise complying with its obligations as Debtor-in-Possession. Every other week there will be a discussion among the Agent, the Debtor and the Committee regarding the Sales, Sales results, projections and any other relevant issues.

46. Agent will act solely as an independent agent to the Debtor and will not be liable for any claims against the Debtor other than as expressly provided in the Consulting Agreement or the Store Closing Procedures, with the exception of acts of gross negligence or willful misconduct and, for greater certainty, the Agent will not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing

employment or labor standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and will not incur any successor liability whatsoever.

47. Within thirty (30) days of the conclusion of the Sales, the Debtor must (a) file with the Court a summary report of the store closing process from the Petition Date to the conclusion of the Sales that will include (i) a list of the stores closed and (ii) gross revenue from the store closing assets sold, and (b) file with the Court and serve on the U.S. Trustee a report showing payment of each of the Agent's fees, setting forth detail and information regarding the calculation of such fees paid to the Agent and expenses reimbursed to the Agent, *provided* that such invoice may be redacted for privilege.

48. Notwithstanding the relief granted herein and any actions taken under such relief, nothing contained in the Motion or this Final Order will constitute, nor is intended to constitute, except with respect to the Agent and the Consulting Agreement: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtor's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease, under section 365 of the Bankruptcy

Code; (f) a waiver or limitation of the Debtor's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtor or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied under this Final Order are valid and the Debtor and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made under this Final Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtor's or any other party-in-interest's rights to subsequently dispute such claim, other than with respect to payments made to the Agent, which are governed by the reconciliation procedures in the Consulting Agreement.

49. Agent has opened a Sale Account for each Closing Store, an additional "operational account" for payment of Sale Expenses and a separate bank account for the deposit of the Augment Fee (the "Backlog Account"). Each such Sale Account will reference the Debtor's name and identify the Agent acting for the Debtor. The Agent may also open additional Sale Accounts, with notice first to the Debtor, the United States Trustee and the Committee, *provided* such accounts contain the reference to the Debtor's name and identify the Agent as acting for the Debtor. The Agent will timely provide the U.S. Trustee with copies of monthly account statements for the Sale Account and Backlog Account.

50. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

51. Notice of the Motion as provided therein is deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules of this Court are satisfied by such notice.

52. Notwithstanding Bankruptcy Rules 6003(b) and 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon the entry of this Final Order.

53. Cause exists to shorten the notice period set forth in Bankruptcy Rule 2002, to the extent applicable.

54. This Court will retain jurisdiction with regard to all issues or disputes relating to this Final Order or the Consulting Agreement, including, but not limited to, (a) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being conducted in a safe, professional, and non-deceptive manner, (b) any claim of the Debtor, the landlords and/or the Agent for protection from interference with the Store Closings or Sales, (c) any other disputes related to the Store Closings or Sales, and (d) protect the Debtor and/or the Agent against any assertions of any liens, claims, encumbrances, and other interests. No such parties or person may take any action against the

Debtor, the Agent, the landlords, the Store Closings, or the Sales until this Court has resolved such dispute. This Court will hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

Signed on February 5, 2021



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge

Schedule 1

Consulting Agreement

SALE PROMOTION CONSULTING AGREEMENT

This Sale Promotion Consulting Agreement (this “Agreement”) is made as of this __ day of January 2021, between Loves Furniture, Inc. (the “Company”) and Planned Furniture Promotions, Inc. (“PFP”) and Hilco Merchant Resources, LLC (“Hilco”, together with PFP, the “Agent” and together with Company, the “Parties”).

WHEREAS, the Company is engaged in the retail sale of furniture and home furnishings at its showroom locations as listed in Exhibit A hereto (the “Sale Locations”)¹; and

WHEREAS, on December 3, 2020, PFP and the Debtor entered into certain agreements, a copy of which are attached hereto as Exhibits B and C (the “Pre-Bankruptcy Agreements”), pursuant to which PFP conducted sales of inventory for the Debtor, and pursuant to those Pre-Petition Bankruptcy Agreements, PFP provided certain funds to the Debtor for use in paying its obligations, and on account of which PFP received a certain percentage from the sale of the Debtors’ inventory; and

WHEREAS, the Company desires that Agent conduct a “bankruptcy liquidation”, “going out of business”, “store closing” or similar themed sale (the “Sale”) at the Sale Locations and desires to obtain the services of Agent in accordance with the terms and conditions of this Agreement; and

WHEREAS, the Company filed a voluntary petition (the “Chapter 11 Case”) for relief under Title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Eastern District of Michigan (the “Bankruptcy Court”); and

WHEREAS, the Company is entering into this Agreement with the expectation that Company will continue to manage its affairs as a debtor and debtor in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code and the Company as debtor in possession will timely file a motion to approve this Agreement in its Chapter 11 Case; and

WHEREAS, Hilco was not involved in any of the sales conducted pursuant to the Pre-Bankruptcy Agreements prior to the Commencement Date (as defined herein) of this Agreement; and

WHEREAS, the Company understands that the assumption of the Pre-Bankruptcy Agreements, including all benefits and obligations arising thereunder, are an express condition to the entry of this Agreement; and

WHEREAS, the Company intends to assume the Pre-Bankruptcy Agreements, which upon assumption of the Pre-Bankruptcy Agreements and entry of the Interim Order (as defined below) shall be deemed amended to be consistent with the terms and conditions of this Agreement, and have this Agreement approved by the Bankruptcy Court in the Chapter 11 Case on an expedited basis immediately following the execution of this Agreement.

¹ For the avoidance of any doubt, the Sale Locations shall include those locations listed on Exhibit A and those listed in the Pre-Bankruptcy Agreements (as defined herein).

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follow:

1. APPOINTMENT OF AGENT AS EXCLUSIVE AGENT

1.1 The Company hereby appoints Agent, and Agent hereby agrees to serve, as the Company's exclusive agent for the purpose of conducting the Sale in accordance with the terms and conditions of this Agreement. Company's and Agent's obligations hereunder are subject to the approval of the Bankruptcy Court and shall be of no force and effect in the event that the Order, as hereinafter defined, is not entered. If the Order is not entered, this Agreement shall be null and void.

1.2 On or before January 13, 2021, the Company shall seek entry of an interim (the "Interim Approval Order") and final order (the "Final Approval Order" and together with the Interim Approval Order, the "Order") from the Bankruptcy Court assuming the Pre-Bankruptcy Agreements, approving entry into this Agreement and authorizing the Company and Agent to conduct the Sale in accordance with the terms of this Agreement. Unless otherwise specified herein, if there is a contradiction between the terms of the Pre-Petition Agreements and this Agreement, the terms of this Agreement shall prevail. The Order shall provide, in a form reasonably satisfactory to the Company and Agent, among other things, that:

(a) the terms of this Agreement (and each of the transactions contemplated hereby) are approved;

(b) The Company and Agent shall be authorized to continue to take any and all actions as may be necessary or desirable to implement this Agreement and each of the transactions contemplated hereby;

(c) Agent shall be entitled to sell all Company Inventory (as defined below) free and clear of all liens, claims and encumbrances of any nature (collectively, "Liens"), with any presently existing Liens encumbering all or any portion of the Company Inventory or the proceeds of the Sale attaching only to the Advance;

(d) Agent shall have the right to use the Sale Locations and all related Company services, furniture, fixtures, equipment and other assets of the Company as designated hereunder for the purpose of conducting the Sale, free of any interference from any entity or person;

(e) Omitted;

(f) Agent shall be granted a limited license and right to use until the termination of the Sale the trade names, logos, mailing lists, e-mail lists, customer lists, e-commerce sites (including (without limitation) websites and social media sites such as

Facebook and Twitter) relating to and used in connection with the operation of the Sale Locations, solely for the purpose of advertising the Sale in accordance with the terms of the Agreement;

(g) Agent shall have the exclusive right to use the Company's names, trademarks and trade names, intangible rights, other assets and the Sale Locations to conduct the Sale utilizing the phrase and concept in all advertising and at the Sale Locations or otherwise of "bankruptcy liquidation sale," and/or, "going out of business sale" and/or "store closing sale";

(h) all newspapers and other advertising media in which the Sale is advertised shall be directed to accept the Order as binding and to allow the Company and Agent to consummate the transactions provided for in this Agreement, including, without limitation, the conducting and advertising of the Sale in the manner contemplated by this Agreement;

(i) all utilities, landlords, creditors and all persons acting for or on their behalf shall not interfere with or otherwise impede the conduct of the Sale, institute any action in any court (other than in the Bankruptcy Court) or before any administrative body which in any way directly or indirectly interferes with or obstructs or impedes the conduct of the Sale;

(j) Agent may introduce Additional Inventory (as defined below) to the Sale, and such Additional Inventory and all proceeds thereof shall be the exclusive property of Agent, and no other person or entity, including, without limitation, the Company's estate or any party in interest in the Chapter 11 Case or otherwise, shall have any title to, interest in or claim against any of the Additional Inventory or proceeds thereof. The Additional Inventory shall at all times be subject to the control of Agent. Agent and the Company intend that the transactions relating to the Additional Inventory are, and shall be construed as, a true consignment from Agent to the Company. The consignment and transactions relating to the Additional Inventory shall be deemed "perfected" by Agent without the necessity of filing, recording or serving any financing statements or other document;

(k) Subject to entry of the Order, Agent shall be authorized to advertise the Sale as a "store closing," "sale on everything," "going out of business," "everything must go" or similar-themed sale, and the Order shall provide that Agent shall be required to comply with applicable federal, state and local laws, regulations and ordinances, including, without limitation, all laws and regulations relating to advertising, privacy, consumer protection, occupational health and safety and the environment, together with all applicable statutes, rules, regulations and orders of, and applicable restrictions imposed by, governmental authorities (collectively, the "Applicable General Laws"), other than all applicable laws, rules and regulations in respect of "going out of business," "store closing" or similar-themed sales and permitting (collectively, the "Liquidation Sale Laws"), provided that such Sale is conducted in accordance with the terms of this

Agreement, the Sale Guidelines and Order; and provided further that the Order shall provide that so long as the Sale is conducted in accordance with the Sale Guidelines and the Order and in a safe and professional manner, Agent shall be deemed to be in compliance with any Applicable General Laws. All interior and exterior signs and banners used by Agent in connection with the Sale shall be hung in a professional manner;

(l) During the Sale Term, Agent shall not accept returns of any merchandise sold prior to the Commencement Date;

(m) During the Sale Term, Agent shall not accept Gift Certificates (defined herein) in accordance with the terms of this Agreement;

(n) Sufficient and adequate notice of the motion and the hearing with respect thereto has been given pursuant to Bankruptcy Rule 2002, 4001(c) and (d) and 9014 and Section 102(1) of the Code as required by Sections 363(b) and 365(a) of the Code;

(o) the transactions between the Company and Agent are entered into by Agent and the Company in good faith as required by Sections 363(m) of the Code and Agent is entitled to the benefits of Sections 363(m) of the Code;

(p) the Court shall retain jurisdiction over the parties to enforce this Agreement;

(q) Agent shall not be liable for any claims against the Company, and Agent shall have no successorship liabilities whatsoever;

(r) Any amount owed by the Company to Agent under this Agreement from advances or payments made by Agent (including for Expenses of the Sale) shall be granted the status of super-priority claims in the Chapter 11 Case pursuant to Bankruptcy Code § 364 which super priority claims shall be senior to all other claims in the Chapter 11 Case;

(s) Agent shall have a valid, duly perfected first priority lien and security interest in the Company Inventory and proceeds thereof in accordance with the terms of this Agreement with all existing Liens attaching only to the Advance;

(t) no expenses of administration of the Company's Chapter 11 Case or any future proceeding or case, including liquidation in bankruptcy or other proceedings under the Code, shall be charged against Agent, or Agent's claims, pursuant to §§ 502, 503, 506 and 507 of the Code or otherwise;

(u) the provision of Bankruptcy Rule 6004(h) staying the effectiveness of the Order for fourteen (14) days is waived, and the Order shall be effective immediately upon entry thereof; and

(v) The Order shall be binding on any trustee in bankruptcy and such trustee shall be deemed to be authorized to run the business under section 721 upon such conversion.

2. AGENT SERVICES

2.1. Agent will:

(a) provide a team of experienced furniture personnel including an Event Manager for each of the Sale Locations and additional sales personnel for the conduct of the Sale. Agent will also arrange for administrative, clerical and warehouse personnel, as necessary;

(b) provide assistance and direction with Sale-related operations including merchandising, display, pricing, tagging, advertising, administrative, sales, delivery, service and other aspects regarding the conduct of the Sale;

(c) provide Additional Inventory for the Sale; and

(d) arrange for the advance of funds for Sale Expenses, in Agent's discretion, which advances shall be reimbursed from the proceeds of the Sale.

3. PAYMENTS TO THE COMPANY

3.1. Advance Amount. Within one (1) business day of entry of the Interim Approval Order, Agent will pay the Advance (as defined below) in accordance with and subject to the terms of this Agreement.

3.2. Inventory Taking. Commencing no later than one (1) business day after entry of the Interim Approval Order, representatives of the Company and Agent will commence the complete physical count and inspection (the "Inventory Taking") of the "Company Inventory." The "Company Inventory" means the Company's entire inventory of furniture, home furnishings, furniture accessories, electronics and appliances at the Sale Locations and the Company's warehouse/distribution center that is available for retail sale and upon which no customer deposits have been made or taken. Company Inventory excludes any (i) non-matched non-furniture accessories, parts, demos, props, unsaleable and/or used merchandise, (ii) warranties, and (iii) inventory held by the Company under a floor plan, locker stock, consignment, or other similar arrangement (the "Excluded Inventory"). Excluded Inventory shall not be included in the Sale. Agent shall have no cost, expense or responsibility in connection with Excluded Inventory.

3.3. Payment of Advance & Augment Fee.

(a) Agent shall pay an Advance to the Company in the amount of two million five hundred thousand (\$2,500,000) Dollars (the “Advance”) within one (1) business day of the entry of the Interim Approval Order; and

(b) In addition to the Advance, Agent shall pay to the Company the amount of two hundred thousand (\$200,000) dollars (the “Augment Fee”) upon entry of the Interim Approval Order. The Augment Fee shall be paid at the same time as the Advance and shall be deposited into the Backlog Account (as defined below) for the purposes of fulfilling Pre-Sale Customer Orders (as defined below); and

(c) After Agent has been reimbursed the Advance and Augment Fee in total, including the Advance set forth in the Pre-Bankruptcy Agreements, Company will be paid the Company Inventory Payment on a weekly basis from the Sale Account (as defined below). “Company Inventory Payment” means an amount equal to the fifty (50%) percent of the retail selling price (excluding sales tax and delivery charges) of the Company Inventory sold and delivered during the prior week of the Sale.

3.4. Liens; Setoffs. Any Liens held by any party in and to the Company Inventory and the proceeds thereof shall be transferred and attach solely to the Advance. The Company agrees that any amounts due to Agent by the Company pursuant to this Agreement may in Agent’s discretion be offset by Agent against any amounts due to the Company pursuant to this Agreement.

4. **CONDUCT OF THE SALE**

4.1. Duration of the Sale. Agent shall have the exclusive right to conduct the Sale for up to 180 days from the Commencement Date. “Commencement Date” shall mean the first day after the Interim Approval Order has been entered by the Bankruptcy Court “Sale Term” means the period from the Commencement Date to the termination of the Sale at each of the Sale Locations. Notwithstanding anything to the contrary herein, the Commencement Date as set forth in the Pre-Bankruptcy Agreements shall remain as set forth in the Pre-Bankruptcy Agreements, and shall be conducted for 180 days from the first day after the Interim Approval Order has been entered by the Bankruptcy Court.”

4.2. Sale Bank Account. Agent shall establish bank account(s) controlled by Agent (collectively, the “Sale Account”), at federally insured depositories. Agent shall exercise sole signatory authority and control with respect to the Sale Account. All proceeds of the Sale shall be deposited into the Sale Account. Agent may also set up financing programs and credit card machines to process customer purchases made during the Sale. The proceeds collected from such credit card machines and financing will be deposited into the Sale Account. Neither the Company nor any other third party (with or without Liens on the Company assets) shall have any title, right, property or other interest whatsoever in the Sale Account and the funds deposited

therein until after the Sale Term and Agent has been paid (or retained) all amounts due to Agent pursuant to the terms of this Agreement and the Order.

4.3. Expenses of the Sale. “Expenses of the Sale” means Sale Expenses and Non-Sale Expenses (as defined below). Agent shall solely be responsible for all Sale Expenses, as set forth below. The Company shall solely be responsible for all Non-Sale Expenses, as set forth below.

4.4. Sale Expenses. Agent shall be responsible for, and shall pay from proceeds in the Sale Account, all “Sale Expenses” incurred in conducting the Sale at the Sale Locations. “Sale Expenses” means all operating expenses of the Sale which arise for the Sale Locations for the Sale Term limited to the following: (a) rent (as negotiated by Agent with the Landlords of the Sale Locations); (b) liability, casualty and contents insurance premiums; (c) trash removal; (d) utility charges; (e) delivery charges; (f) additional warehouse space for the Sale; (g) bank fees, credit card fees, check verification fees and chargebacks; (h) postage and courier services reasonably necessary; (i) advertising and signage costs procured by Agent, including television, social media, radio, print, direct mail, signs and banners; (j) costs of any Additional Inventory, including inbound and outbound freight, and costs to transfer merchandise from the Company’s distribution centers/warehouses to Sale Locations; (k) reasonable lodging expenses for all Agent personnel assigned to the Sale who are required to travel more than 100 miles round trip to perform services; (l) the Company Inventory Payment, Agent Fee, and Sales Personnel Commission (as defined below) and compensation of all other personnel working at the Sale, including applicable federal, state and local payroll taxes, and workers’ compensation, and Agent’s payroll processing fee, including from a third party provider and without mark-up; (m) supplies; (n) Agent’s legal fees and accounting expenses associated with this Agreement, the Order, and for the Sale; and (o) such other costs and expenses that Agent at its reasonable discretion deems appropriate for purposes of the Sale.

4.5. Non-Sale Expenses. Sale Expenses will exclude, and Agent shall not be responsible for, without limitation, the following: (i) maintenance or repair expenses (including repair expenses to the roof, structural portions and HVAC system at the Sale Locations); (ii) executive compensation and employee benefits (including, without limitation, pension benefits, medical benefits, vehicles, vacation pay, holiday pay, sick days, leaves of absence, and severance pay); (iii) any Pre-Sale Order Expenses (as defined below); (iv) central administrative expenses; (v) any and all expenses incurred prior to or after the Sale Term; (vi) all rent, taxes and CAM not expressly provided for in Section 4.4 above; (vii) fulfillment of Company gift certificates, gift cards, rain checks, merchandise credits and the like, and Company’s obligations pursuant to any barter agreement (collectively, “Gift Certificates”), and Company’s obligations pursuant to any barter agreement, (viii) any of Company’s obligations relating to any of Company’s employees including, without limitation, Worker Adjustment Retraining Notification Act claims and other termination type claims and obligations, or any other amounts required to be paid by statute or law, and (ix) any matters that are the responsibility of the Company, that are unrelated to the Sale or not specifically listed in Section 4.4 (collectively, the “Non-Sale Expenses”). If Agent incurs a Non-Sale Expense, Agent will have the right to reimburse itself from funds due to the Company under this Agreement. Notwithstanding the foregoing, nothing contained in this paragraph shall change any item that would be a Sale Expense under the Pre-Bankruptcy

Agreements into a Non-Sale Expense merely because such expense accrued or became due prior to the date of the Sale Order.

4.6. Sales Tax. Sales tax with respect to the Sale shall be collected and initially be deposited into the Sale Account. Agent will provide the Company with the sales tax monies and calculations on a timely basis in order for the Company to pay sales tax on a timely basis. The Company shall execute all applicable reports and documents as required by the taxing authority. Once the Agent provides the Company with the sales tax monies, the Agent shall have no further responsibility or liability for the sales tax so provided.

4.7. Existing Assets. Agent shall have the right to use at the Sale, without charge, the Company's furnishings, fixtures, equipment, customer lists and mailing lists, e-commerce sites (including (without limitation) websites and social media sites such as Facebook and Twitter), trade names and other intangible rights, computer hardware and software (including, without limitation, Company's website), existing supplies located at the Sale Locations, and any other assets of the Company located at the Sale Locations. For purposes of promoting and advertising the Sale during the Sale Term, the Sale shall have use of all Company logos, trade names and trademarks for the Sale.

4.8. Pre-Sale Orders and Expenses.

(a) The Company shall be responsible for satisfying all customer orders for which a deposit was made prior to the start of the Sale (the "Pre-Sale Orders") or otherwise resolving those deposits. Agent shall assist the Company to obtain merchandise to complete Pre-Sale Orders. Agent will negotiate with manufacturers and, will use commercially reasonable efforts and its credit lines to secure merchandise to enable Company to fulfill Pre-Sale Orders. Pre-Sale Orders shall only include those orders taken at one of the Sale Locations and shall not include orders taken at any of the Company's other stores.

(b) The Augment Fee and all proceeds from Pre-Sale Orders shall be deposited into a separate bank account(s) controlled by Agent (the "Backlog Account"). The following expenses shall be paid from the Backlog Account with respect to such Pre-Sale Orders (collectively, the "Pre-Sale Order Expenses"): (i) the invoice cost plus billed freight of the merchandise required to fulfill said Pre-Sale Orders, (ii) any and all out-of-pocket expenses incurred by Agent to complete said Pre-Sale Orders, including, without limitation, any transfer expenses between locations, sales tax, credit card fee or finance fees, sales personnel commission, preparation work, refinishing, administrative matters and salaries and wages relating to the completion and delivery of Pre-Sale Orders, and (iii) a commission to Agent of five (5%) percent of the gross sales amount (excluding sales tax and delivery charges) for handling said Pre-Sale Orders.

(c) The Company acknowledges and agrees that Agent's assistance with respect to Pre-Sale Orders is subject to, and limited by, causes beyond its control, including without limitation, the discontinuance, delay or unavailability of merchandise, the refusal or inability of a manufacturer to cooperate with Agent, unwillingness of a customer to accept

delivery of merchandise or the unwillingness or inability of a customer to pay in cash or certified funds, or the manufacturer's failure to deliver the merchandise during the Sale Term. Agent shall not be required to expend its own funds or proceeds of Company Inventory and Additional Inventory to fulfill Pre-Sale Orders.

(d) Prior to the Commencement Date, the Company shall provide Agent with a complete and accurate written list of all Pre-Sale Orders indicating (u) the name, address and phone number of each customer, and item purchased by such customer; (v) the total amount of money accepted or received on deposit from each such customer; (w) the balance due from each such customer; (x) any sales tax due for each such customer; (y) any sales commission due; and (z) any other information reasonably requested by Agent. The Company represents and warrants to Agent as follows: (i) the gross sales (including freight) of Pre-Sale Orders is \$ _____, (ii) the invoice cost plus billed freight of Pre-Sale Orders is \$ _____ ("Pre-Sale Order Cost"), (iii) the amount of deposits received by the Company on account of such Pre-Sale Orders is \$ _____ ("Pre-Sale Order Deposits"), and (iv) the invoice cost plus billed freight of Company Inventory on hand to complete Pre-Sale Orders is \$ _____ ("Pre-Sale Order Inventory On Hand").

(e) If, after the Sale Term there is a positive balance in the Backlog Account and Agent has been reimbursed the Advance and Augment Fee, such balance shall be paid to the Company.

4.9. Salaried/Hourly Personnel and Sales (Commission) Personnel. All hourly and salaried personnel selected to assist with the Sale will be paid by the PEO (as defined below). Agent shall engage a professional employer organization or payroll service (a "PEO") for the payment of salaries and wages, including worker's compensation benefits, to all hourly, commission based and salaried personnel at the Sale. Such salaried, commission and hourly personnel shall be under the direction of Agent, subject to the terms and conditions of this Agreement. All Event Coordinators and Agent sales persons that Agent refers to work at the Sale shall be contractors and shall receive their tax forms from Agent (or PEO, as selected by Agent). Such event coordinators shall be under the direction of Agent, subject to applicable law and the terms and conditions of this Agreement.

4.10. Sales Personnel Commission. Sales persons shall be paid a commission, on a weekly basis, equal to five (5%) percent of the gross sales amount (excluding sales tax and delivery charges) of Company Inventory and Additional Inventory sold by them at the Sale and delivered, plus a commission for the sale of protection/warranty plans of 15% (the "Sales Personnel Commission").

4.11. Agent's Fee. Agent shall be paid a commission, on a weekly basis, equal to nine (9%) percent of the gross sales amount (excluding sales tax and delivery charges) of all Company Inventory and Additional Inventory sold at the Sale and delivered (the "Agent Fee").

4.12. Books and Records. The Company and Agent shall make their books and records with respect to the Sale available for inspection during the Sale Term by each other during

normal business hours, such inspection not to unreasonably interfere with the operation of the Sale. Agent will provide the Company with reports regarding the conduct of the Sale.

5. Omitted.

6. Additional Inventory. Agent shall, in its discretion, order additional inventory including, without limitations, furniture, accessories and rugs, to sell at the Sale (the “Additional Inventory”). At all times and for all purposes, the Additional Inventory and its proceeds shall be the exclusive property of Agent, and no other person or entity, including, without limitation, the Company’s estate or any other party in the Bankruptcy Case or otherwise, shall have any title to, interest in or claim against any of the Additional Inventory or its proceeds. The Additional Inventory shall at all times be subject to the control of Agent. Agent and the Company intend that the transactions relating to the Additional Inventory are, and shall be construed as, a true consignment from Agent to the Company in all respects. The Company shall insure the Additional Inventory and, if required, shall promptly file proofs of loss with the Company’s insurers. Such insurance shall be paid from the proceeds of the Sale as a Sale Expense.

7. **PROCEEDS OF THE SALE**

7.1. Distribution of Profits. Within thirty (30) days after the expiration of the Sale Term at all of the Sale Locations, Agent shall calculate and distribute the “Profits of the Sale” after payment of all Sale Expenses (the “Final Reconciliation”). “Profits of the Sale” means all cash proceeds remaining in the Sale Account. Distribution of the Profits. Subject to the Reserve (as defined below), the Profits of the Sale shall be distributed as follows: (a) five (5%) percent of the Profits of the Sale to the Event Coordinators referred by Agent, and then (b) from the remaining balance of the Profits of the Sale Account will be distributed eighty (80%) percent to the Company and twenty (20%) percent to Agent. Within five (5) days after the completion of the Final Reconciliation and execution of a settlement letter including an appropriate mutual release, Agent shall pay to Company, or Company shall pay to Agent, as the case may be, any and all amounts due the other pursuant to the Final Reconciliation. Once executed by Company and Agent, such settlement and Final Reconciliation shall be deemed approved without further order of the Bankruptcy Court (other than the Order).

7.2. Remaining Merchandise. All Additional Inventory remaining, if any, at the conclusion of the Sale shall remain the sole property of Agent, free and clear of all Liens. The Company shall be responsible for Company Inventory and Excluded Inventory. Excepting such inventory and property that is the responsibility of the Company and any fixtures and property owned or controlled by the Company, Agent will leave the Sale Location in “broom clean” condition.

8. Reserve Account. Agent shall maintain in the Sale Account an amount of the Profits of the Sale, not to exceed 1.5% of gross sales of the Sale, for the handling of chargebacks, customer complaints, and accrued and unpaid Sale Expenses (“Reserve”). After 180 days from the end of the Sale (or shorter period determined by Agent), the balance of the reserve in the Sale Account, if any, shall be distributed in accordance with Section 7.

9. **INSURANCE**

The Company shall continue for the duration of the Sale Term in such amounts as Company currently has in effect, all of its building and liability insurance policies, including, but not limited to, products liability, comprehensive public liability, auto liability, fire, flood, theft and extended coverage casualty insurance, contents insurance and umbrella liability insurance, covering injuries to person and property in, or in connection with the Company's operations of the Store Location, and shall cause Agent to be named an additional insured or loss payee, as applicable, with respect to all such liability policies and as a loss payee with respect to property coverage. Prior to the Commencement Date, the Company shall deliver to Agent certificates evidencing such insurance setting forth the duration thereof and naming Agent as an additional insured or loss payee, as applicable, on all such insurance policies and naming Agent as loss payee on all insurance policies insuring the Company Inventory and Additional Inventory, all in form reasonably satisfactory to Agent. All such policies shall require a least thirty (30) days prior written notice to Agent of cancellation, non-renewal or material change. The cost of contents and liability insurance premiums during the Sale Term with respect to the Sale shall be paid from the proceeds of the Sale as a Sale Expense. The Company shall increase the limits of any of Company's insurance coverage at Agent's reasonable request.

The Company shall also continue until for the duration of the Sale Term in such amounts as it currently has in effect, worker's compensation insurance (including employer liability insurance) covering employees that work at the Sale and in compliance with statutory requirements. Prior to the Commencement Date, Company shall deliver to Agent a certificate of its insurance broker or carrier evidencing such insurance.

10. **CONDITIONS TO THE SALE**

10.1 This Agreement and the performance hereunder by Agent shall be subject to the satisfaction, or waiver by Agent, of the pre-Sale conditions set forth below:

(a) The Bankruptcy Court shall have entered the Interim Approval Order by no later than January 15, 2021 and the Final Approval Order by no later than February 2, 2021 or, in each case, such later dates as mutually agreed upon by Company and the Agent.

(b) The Company shall have obtained the consent, agreement and authorization, in form and substance acceptable to Agent, from all parties, required to conduct the Sale at the Sale Locations in order for the transactions contemplated by this Agreement to be consummated and effected.

(c) Upon entry of the Interim Approval Order, Agent shall be allowed (i) full and unfettered access to the Sale Locations to prepare and set up for the Sale, and (ii) to conduct the Sale at the Sale Location seven (7) days per week during the Sale Term in accordance with the terms of this Agreement and the Order.

11. DUE DILIGENCE

Prior to the start of the Sale, Agent shall have the right to perform any due diligence it or its counsel and representatives deem necessary including, but not limited to, reviewing the lease for the Sale Locations and determining that the Sale Locations is available for the conduct of the Sale. Agent shall have the right to cancel this Agreement if it discovers any fact which it reasonably deems as justification for said cancellation at which time this Agreement shall be null and void and Agent shall have no further obligation or liability to the Company.

12. COMPANY'S REPRESENTATIONS

The Company hereby represents and warrants that:

12.1. The Company shall comply with the Order, this Agreement and any of the Company's obligations under applicable laws.

12.2. The Company has good and marketable title to the Company Inventory free and clear of all Liens, except for those Liens listed on Schedule 1 attached, which Liens shall be transferred and attach solely to the Advance simultaneously with the entry of the Order.

12.3. During the Sale Term, Agent shall have the right to the unencumbered use and occupancy of, and peaceful and quiet possession of, the Sale Locations, the assets currently located at the Sale Locations, and the services provided at the Sale Locations.

12.4. To the best of Company's knowledge, all Company Inventory is in material compliance with all applicable federal, state or local product safety laws, rules and standards.

12.5. There are no unions associated with the Company and no employee of the Company is a union member.

13. AGENT'S REPRESENTATIONS

Agent hereby represents and warrants to the Company that:

13.1. Agent is a corporation or limited liability company, as applicable, duly organized and validly existing in good standing under the laws of the state of their formation, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein.

13.2. The execution, delivery and performance by the Agent of this Agreement have been duly authorized by all corporate action. Agent has duly executed and delivered this Agreement.

14. DEFAULT.

14.1. The occurrence of any of the following shall be an “Event of Default” hereunder:

(a) the failure or neglect of the Company to perform or observe any of its obligations under the Order or this Agreement, which failure shall have remained unremedied for a period of five (5) days after the Company has received a written notice of such neglect or failure;

(b) any representation or warranty made by the Company shall prove to be untrue in any material respect as of the date when made;

(c) an appointment of an examiner or a Chapter 7 or 11 Trustee or other fiduciary for the Company or the property of the estate of the Company;

(d) conversion of the Chapter 11 case of the Company to any subsequent case under Chapter 7 of the Code or otherwise;

(e) dismissal of the Chapter 11 case of the Company or any subsequent case under Chapter 7 of the Code;

(f) the entry of any order modifying, revoking, staying or vacating the Order without the prior written consent of Agent;

(g) the Sale is terminated by a party other than Agent and it is not resumed as of the fifth business day thereafter.

14.2. In the event of an Event of Default by Company, Agent shall have the right to (a) immediately terminate the Sale at one or more of the Sale Locations and enforce its security interests under the Uniform Commercial Code; (b) in lieu of terminating the Sale, in the case of a Covid-19 shutdown, Agent may suspend operation of the Sale and the Sale Term at one or more of the Sale Locations and its obligations to pay Sale Expenses until the Sale Term is recommenced, (c) assert all of its rights and remedies under this Agreement; and (d) assert all of its rights and remedies under law or in equity.

14.3. The Company will not cause or permit any of the Company Inventory, Additional Inventory or Agent Proceeds (as defined below) to be subject to a Lien except for Liens in favor of Agent, unless Agent shall have given its prior written consent thereto. “Agent Proceeds” shall mean the following whether now owned or hereafter acquired, wherever located: Company’s general intangibles, Company Inventory, Additional Inventory and all the proceeds and accounts of and to all of the foregoing, including, but not limited to, all proceeds in the Sale Account. There shall not at any time be entered in the Company’s Chapter 11 case or any subsequent Chapter 7 case any bankruptcy court Order which (i) authorizes the use of cash collateral of the Company in which Agent has an interest, or the sale, lease, or other disposition of property of the estate of the Company or (ii) under 11 U.S.C. Section 364 of the Code authorizes the obtaining of credit or the incurring of indebtedness secured by a Lien, or which is entitled to priority

administrative status; unless Agent shall have given its prior written consent thereto. The rights and interests granted to Agent hereunder and pursuant to the Order shall not be altered, modified, extended, impaired or affected by any plan of reorganization of the Company.

14.4. The terms and provisions of this Agreement and the Order and any actions taken pursuant hereto or thereto shall survive entry of any order which may be entered confirming or consummating any plan of reorganization of the Company or which may be entered converting the Company's case from Chapter 11 to Chapter 7, and the terms and provisions of this Agreement as well as the rights and interests granted pursuant to this Agreement and the Order shall continue in this or any superseding case under the Code; provided, that, all obligations and duties of Agent under the Order and this Agreement or otherwise shall terminate immediately upon the earlier of the date of an Event of Default or the date that a plan of reorganization of the Company becomes effective, unless Agent has given its prior written consent thereto.

15. SECURITY INTEREST

Company hereby grants to Agent a first priority senior security interest in and lien upon the Agent Proceeds to secure all obligations of Company to Agent hereunder. Company shall execute all such documents and take all such other actions as are reasonably required to perfect and maintain such security interest as a valid and perfected first priority security interest.

16. RELATIONSHIP OF THE PARTIES/OPERATION OF SALE

16.1. The parties hereto acknowledge and agree that nothing contained in this Agreement shall be construed to create a relationship between them as employer/employee, joint venturers, or partners. It is the intention of the parties that each party be deemed independent of the other and that Agent not be deemed to be a successor or assignee of the Company for any purpose whatsoever.

16.2. Nothing contained in this Agreement shall cause Agent, or any of its employees, officers, directors or agents, to assume or to have any liability or obligation, directly or indirectly, including by operation of non-bankruptcy law, for any liability, debt or obligation of the Company, whenever arising and whether contingent, unliquidated or mature. Nothing contained in this Agreement shall effect an assumption by Agent of any agreement or understanding, written or oral, express or implied and whether or not executory, of the Company with any person or entity.

16.3. Agent shall have the right to make all final decisions regarding the operation of the Sale. Nothing contained in this Agreement shall constitute Agent or its directors, officers, employees or agents a "responsible officer" of the Company.

17. PRIOR REPRESENTATIONS

The Parties hereto stipulate and agree that it has not been induced into executing this Agreement by, or has relied upon, any projections of potential profitability of the Sale prepared by the other.

18. MISCELLANEOUS

18.1. Binding Effect; Assignments. This Agreement and the Order shall be, subject to the Bankruptcy Court approval, binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns, including any trustee or other fiduciary appointed as a legal representative of the Company whether under subsequent Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case. The Agent shall have the right to syndicate this transaction by providing notice of such syndication to the Company.

18.2. Authority. The Parties represent and warrant that they have the power, authority and right to enter into this Agreement.

18.3. Notices. Any notice provided for herein shall be in writing and shall be deemed to have been given or made when: (i) personally delivered; (ii) when sent by telecopier and confirmed within forty-eight (48) hours by letter mailed or delivered to the party to be notified; or (iii) three (3) days following deposits for mailing by first class registered or certified mail, return receipt requested. For purposes of this section, notices must be delivered or mailed, as the case may be, to the addresses set forth below:

If to the Company, to:	Loves Furniture Inc. 6500 E. 14 Mile Rd. Warren, MI 48092 Attention: Mack Peters
With a copy to:	Max J. Newman, Esq. Butzel Long, P.C. 41000 Woodward Ave. Bloomfield Hills, MI 48304 (248) 258-2907 newman@butzel.com
If to PFP, to:	Planned Furniture Promotions, Inc. 9 Moody Road Bldg. D, Suites 17-18 Enfield, CT 06082 Attention: Mr. Tom Liddell
With a copy to:	The Esses Law Group, LLC 845 Third Avenue, 6 th Floor New York, New York 10022 Attention: Leo L. Esses, Esq.

If to Hilco, to:

Hilco Merchant Resources, LLC
5 Revere Dr., Suite 206
Northbrook, IL 60062
Attn: Ian S. Fredericks

18.4. Waiver. No waiver by a party hereto or a breach or default hereunder by any other party shall be considered valid, unless in a writing signed by such first party. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or any other nature.

18.5. Entire Agreement. This Agreement sets forth the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements between the Parties, whether written or oral, relating to any or all matters covered by and contained or otherwise dealt with in this Agreement.

18.6. Amendment. No modification, change or amendment of the Agreement or any of its provisions shall be valid, unless in writing and signed by the party against whom such claimed modification, change or amendment is sought to be enforced.

18.7. Titles. The titles of the Articles and Sections of this Agreement are inserted merely for convenience and ease of reference and shall not affect or modify the meaning of any of the terms, covenants or conditions of this Agreement.

18.8. Third Party Beneficiaries. This Agreement and any document related thereto shall not create, or be deemed or construed to have created, any third party beneficiary rights.

18.9. Counterparts. This Agreement may be executed in counterparts and by facsimile or email DPF signature, each of which shall be deemed an original and all of which when taken together shall constitute a single agreement.

18.10. Severability. If any provision of this agreement, or the application thereof, to any extent is held by any court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason whatsoever, the remainder of this agreement, or the application of such term or provision to the circumstances other than those to which it is held invalid, illegal, or unenforceable, shall not be affected thereby, and each term or provision of this agreement shall be valid and enforced to the fullest extent of the law.

18.11. Further Assurances. The Company shall cooperate and take such further action and shall execute and deliver such further documents as may be reasonably requested by Agent in order to carry out the provisions and purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the first day above written.

LOVES FURNITURE, INC.

By: _____
Name: _____
Title: _____

PLANNED FURNITURE PROMOTIONS, INC.

By: _____
Name: _____
Title: _____

HILCO MERCHANT RESOURCES, LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

Sale Locations

Waterford (Drayton)	DETROIT	STORE	5053 DIXIE HWY	WATERFORD	MI	48329
Port Huron	DETROIT	STORE	1234 32ND ST	PORT HURON	MI	48060
Livonia (7 Mile)	DETROIT	STORE	29905 7 MILE RD	LIVONIA	MI	48152
Burton	FLINT-SAGINAW-BAY CITY	STORE	4095 E COURT ST	BURTON	MI	48509
Saginaw	FLINT-SAGINAW-BAY CITY	STORE	2660 TITABAWASSEE RD	SAGINAW	MI	48604
Bay City	FLINT-SAGINAW-BAY CITY	STORE	4150 WILDER RD	BAY CITY	MI	48706
Muskegon	GRAND RAPIDS-	Essential	630 SEMINOLE RD	MUSKEGON	MI	49441
Petoskey	TRAVERSE CITY-CADILLAC	STORE	1619 ANDERSON ROAD	PETOSKEY	MI	49770
Boardman	YOUNGSTOWN	A & R Properties	300 BOARDMAN-POLAND RD (RT	BOARDMAN	OH	44512
Niles	YOUNGSTOWN	A & R Properties	836 YOUNGSTOWN-WARREN RD	NILES	OH	44446
Hermitage	YOUNGSTOWN	A & R Properties	1340 N. HERMITAGE RD (RT 18)	HERMITAGE	PA	16148
Dearborn	DETROIT	LCN	15701 MARKET DR	DEARBORN	MI	48126
Shelby Twp (Lakeside)	DETROIT	STORE	14055 HALL RD	SHELBY	MI	48315
Taylor	DETROIT	STORE	22035 EUREKA RD	TAYLOR	MI	48180
Howell	DETROIT	STORE	4101 E GRAND RIVER AVE	HOWELL	MI	48843
Canton	DETROIT	STORE	41661 FORD RD	CANTON	MI	48187
Royal Oak (Woodward)	DETROIT	STORE	32301 WOODWARD AVE	ROYAL OAK	MI	48073
Warren N (Tech Plaza)	DETROIT	LCN	6500 E 14 MILE RD	WARREN	MI	48092
Portage (Kalamazoo)	GRAND RAPIDS-KALAMAZOO-	STORE	550 RING RD	PORTAGE	MI	49024
Battle Creek	GRAND RAPIDS-KALAMAZOO-	Essential Properties	6100 B DR N	BATTLE CREEK	MI	49014
Grand Rapids	GRAND RAPIDS-KALAMAZOO-	LCN	4375 28TH STSE	GRAND RAPIDS	MI	49512
Comstock Park (Alpine)	GRAND RAPIDS-KALAMAZOO-	LCN	4273 ALPINE AVE NW STE B	COMSTOCK	MI	49321
Jackson	LANSING	Independent LL	950 N WEST AVE	JACKSON	MI	49202
Toledo	TOLEDO	SBV-Holland	1301 E MALL DR	HOLLAND	OH	43528

EXHIBIT B

SALE PROMOTION CONSULTING AGREEMENT

Agreement (this "Agreement"), dated December 3, 2020, by and among Loves Furniture, Inc., a Delaware corporation (the "Company") and Planned Furniture Promotions, Inc., a Pennsylvania corporation ("PFP").

INTRODUCTION

The Company is engaged in the retail sale of furniture and home furnishings at showrooms at the locations set forth on Exhibit A annexed hereto (the "Sale Locations", each a "Sale Location"). The Company desires to retain PFP as the Company's exclusive agent to conduct impact promotional sales at the Sale Locations in accordance with the terms of this Agreement (the "Sale"); and PFP is willing to serve as the Company's exclusive agent to conduct the Sale at the Sale Locations in accordance with the terms and conditions of this Agreement.

The parties hereby agree as follows:

1. Engagement. The Company appoints PFP as its exclusive agent to assist the Company to conduct the Sale under the terms and conditions of this Agreement.
2. Company Services. The Company shall make available and provide PFP with the temporary right to use for the Sale Term (as defined below) the Sale Locations and all existing merchandise at the Sale Locations and, at the Company's discretion, some merchandise from its distribution centers/warehouses ("Warehouses"). The Company shall deliver such additional merchandise from the Warehouses to the applicable Sale Locations, and the cost of such additional merchandise and delivery shall be a Sale Expense (as defined below). Company will review and allow the Sale to utilize any phone systems available at the Sale Locations. If phones systems are not available at the Sale Locations, PFP will set up phones, in its discretion, necessary for the Sale. The Company shall provide PFP with lists of all Pre-Sale Orders (as defined below) for the Sale Locations, including the availability of merchandise to fulfill the Pre-Sale Orders. Company may not remove any of its inventory or other items to be used in the Sale from the Sale Locations after calculation and payment of the Advance (as defined below), but Company may move bed tops and other materials not calculated in the Advance or otherwise part of this Agreement (i.e., cannot move supplies etc... listed in Section 7.8).
3. PFP Services. PFP shall (a) provide a team of experienced furniture personnel including an Event Coordinator for each of the Sale Locations and additional sales personnel for the Sale. PFP shall also provide administrative, clerical and warehouse personnel, as necessary; (b) direct Sale-related operations including merchandising, display, pricing, tagging, advertising, administrative, sales, inventory tracking and delivery; (c) make available its contacts, credit lines and purchase power to provide Additional Inventory (as defined below) for the Sale, if applicable. The Sale shall benefit from all discounts, savings, and price reductions resulting from PFP's purchasing power; (d) assume responsibility for Sale Expenses (as defined below) pursuant to the terms and conditions of this Agreement; (e) arrange for the Advance and, at PFP's discretion, other advance of funds for Sale Expenses, which advances shall be reimbursed from the proceeds of the Sale; (f) shall assume responsibility for complying with all state and local regulations and Executive Orders relating to Covid-19 including providing required PPE and store signage; and (g) work with Company to fulfill Pre-Sale Orders.
4. Inventory Taking. Prior to the Commencement Date, as defined below, Company shall take a physical inventory (the "Inventory Reconciliation") of the Company's inventory at the Sale Locations (the "Company Inventory") and, by no later than December 6, 2020, shall provide a complete written copy to PFP. PFP may conduct a spot-check, in PFP's discretion, to confirm the Inventory Reconciliation.
5. Advance to the Company. The Company shall provide PFP with a list of critical vendors and other outstanding obligations ("Pre-Sale Expenses"), including Pre-Sale Orders (as defined below) PFP shall advance ("Advance") to the Company thirty (30%) percent of the Cost Value of the Company's Inventory at the Sale

Locations. “Cost Value” means manufacturer cost plus freight. The Advance shall be deposited in the Backlog Account by no later than the Commencement Date. The Advance shall be used to fulfill Pre-Sale Orders and, if agreed to by PFP and the Company, to pay other Pre-Sale Expenses necessary for the operation of the Sale at the Sale Locations.

6. Payment to the Company for Company Inventory During the Sale. After PFP has been reimbursed the Advance in total, Company will be paid the Company Inventory Payment on a weekly basis from the Sale Account (as defined below). “Company Inventory Payment” means an amount equal to the fifty (50%) percent of the retail selling price (excluding sales tax and delivery charges) of the Company Inventory sold and delivered during the prior week of the Sale.

7. Conduct of the Sale.

7.1. Theme of the Sale. The Company and PFP shall mutually agree on a theme of the Sale to raise funds, liquidate excess inventory, and improve the Company’s financial condition including, but not limited to, “Store Closing” and “Inventory Liquidation” and other theme of similar meaning and impact.

7.2. Duration of the Sale. The Sale shall commence on the first day after the written sign off to the Inventory Reconciliation by PFP (the “Commencement Date”). The Company and PFP agrees that (i) tagging of the merchandise at the Sale Locations will commence on or about December 11, 2020, and (ii) the Sale will commence on or about December 26, 2020. After the commencement of the “store” closing” advertisements for the Sale, the Company can elect to provide PFP with a sixty (60) day notice to end the Sale at no more than four (4) of the Sale Locations. Except as stated in the previous sentence, PFP shall decide the end date of the Sale Term at each of the Sale Locations; provided, however, that the Sale Term shall be concluded by no later than May 22, 2021 (subject to applicable sale closing laws). The “Sale Term” means the period from the Commencement Date to the end of the Sale at all of the Sale Locations.

7.3. Sale Bank Account. PFP shall establish a bank account(s) controlled by PFP (the “Sale Account”). All proceeds of the Sale shall be deposited into the Sale Account and PFP shall disburse the funds in the Sale Account in accordance with the terms herein. PFP will also set up financing programs and credit card machines to process customer purchases made during the Sale. The proceeds collected from such credit card machines and financing will be deposited into the Sale Account. PFP shall only disburse funds from the Sale Account as specified in this Agreement; provided, however, that PFP shall leave a reasonable amount of funds in the Sale Account to pay ongoing Sale Expenses, to fund a net operating loss and to maintain the Sale Account, as reasonably determined by PFP. PFP grants Company the right to audit the Sale Account at any time upon three (3) days’ written notice so long as such audit does not unreasonably interfere with the conduct of the Sale.

7.4. Sale Expenses. PFP shall be responsible for, and shall pay from proceeds in the Sale Account, all “Sale Expenses” incurred in conducting the Sale at the Sale Locations. “Sale Expenses” means all operating expenses of the Sale which arise for the Sale Locations for the Sale Term as follows: Rent. “Rent” shall be calculated on a monthly basis as the lesser of (i) seven (7%) percent of the gross delivered sales (not including sales tax, credit card or finance fees or delivery charges)(the “Percentage Rent”), and (ii) actual rent to be actually paid by Company and received by the landlord for the Sale Locations (the “Actual Rent”). If the Percentage Rent of a month is greater than the actual Rent for that month, the difference between Percentage Rent and Actual Rent for that month shall be held on behalf of the Company to be used in subsequent months of the Sale Term to be used to pay Actual Rent. All Rent payments shall be paid directly to the landlord of each Sale Location. PFP shall also be responsible for, and shall pay from the proceeds in the Sale Account only the following Sale Expenses which arise for the Sale Locations for the Sale Term: (a) liability, casualty and contents insurance premiums; (b) trash removal; (c) utility charges; (d) delivery charges; (e) additional warehouse space for the Sale and shall first lease excess space from Company’s warehouse if available ; (f) bank fees, credit card fees, check verification fees and chargebacks; (g) postage and courier services reasonably necessary; (h) advertising and signage costs, including television, social media, radio, print, direct mail, signs

and banners; (i) costs of any Additional Inventory, including inbound and outbound freight, and costs to transfer merchandise (not including Pre-Sale Orders) from the Company's distribution centers/warehouses to Sale Locations; (j) reasonable lodging expenses for all PFP personnel assigned to the Sale who are required to travel more than 100 miles round trip to perform services; (k) the Company Inventory Payment, PFP Fee, Auction Fee, and Sales Personnel Commission (as defined below) and compensation of all other personnel working at the Sale, including applicable federal, state and local payroll taxes, and workers' compensation, and PFP's payroll processing fee, including from a third party provider and without mark-up; (l) supplies; (m) PFP's legal fees and accounting expenses for the Sale, but not related to the negotiation of this Agreement or disputes with Company arising out of this Agreement; (n) expenses related to the Auction; and (o) such other costs and expenses that PFP at its reasonable discretion deems appropriate for purposes of the Sale

7.5. Non-Sale Expenses. Sale Expenses shall exclude, without limitation, and PFP shall not be responsible for, the following: (a) maintenance or repair expenses (including repair to the roof, structural portions and HVAC system) at the Sale Locations; (b) Company and PFP executive compensation and employee benefits (including, without limitation, pension benefits, medical benefits, vehicles, vacation pay, holiday pay, sick days, leaves of absence, and severance pay); (c) any and all expenses incurred prior to or after the Sale Term, except for accounting expenses as provided in Section 7.4(m); (d) rent and all other charges relating to the occupancy of the Sale Locations in excess of the amount set forth in Section 7.4; (e) all costs and expenses that are not a Sale Expense; and (f) any costs and expenses that are unrelated to the Sale (collectively, the "Non-Sale Expenses"). If PFP incurs a Non-Sale Expense, PFP shall have the right to reimburse itself from funds due to the Company under this Agreement including, without limitation, the Company Inventory and the proceeds therefrom.

7.6. Sales Tax. Sales tax with respect to the Sale shall be collected and initially be deposited into the Sale Account. PFP will provide the Company with the sales tax monies and calculations on a timely basis in order for the Company to pay sales tax on a timely basis. The Company shall execute all applicable reports and documents as required by the taxing authority.

7.7. Pre-Sale Orders and Expenses.

(a) The Company shall be responsible for satisfying all customer orders for which a deposit was made prior to the start of the Sale (the "Pre-Sale Orders") or refunding those deposits. PFP shall assist the Company to obtain merchandise to complete Pre-Sale Orders. PFP shall negotiate with manufacturers and, will use best efforts and its credit lines to secure merchandise to enable Company y to fulfill Pre-Sale Orders. Pre-Sale Orders shall only include those order taken at one of the Sale Locations and shall not include orders taken at any of the Company's other stores.

(b) The Advance and all proceeds from Pre-Sale Orders shall be deposited into a separate bank account controlled by PFP (the "Backlog Account"). The following expenses shall be paid from the Backlog Account with respect to such Pre-Sale Orders (collectively, the "Pre-Sale Order Expenses"): (i) the invoice cost plus billed freight of the merchandise required to fulfill said Pre-Sale Orders, (ii) any and all out-of-pocket expenses incurred by PFP to complete said Pre-Sale Orders, including, without limitation, any transfer expenses between locations, sales tax, credit card fee or finance fees, sales personnel commission, preparation work, refinishing, administrative matters and salaries and wages relating to the completion and delivery of Pre-Sale Orders, (iii) Pre-Sale Expenses (under the terms set forth above), and (iv) a commission to PFP of five (5%) percent of the gross sales amount (excluding sales tax and delivery charges) for handling said Pre-Sale Orders (but not for payment of Pre-Sale Expenses).

(c) The Company acknowledges and agrees that PFP's assistance with respect to Pre-Sale Orders is subject to, and limited by, causes beyond its control, including without limitation, the discontinuance, delay or unavailability of merchandise, the refusal or inability of a manufacturer to cooperate with PFP, unwillingness of a customer to accept delivery of merchandise or the unwillingness or inability of a customer to pay in cash or certified funds, or the manufacturer's failure to deliver the merchandise during the Sale Term.

PFP shall not be required to expend its own funds or proceeds of Company Inventory and Additional Inventory to fulfill Pre-Sale Orders.

(d) Prior to the Commencement Date, the Company shall provide PFP with a complete and accurate written list of all Pre-Sale Orders indicating (u) the name, address and phone number of each customer, and item purchased by such customer; (v) the total amount of money accepted or received on deposit from each such customer; (w) the balance due from each such customer; (x) any sales tax due for each such customer; (y) any sales commission due; and (z) any other information reasonably requested by PFP. The Company represents and warrants to PFP as follows: (i) the gross sales (including freight) of Pre-Sale Orders is \$1,771,898, (ii) the invoice cost plus billed freight of Pre-Sale Orders is \$939,354 ("Pre-Sale Order Cost"), (iii) the amount of deposits received by the Company on account of such Pre-Sale Orders is \$935,856 ("Pre-Sale Order Deposits"), and (iv) the invoice cost plus billed freight of Company Inventory on hand to complete Pre-Sale Orders is \$315,599 ("Pre-Sale Order Inventory On Hand").

(e) If, after the Sale Term there is a positive balance in the Backlog Account and PFP has been reimbursed the Advance, such balance shall be paid to the Company.

7.8. Use of Existing Assets. During the Sale Term, the Company and PFP shall have the right to use for the Sale, exclusive of third parties, without charge, the Company's furnishings, fixtures, and equipment; trade names, trademarks, logos and other intangible rights; computer hardware and software (including, without limitation, the Company's URL and website); supplies; and any other assets of the Company located at the Sale Locations. PFP shall have the right to use the Company's trade names, trademarks and logo for PFP's promotional purposes only as approved by Company. At Company's request, PFP will offer for sale the Company's FF&E, upon which PFP will earn the PFP Fee.

7.9. Salaried/Hourly Personnel and Sales (Commission) Personnel. Company shall advertise available positions to its employees to work at the Sale. Any such person who chooses to work for the Sale shall no longer be an employee of the Company and will instead be enrolled in a PEO (as defined below). All personnel selected to assist with the Sale and/or Auction, if any, will be paid by the PEO (as defined below). PFP shall engage a professional employer organization or payroll service (a "PEO") for the payment of salaries and wages, including worker's compensation benefits, to all hourly, commission based and salaried personnel at the Sale. Such salaried, commission and hourly personnel shall be under the direction of PFP, subject to the terms and conditions of this Agreement. All Event Coordinators and PFP sales persons that PFP refers to work at the Sale shall be contractors and shall receive their tax forms from PFP. Such event coordinators shall be under the direction of PFP, subject to applicable law and the terms and conditions of this Agreement.

7.10. Books and Records. The Company and PFP shall make their books and records with respect to the Sale available for inspection during the Sale Term by each other during normal business hours, such inspection not to unreasonably interfere with the operation of the Sale. PFP will provide the Company (via e-mail) with daily, if any, and weekly reports regarding the conduct of the Sale prepared by PFP during the Sale, including data on the remaining Company Inventory and Additional Inventory as routinely maintained by PFP. PFP will retain originals of all documents related to the Sale after the Sale Term.

8. Additional Inventory. At the Company's request, or at PFP's discretion, the Company may obtain inventory, which is in addition to the Company Inventory (the "Additional Inventory"), for the Sale, including rugs. PFP shall order Additional Inventory in Company's name, but on PFP's credit lines. PFP may negotiate an agreement on an exclusive basis with a rug vendor (the "Rug Vendor"), including an affiliate of PFP, for the sale of rugs ("Rugs") as Additional Inventory at one or more of the Sale Locations during the Sale Term. On a weekly basis, the Rug Vendor will be paid eighty (80%) percent of the gross sales (excluding sales tax and delivery charges) of all rugs sold and delivered the prior week, as the sole compensation for the Rug Vendor and the PFP Fee for Rugs shall be paid by the Rug Vendor from such amounts. The Company hereby grants to PFP a purchase money security interest in the Additional Inventory and the proceeds therefrom.

9. Auction Following The Sale. Prior to the expiration of the Sale Term, PFP may, at its discretion, on its own or through a third party, conduct an auction (“Auction”) of Company’ inventory and Additional Inventory at one or more of the Sale Locations. The proceeds of such auction shall be deposited in the Sale Account. In lieu of the PFP Fee, PFP shall be paid a reduced commission equal to one half (1/2) the PFP Fee (the “Auction Fee”). PFP shall set the terms of the auction, including, but not limited to, a buyer’s premium, and is hereby authorized to enter into an auction agreement with the auctioneer. PFP shall not be allowed to bid or purchase any inventory at the Sale.

10. Fees and Commissions.

10.1. PFP’s Fee. PFP shall be paid a commission, on a weekly basis, equal to(i) seven (7%) percent of the gross sales amount (excluding sales tax and delivery charges) of all Company Inventory sold at the Sale and delivered, and (ii) nine (9%) percent of the gross sales amount (excluding sales tax and delivery charges) of all Additional Inventory sold at the Sale and delivered (the “PFP Fee”).

10.2. Sales Personnel Commission. Sales persons shall be paid a commission, on a weekly basis, equal to five (5%) percent of the gross sales amount (excluding sales tax and delivery charges) of merchandise sold by them at the Sale and delivered, plus a commission for the sale of protection/warranty plans of 15% (the “Sales Personnel Commission”).

11. Determination and Distribution of the Profits of the Sale.

11.1. At the expiration of the Sale Term at all of the Sale Locations, PFP shall calculate and distribute the “Profits of the Sale” after payment of all Sale Expenses. “Profits of the Sale” means all cash proceeds remaining in the Sale Account. Distribution of the Profits. Subject to Section 12 below, the Profits of the Sale shall be distributed as follows: (a) five (5%) percent of the Profits of the Sale to the Event Coordinators referred by PFP, and then (c) the remaining balance of the Profits of the Sale Account will be distributed eighty (80%) percent to the Company and twenty (20%) percent to PFP. Notwithstanding the preceding, if there is a negative balance in the Backlog Account at the end of the Sale Term, the first Profits of the Sale to be paid to the Company shall be deposited into the Backlog Account to zero out the Backlog Account.

11.2. If at the conclusion of the Sale at all of the Sale Locations there remains any Additional Inventory (“Remaining Additional Inventory”) not paid for by the Sale, then either (i) the Company shall have the option to purchase the Remaining Additional Inventory by paying the Cost Value to PFP, or (ii) if Company does not elect such option, PFP shall be entitled to remove all such remaining Additional Inventory free and clear of all Liens and PFP will pay the manufacturer directly for such merchandise. If any Remaining Additional Inventory has been paid for from the Sale Account, then (i) the Company shall have the option to purchase the Remaining Additional Inventory by paying the Cost Value to the Sale Account, or (ii) if the Company does not elect such option, PFP shall be entitled to remove the Remaining Additional Inventory free and clear of all liens and shall pay the Cost Value to the Sale Account.

12. Reserve Account. The Company and PFP shall maintain in the Sale Account an amount of the Profits of the Sale, not to exceed 1.5% of gross sales of the Sale, for the handling of chargebacks, customer complaints, and accrued and unpaid Sale Expenses. After 180 days from the end of the Sale (or shorter period determined by PFP), the balance of the reserve in the Sale Account, if any, shall be distributed in accordance with Section 11.1.

13. Insurance. The Company shall increase the limits of its casualty, liability and contents insurance coverage at PFP’s request. The premiums for such insurance coverage shall be a Sale Expense. The Company shall indicate PFP as an “additional insured” on its liability and casualty coverage, and as a “loss payee” on its property coverage as PFP’s interests may appear. The Company shall deliver to PFP a complete copy of the insurance policy and evidence of casualty, liability and contents insurance, and shall cooperate with PFP regarding any claim.

14. Relationship/Limitation Of Liability/Decisions. The parties acknowledge and agree that nothing contained in this Agreement shall be construed to create a relationship between them as employer/employee, joint venturers, or partners. It is the intention of the parties that each party be deemed independent of the other. Nothing in this Agreement shall cause or deem to cause PFP to assume or have any liability, directly or indirectly, for any debt or obligation of the Company. Notwithstanding anything contained in this Agreement to the contrary, PFP shall have the right to make all final decisions regarding the operation of the Sale.

15. Indemnification. PFP agrees to indemnify Company from any claim brought as a result of PFP's actions and (i) brought by an independent contractor or other individual retained by PFP to perform services during the sale or any governmental agency, against Company regarding employment related claims such as the failure to pay monies owed, the failure to properly withhold taxes or withholding required by law, to provide proper documents to taxing authorities, the failure to provide legally required insurance coverage (including workers compensation), (ii) brought against Company by a vendor, provider of or other service provider for unpaid goods if required to be paid by the Sale Account per this Agreement, or (iii) brought against Company by a customer or other third party for acts caused by the gross negligence, intentional misconduct or illegal act of PFP, its agents or individuals under its control and direction.

Company agrees to indemnify PFP from any claim brought as a result of Company's actions and (i) brought against PFP by a third party provider or other service provider for unpaid goods or services if required to be paid by the Company per this Agreement, or (ii) brought against PFP by a customer or other third party for acts caused by the gross negligence, intentional misconduct or illegal act of Company, its agents or individuals under its control and direction.

16. Prior Representations. The parties hereto agree that PFP has not guaranteed the profitability of the Sale and the Company has not been induced into executing this Agreement by, or has relied upon, any projections of potential profitability of the Sale, other statements or other representations.

17. Company's Representations. The Company hereby represents and warrants to the other parties that:

17.1. The Company is duly organized and validly existing in good standing under the laws of the State of its formation, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein. This Agreement has been duly and validly authorized by all necessary action, has been duly and validly executed and delivered, and is a valid and binding obligation of the Company enforceable in accordance with its terms.

17.2. The execution, delivery and performance by the Company of this Agreement shall not violate any material agreement or instrument by which the Company is bound, including any real estate lease or obligation for borrowed money.

17.3. PFP shall have the right to the unencumbered use and occupancy of, and peaceful and quiet possession of, the Sale Locations during the Sale. Company shall pay timely all rent and other occupancy charges not included as Sale Expenses.

17.4. The Company is current with regards to all taxes owed, and there are no outstanding judgments or tax Liens against the Company or any of its assets and there are no pending or, to the Company's best knowledge, threatened actions against the Company.

17.5. The Company has good and marketable title to its assets, including, the Company Inventory and other PFP Collateral (as defined below), free and clear of all Liens, except for any Liens held by STORE. Other than any Liens held by STORE and the Liens provided for in this Agreement, the Company shall not create or permit to exist any Lien on any asset of the Company without prior written consent of PFP. For purposes of this Agreement, "Liens" means any security interest, pledge, mortgage, deed of trust, lien (including tax liens),

charge, judgment, encumbrance, adverse claim, claim arising under Section 506(c) of the Bankruptcy Code, preferential arrangement, fraudulent transfer or other avoidance claim or restriction of any kind, including any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, and any lien, interest, restriction or limitation arising from or relating to personal or other property tax, sales and transaction privilege, claim of successor liability for any alleged unpaid sales or other tax, and any other lien or assessment of any governmental authority, whether or not allowable, recorded or contingent.

17.6. The financial, sales, inventory and other information provided by the Company to PFP, or hereafter requested by PFP, are accurate in all material respects and fairly present the financial and business condition of the Company, and PFP has relied on the accuracy of the foregoing information in entering into this Agreement. The Company has not transferred any merchandise to or from the Sale Location in anticipation of the Sale.

17.7. The officer of the Company executing this Agreement has carefully read the entire terms of this Agreement and knows and understands its binding effect, and has been advised to take the opportunity to review this Agreement with an attorney prior to execution.

18. PFP's Representations. PFP hereby represents and warrants to the other parties that:

18.1. PFP is a corporation duly organized and validly existing in good standing under the laws of the State of Pennsylvania, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein.

18.2. This Agreement has been duly and validly authorized by all necessary corporate action, has been duly and validly executed and delivered, and is a valid and binding obligation of PFP enforceable in accordance with its terms.

18.3. The financial, sales, inventory and other information provided by PFP to the Company, or hereafter requested by or presented to Company, are accurate in all material respects and fairly present the financial and business condition of PFP and Sale, and Company has relied on the accuracy of the foregoing information in entering into this Agreement.

19. Default.

19.1. The occurrence of any of the following is an event of default ("Event of Default"): (a) the failure of either Party to perform any of its material obligations under this Agreement, which failure is not remedied within five (5) days after the defaulting party has received written notice from the other party of such failure; (b) any representation or warranty made by the a party to the other party shall prove to be untrue in any material respect; (c) a petition in bankruptcy is filed by or against a party, or any of a party's property is attached, or a receiver is appointed for a party; (d) a substantial portion of the Company Inventory or Additional Inventory is destroyed, encumbered, seized, or confiscated at one or more of the Sale Locations; or (e) the Sale is interrupted or terminated by a party other than PFP at one or more of the Sale Locations and the Sale is not resumed as of the second (2nd) day thereafter.

19.2. In the event of an Event of Default by Company, PFP shall have the right to (a) immediately terminate the Sale at one or more of the Sale Locations and enforce its security interests under the Uniform Commercial Code; (b) in lieu of terminating the Sale, PFP may suspend operation of the Sale and the Sale Term at one or more of the Sale Locations and its obligations to pay Sale Expenses until the Sale Term is recommenced, (c) assert all of its rights and remedies under this Agreement; and (d) assert all of its rights and remedies under law or in equity.

19.3. In the event of an Event of Default by PFP, Company shall have the right (a) upon twenty (20) days written notice to cure, to terminate this Agreement; (b) an accounting to be conducted by a third party auditor

selected by Company; (c) assert all of its rights and remedies under this Agreement; and (d) assert all of its rights and remedies under law or in equity.

20. Security Interest. The Company hereby grants to PFP a security interest and lien in the PFP Collateral to secure all obligations and liabilities of the Company to PFP, now existing or later incurred, including, without limitation, Non-Sale Expenses, Pre-Sale Order Expenses, Pre-Sale Expenses and any amount PFP advanced or is entitled to be reimbursed for. “PFP Collateral” means (a) the Company’s inventory and proceeds therefrom, (ii) all rights of the Company under the terms of this Agreement, including, without limitation, amounts due or to become due to the Company under the terms of this Agreement, (iii) all funds in the Sale Account and Backlog Account, and (iv) all proceeds (including any insurance proceeds and credit card receivables) related to the Sale. The Company hereby authorizes PFP to file Uniform Commercial Code financing statements to perfect the security interests contemplated by this Agreement.

21. Miscellaneous.

21.1. Binding Effect; Assignments. This Agreement shall be binding upon and inure to the benefit of the Company and PFP and their respective, successors and assigns. The Company may not assign its rights or obligations under this Agreement without the prior written consent of PFP.

21.2. Notices. Any notice provided for herein shall be in writing and shall be deemed to have been given when: (i) personally delivered; (ii) when sent by telecopier and confirmed within forty-eight (48) hours by letter mailed or delivered to the party to be notified; (iii) one (1) business day after delivery by national overnight courier service with next business day delivery; or (iv) three (3) days following deposit for mailing by first class registered or certified mail, return receipt requested. Notices shall be delivered to the addresses set forth below: If to the Company, to: Loves Furniture, Inc. 32301 Woodward Ave. Royal Oak, MI 48083 Attention: Chief Executive Officer With a copy to: Jeff Love at 1601 Elm Street, Dallas, Texas 75201. If to PFP, to: Planned Furniture Promotions, Inc., 9 Moody Road, Bldg. D, Suites 17-18, Enfield, CT 06082 Attention: Tom Liddell; with a copy to: The Esses Law Group, LLC, 845 Third Avenue, 6th Floor, New York, New York 10022 Attention: Leo L. Esses, Esq.

21.3. Waiver. No waiver by a party hereto of a breach or default hereunder by the other party shall be considered valid, unless in writing signed by such first party.

21.4. Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior agreements or understandings between the Company and PFP, whether written or oral, relating to any or all matters covered by and contained or otherwise dealt with in this Agreement.

21.5. Amendment. No modification, change or amendment of this Agreement or any of its provisions shall be valid, unless in writing and signed by both parties.

21.6. Applicable Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Michigan. The Company and PFP hereby agree and acknowledge that any monetary damage claim that either party may have against the other shall be limited to actual damages and losses and shall not include punitive, consequential, special or indirect damages.

21.7. Dispute Resolution. All disputes between the parties arising out of or related to this Agreement that cannot be settled amicably shall be settled by final and binding arbitration under the Commercial Arbitration Rules (the “Rules”) of the American Arbitration Association by a single neutral arbitrator, who must issue a reasoned opinion, appointed by agreement of the parties hereto or, if no agreement can be reached, in accordance with the Rules. The arbitration proceedings, results and any award shall be maintained by the parties as confidential. Said arbitration shall take place in metro-Detroit, Michigan. Notwithstanding the foregoing, either party shall have the right to bring a proceeding in court to seek injunctive relief and PFP may seek to

exercise its rights and remedies as a secured party under the UCC. This Agreement is to be construed fairly and not in favor of or against any party regardless of which party drafted or participated in the drafting of its terms.

21.8. Confidentiality. The parties to this Agreement acknowledge and agree that the terms of this Agreement and the operation of the Sale shall remain confidential and shall not be disclosed by either party to any third party, whether in writing or orally; provided, however, that such disclosure may be made if required by law and to the party's attorneys or accountants, but only as reasonably necessary.

21.9. Third Party Beneficiaries. This Agreement and any document related thereto shall not create, or be deemed or construed to have created, any third party beneficiary rights.

21.10. Counterparts. This Agreement may be executed in multiple counterparts and by facsimile, pdf, or other electronic signature and each such counterpart shall be deemed an original and all counterparts shall constitute one and the same instrument.

21.11. Severability. If any provision of this Agreement, or the application thereof, to any extent is held by any court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason whatsoever, the remainder of this Agreement, or the application of such term or provision shall not be affected thereby.

21.12. Additional Sale Locations. Upon the written agreement of Company and PFP, the parties may add additional locations as Sale Locations, which shall be subject to the terms of this Agreement.

22. Conditions Of The Sale. This Agreement shall not become effective until the following conditions in this Section are satisfied, or waived by PFP in writing (a) the Company has provided PFP with a list of all Backlog Customers; (b) the Company has provided PFP with a list of all outstanding non-cancelable media buys through the 4th quarter of 2020 and the 1st quarter of 2021; (c) the Company has provided PFP with a list of all staff (i.e., staffing grid) that includes names, positions and compensation, segregated by each of the Sale Locations; (d) the Company has provided to PFP a copy of the Company's business license for each of the Sale Locations; (e) PFP has reviewed agreements between Company and the landlords for the Sale Locations, to determine that such are sufficient, to PFP's reasonable satisfaction, for purposes of conducting the Sale; (f) Company's secured creditors have provided PFP with a letter agreeing to the conduct of the Sale, in form and substance agreed by PFP; (g) the completion of quarantining and other restrictive governmental orders regarding the Covid 19 virus to the reasonable satisfaction of PFP.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

LOVES FURNITURE, INC.

By: _____
Name: Jeff Love
Title: Director

PLANNED FURNITURE PROMOTIONS, INC.

By: _____
Name: Tom Liddell
Title: Sr. Vice President

AMERICAN BANKRUPTCY INSTITUTE

EXHIBIT A SALE LOCATIONS

Store Name	Address	City	State	Zip	Current Base Annual Rent	Current Base Monthly Rent	Current Base Rent PSF
Hermitage	1340 N. HERMITAGE RD (RT 18)	HERMITAGE	PA	16148	\$205,800	\$17,150	\$4.90
Niles	836 YOUNGSTOWN-WARREN RD (RT 422)	NILES	OH	44446	\$331,760	\$27,647	\$6.38
Boardman	300 BOARDMAN-POLAND RD (RT 224)	BOARDMAN	OH	44512	\$331,760	\$27,647	\$6.38
Muskegon	630 SEMINOLE RD	MUSKEGON	MI	49441	\$446,813	\$37,234	\$11.24
Dearborn	15701 MARKET DR	DEARBORN	MI	48126	\$762,959	\$63,580	\$10.86

EXHIBIT C

SALE PROMOTION CONSULTING AGREEMENT

Agreement (this "Agreement"), dated December 3, 2020, by and among Loves Furniture, Inc., a Delaware corporation (the "Company"), Planned Furniture Promotions, Inc., a Pennsylvania corporation ("PFP") and STORE Capital Acquisitions, LLC, A Delaware limited liability company ("STORE").

INTRODUCTION

The Company is engaged in the retail sale of furniture and home furnishings at showrooms at the locations set forth on Exhibit A annexed hereto (the "Sale Locations", each a "Sale Location"). The Company desires to retain PFP as the Company's exclusive agent to conduct impact promotional sales at the Sale Locations in accordance with the terms of this Agreement (the "Sale"); and PFP is willing to serve as the Company's exclusive agent to conduct the Sale at the Sale Locations in accordance with the terms and conditions of this Agreement. STORE is directly and indirectly the landlord at all of the Sale Locations in this Agreement and has a first priority security interest on the Company Inventory subject to the terms of this Agreement.

The parties hereby agree as follows:

1. **Engagement.** The Company appoints PFP as its exclusive agent to assist the Company to conduct the Sale under the terms and conditions of this Agreement.
2. **Company Services.** The Company shall make available and provide PFP with the temporary right to use for the Sale Term (as defined below) the Sale Locations and all existing merchandise at the Sale Locations and, at the Company's discretion, some merchandise from its distribution centers/warehouses ("Warehouses"). The Company shall deliver such additional merchandise from the Warehouses to the applicable Sale Locations, and the cost of such additional merchandise and delivery shall be a Sale Expense (as defined below). Company will review and allow the Sale to utilize any phone systems available at the Sale Locations. If phones systems are not available at the Sale Locations, PFP will set up phones, in its discretion, necessary for the Sale. The Company shall provide PFP with lists of all Pre-Sale Orders (as defined below) for the Sale Locations, including the availability of merchandise to fulfill the Pre-Sale Orders. Company may not remove any of its inventory or other items to be used in the Sale from the Sale Locations after calculation and payment of the Advance (as defined below), but Company may move bed tops and other materials not calculated in the Advance or otherwise part of this Agreement (i.e., cannot move supplies etc... listed in Section 7.8).
3. **PFP Services.** PFP shall (a) provide a team of experienced furniture personnel including an Event Coordinator for each of the Sale Locations and additional sales personnel for the Sale. PFP shall also provide administrative, clerical and warehouse personnel, as necessary; (b) direct Sale-related operations including merchandising, display, pricing, tagging, advertising, administrative, sales, inventory tracking and delivery; (c) make available its contacts, credit lines and purchase power to provide Additional Inventory (as defined below) for the Sale, if applicable. The Sale shall benefit from all discounts, savings, and price reductions resulting from PFP's purchasing power; (d) assume responsibility for Sale Expenses (as defined below) pursuant to the terms and conditions of this Agreement; (e) arrange for the Advance and, at PFP's discretion, other advance of funds for Sale Expenses, which advances shall be reimbursed from the proceeds of the Sale; (f) shall assume responsibility for complying with all state and local regulations and Executive Orders relating to Covid-19 including providing required PPE and store signage; and (g) work with Company to fulfill Pre-Sale Orders.
4. **Inventory Taking.** Prior to the Commencement Date, as defined below, Company shall take a physical inventory (the "Inventory Reconciliation") of the Company's inventory at the Sale Locations (the "Company Inventory") and, by no later than December 6, 2020, shall provide a complete written copy to PFP and STORE. PFP may conduct a spot-check, in PFP's discretion, to confirm the Inventory Reconciliation.

5. Advance to the Company. The Company shall provide PFP with a list of critical vendors and other outstanding obligations ("Pre-Sale Expenses"), including Pre-Sale Orders (as defined below). PFP shall advance ("Advance") to the Company thirty (30%) percent of the Cost Value of the Company's Inventory at the Sale Locations. "Cost Value" means manufacturer cost plus freight. The Advance shall be deposited in the Backlog Account by no later than the Commencement Date. The Advance shall be used to fulfill Pre-Sale Orders and, if agreed to by PFP and the Company, to pay other Pre-Sale Expenses necessary for the operation of the Sale at the Sale Locations.

6. Payment to the Company for Company Inventory During the Sale. After PFP has been reimbursed the Advance in total, STORE will be paid fifty percent (50%) of the Company Inventory Payment (for so long as any obligations of the Company owed to STORE remain outstanding), and the Company will be paid fifty percent (50%) of the Company Inventory Payment on a weekly basis from the Sale Account (as defined below); provided, however, that if there is a shortfall in the Backlog Account to complete Pre-Sale Orders, the Company portion of the Company Inventory Payment set forth in this Section 6 shall be deposited into the Backlog Account. "Company Inventory Payment" means an amount equal to the fifty (50%) percent of the retail selling price (excluding sales tax and delivery charges) of the Company Inventory sold and delivered during the prior week of the Sale. All Company Inventory Payments payable to STORE shall be by check or wire, as requested by STORE.

7. Conduct of the Sale.

7.1. Theme of the Sale. The Company and PFP shall mutually agree on a theme of the Sale to raise funds, liquidate excess inventory, and improve the Company's financial condition including, but not limited to, "Store Closing," "Inventory Liquidation" and other theme of similar meaning and impact.

7.2. Duration of the Sale. The Sale shall commence on the first day after the written sign off to the Inventory Reconciliation by PFP (the "Commencement Date"). The Company and PFP agrees that (i) tagging of the merchandise at the Sale Locations will commence on or about December 11, 2020, and (ii) the Sale will commence on or about December 26, 2020. After the commencement of the "store closing" advertisements for the Sale, either the Company or STORE can elect to provide PFP with a sixty (60) day notice to end the Sale at no more than four (4) of the Sale Locations. Except as stated in the previous sentence, PFP shall decide the end date of the Sale Term at each of the Sale Locations; provided, however, that the Sale Term shall be concluded by no later than May 22, 2021 (subject to applicable sale closing laws). The "Sale Term" means the period from the Commencement Date to the end of the Sale at all of the Sale Locations.

7.3. Sale Bank Account. PFP shall establish a bank account(s) controlled by PFP (the "Sale Account"). All proceeds of the Sale shall be deposited into the Sale Account and PFP shall disburse the funds in the Sale Account in accordance with the terms herein. PFP will also set up financing programs and credit card machines to process customer purchases made during the Sale. The proceeds collected from such credit card machines and financing will be deposited into the Sale Account. PFP shall only disburse funds from the Sale Account as specified in this Agreement; provided, however, that PFP shall leave a reasonable amount of funds in the Sale Account to pay ongoing Sale Expenses, to fund a net operating loss and to maintain the Sale Account, as reasonably determined by PFP. PFP grants Company the right to audit the Sale Account at any time upon three (3) days' written notice so long as such audit does not unreasonably interfere with the conduct of the Sale.

7.4. Sale Expenses. PFP shall be responsible for, and shall pay from proceeds in the Sale Account, all "Sale Expenses" incurred in conducting the Sale at the Sale Locations. "Sale Expenses" means all operating expenses of the Sale which arise for the Sale Locations for the Sale Term as follows: Rent. "Rent" shall be calculated on a monthly basis as the lesser of (i) seven (7%) percent of the gross delivered sales during such month (not including sales tax, credit card or finance fees or delivery charges) (the "Percentage Rent"), and (ii) actual rent to be actually paid by Company and received by the landlord for the Sale Locations (the "Actual Rent"). If the Percentage Rent of a month is greater than the Actual Rent for that month, the difference between

the Percentage Rent and the Actual Rent for that month shall be used to pay on behalf of the Company any unpaid Actual Rent from any prior month of the Sale Term, and then any remaining amount shall be held on behalf of the Company to be used in subsequent months of the Sale Term to pay Rent. All Rent payments shall be paid directly to STORE. PFP shall also be responsible for, and shall pay from the proceeds in the Sale Account only the following Sale Expenses which arise for the Sale Locations for the Sale Term: (a) liability, casualty and contents insurance premiums; (b) trash removal; (c) utility charges; (d) delivery charges; (e) additional warehouse space for the Sale and shall first lease excess space from Company's warehouse if available; (f) bank fees, credit card fees, check verification fees and chargebacks; (g) postage and courier services reasonably necessary; (h) advertising and signage costs, including television, social media, radio, print, direct mail, signs and banners; (i) costs of any Additional Inventory, including inbound and outbound freight, and costs to transfer merchandise (not including Pre-Sale Orders) from the Company's distribution centers/warehouses to Sale Locations; (j) reasonable lodging expenses for all PFP personnel assigned to the Sale who are required to travel more than 100 miles round trip to perform services; (k) the Company Inventory Payment, PFP Fee, Auction Fee, and Sales Personnel Commission (as defined below) and compensation of all other personnel working at the Sale, including applicable federal, state and local payroll taxes, and workers' compensation, and PFP's payroll processing fee, including from a third party provider and without mark-up; (l) supplies; (m) PFP's legal fees and accounting expenses for the Sale, but not related to the negotiation of this Agreement or disputes with Company arising out of this Agreement; (n) expenses related to the Auction; and (o) such other costs and expenses that PFP at its reasonable discretion deems appropriate for purposes of the Sale

7.5. Non-Sale Expenses. Sale Expenses shall exclude, without limitation, and PFP shall not be responsible for, the following: (a) maintenance or repair expenses (including repair to the roof, structural portions and HVAC system) at the Sale Locations; (b) Company and PFP executive compensation and employee benefits (including, without limitation, pension benefits, medical benefits, vehicles, vacation pay, holiday pay, sick days, leaves of absence, and severance pay); (c) any and all expenses incurred prior to or after the Sale Term, except for accounting expenses as provided in Section 7.4(m); (d) rent and all other charges relating to the occupancy of the Sale Locations in excess of the amount set forth in Section 7.4; (e) all costs and expenses that are not a Sale Expense; and (f) any costs and expenses that are unrelated to the Sale (collectively, the "Non-Sale Expenses"). If PFP incurs a Non-Sale Expense, PFP shall have the right to reimburse itself from funds due to the Company under this Agreement including, without limitation, the Company Inventory and the proceeds therefrom.

7.6. Sales Tax. Sales tax with respect to the Sale shall be collected and initially be deposited into the Sale Account. PFP will provide the Company with the sales tax monies and calculations on a timely basis in order for the Company to pay sales tax on a timely basis. The Company shall execute all applicable reports and documents as required by the taxing authority.

7.7. Pre-Sale Orders and Expenses.

(a) The Company shall be responsible for satisfying all customer orders for which a deposit was made prior to the start of the Sale (the "Pre-Sale Orders") or refunding those deposits. PFP shall assist the Company to obtain merchandise to complete Pre-Sale Orders. PFP shall negotiate with manufacturers and, will use best efforts and its credit lines to secure merchandise to enable Company y to fulfill Pre-Sale Orders. Pre-Sale Orders shall only include those order taken at one of the Sale Locations and shall not include orders taken at any of the Company's other stores.

(b) The Advance and all proceeds from Pre-Sale Orders shall be deposited into a separate bank account controlled by PFP (the "Backlog Account"). The following expenses shall be paid from the Backlog Account with respect to such Pre-Sale Orders (collectively, the "Pre-Sale Order Expenses"): (i) the invoice cost plus billed freight of the merchandise required to fulfill said Pre-Sale Orders, (ii) any and all out-of-pocket expenses incurred by PFP to complete said Pre-Sale Orders, including, without limitation, any transfer expenses between locations, sales tax, credit card fee or finance fees, sales personnel commission, preparation work, refinishing, administrative matters and salaries and wages relating to the completion and delivery of Pre-

(d) Prior to the Commencement Date, the Company shall provide PFP with a complete and accurate written list of all Pre-Sale Orders indicating (u) the name, address and phone number of each customer, and item purchased by such customer; (v) the total amount of money accepted or received on deposit from each such customer; (w) the balance due from each such customer; (x) any sales tax due for each such customer; (y) any sales commission due; and (z) any other information reasonably requested by PFP. The Company represents and warrants to PFP as follows: (i) the gross sales (including freight) of Pre-Sale Orders is \$3,668,529, (ii) the invoice cost plus billed freight of Pre-Sale Orders is \$1,944,833 ("Pre-Sale Order Cost"), (iii) the amount of deposits received by the Company on account of such Pre-Sale Orders is \$1,937,590 ("Pre-Sale Order Deposits"), and (iv) the invoice cost plus billed freight of Company Inventory on hand to complete Pre-Sale Orders is \$653,414 ("Pre-Sale Order Inventory On Hand").

7.8. Use of Existing Assets. During the Sale Term, the Company and PFP shall have the right to use for the Sale, exclusive of third parties, without charge, the Company's furnishings, fixtures, and equipment; trade names, trademarks, logos and other intangible rights; computer hardware and software (including, without limitation, the Company's URL and website); supplies; and any other assets of the Company located at the Sale Locations. PFP shall have the right to use the Company's trade names, trademarks and logo for PFP's promotional purposes only as approved by Company. At Company's request, PFP will offer for sale the Company's FF&E, upon which PFP will earn the PFP Fee.

7.10. Books and Records. The Company and PFP shall make their books and records with respect to the Sale available for inspection during the Sale Term by each other and STORE during normal business hours, such inspection not to unreasonably interfere with the operation of the Sale. PFP will provide the Company and STORE (via e-mail) with daily, if any, and weekly reports regarding the conduct of the Sale prepared by PFP during the Sale, including data on the remaining Company Inventory and Additional Inventory as routinely maintained by PFP. PFP will retain originals of all documents related to the Sale after the Sale Term.

8. Additional Inventory. At the Company's request, or at PFP's discretion, the Company may obtain inventory, which is in addition to the Company Inventory (the "Additional Inventory"), for the Sale, including rugs. PFP shall order Additional Inventory in Company's name, but on PFP's credit lines. PFP may negotiate an agreement on an exclusive basis with a rug vendor (the "Rug Vendor"), including an affiliate of PFP, for the sale of rugs ("Rugs") as Additional Inventory at one or more of the Sale Locations during the Sale Term. On a weekly basis, the Rug Vendor will be paid eighty (80%) percent of the gross sales (excluding sales tax and delivery charges) of all rugs sold and delivered the prior week, as the sole compensation for the Rug Vendor and the PFP Fee for Rugs shall be paid by the Rug Vendor from such amounts. The Company hereby grants to PFP a purchase money security interest in the Additional Inventory and the proceeds therefrom.

9. Auction Following The Sale. Prior to the expiration of the Sale Term, PFP may, at its discretion, on its own or through a third party, conduct an auction ("Auction") of Company Inventory and Additional Inventory at one or more of the Sale Locations. The proceeds of such auction shall be deposited in the Sale Account. In lieu of the PFP Fee, PFP shall be paid a reduced commission equal to one half (1/2) the PFP Fee (the "Auction Fee"). PFP shall set the terms of the auction, including, but not limited to, a buyer's premium, and is hereby authorized to enter into an auction agreement with the auctioneer. PFP shall not be allowed to bid or purchase any inventory at the Sale.

10. Fees and Commissions.

10.1. PFP's Fee. PFP shall be paid a commission, on a weekly basis, equal to (i) seven (7%) percent of the gross sales amount (excluding sales tax and delivery charges) of all Company Inventory sold at the Sale and delivered, and (ii) nine (9%) percent of the gross sales amount (excluding sales tax and delivery charges) of all Additional Inventory sold at the Sale and delivered (the "PFP Fee").

10.2. Sales Personnel Commission. Sales persons shall be paid a commission, on a weekly basis, equal to five (5%) percent of the gross sales amount (excluding sales tax and delivery charges) of merchandise sold by them at the Sale and delivered, plus a commission for the sale of protection/warranty plans of 15% (the "Sales Personnel Commission").

11. Determination and Distribution of the Profits of the Sale.

11.1. At the expiration of the Sale Term at all of the Sale Locations, PFP shall calculate and distribute the "Profits of the Sale" after payment of all Sale Expenses. "Profits of the Sale" means all cash proceeds remaining in the Sale Account. Distribution of the Profits. Subject to Section 12 below, the Profits of the Sale shall be distributed as follows: (a) five (5%) percent of the Profits of the Sale to the Event Coordinators referred by PFP, and then (c) the remaining balance of the Profits of the Sale Account will be distributed eighty (80%) percent to the Company (to be paid directly to STORE to the extent that any balance is due by Company to STORE) and twenty (20%) percent to PFP. Notwithstanding the preceding, if there is a negative balance in the Backlog Account at the end of the Sale Term, the first Profits of the Sale to be paid to the Company (or STORE, as applicable) shall be deposited into the Backlog Account to zero out the Backlog Account.

11.2. If at the conclusion of the Sale at all of the Sale Locations there remains any Additional Inventory ("Remaining Additional Inventory") not paid for by the Sale, then either (i) the Company shall have the option to purchase the Remaining Additional Inventory by paying the Cost Value to PFP, or (ii) if Company does not elect such option, PFP shall be entitled to remove all such remaining Additional Inventory free and clear of all Liens and PFP will pay the manufacturer directly for such merchandise. If any Remaining Additional Inventory has been paid for from the Sale Account, then (i) the Company shall have the option to purchase the Remaining Additional Inventory by paying the Cost Value to the Sale Account, or (ii) if the Company does not elect such option, PFP shall be entitled to remove the Remaining Additional Inventory free and clear of all liens and shall pay the Cost Value to the Sale Account.

11.3. Notwithstanding anything herein to the contrary, all payments to STORE pursuant to this Agreement, including any Company Inventory Payment and any distributions of Profits of the Sale, but excluding Rent and payments pursuant to Section 15, shall cease immediately and no longer be owing upon the full payment of all amounts owing to STORE pursuant to (i) that certain Inventory Promissory Note dated May 4, 2020 in the original principal amount of \$5,290,000.00, and (ii) that certain Inventory Promissory Note dated October 16, 2020 in the original principal amount of \$5,000,000.00.

12. Reserve Account. The Company and PFP shall maintain in the Sale Account an amount of the Profits of the Sale, not to exceed 1.5% of gross sales of the Sale, for the handling of chargebacks, customer complaints, and accrued and unpaid Sale Expenses. After 180 days from the end of the Sale (or shorter period determined by PFP), the balance of the reserve in the Sale Account, if any, shall be distributed in accordance with Section 11.1.

13. Insurance. The Company shall increase the limits of its casualty, liability and contents insurance coverage at PFP's request. The premiums for such insurance coverage shall be a Sale Expense. The Company shall indicate PFP as an "additional insured" on its liability and casualty coverage, and as a "loss payee" on its property coverage as PFP's interests may appear. The Company shall deliver to PFP a complete copy of the insurance policy and evidence of casualty, liability and contents insurance, and shall cooperate with PFP regarding any claim.

14. Relationship/Limitation Of Liability/Decisions. The parties acknowledge and agree that nothing contained in this Agreement shall be construed to create a relationship between them as employer/employee, joint venturers, or partners. It is the intention of the parties that each party be deemed independent of the other. Nothing in this Agreement shall cause or deem to cause PFP to assume or have any liability, directly or indirectly, for any debt or obligation of the Company. Notwithstanding anything contained in this Agreement to the contrary, PFP shall have the right to make all final decisions regarding the operation of the Sale.

15. Indemnification. PFP agrees to indemnify Company from any claim brought as a result of PFP's actions and (i) brought by an independent contractor or other individual retained by PFP to perform services during the sale or any governmental agency, against Company regarding employment related claims such as the failure to pay monies owed, the failure to properly withhold taxes or withholding required by law, to provide proper documents to taxing authorities, the failure to provide legally required insurance coverage (including workers compensation), (ii) brought against Company by a vendor, provider of or other service provider for unpaid goods if required to be paid by the Sale Account per this Agreement, or (iii) brought against Company by a customer or other third party for acts caused by the gross negligence, intentional misconduct or illegal act of PFP, its agents or individuals under its control and direction.

Company agrees to indemnify PFP and STORE from any claim brought as a result of Company's actions and (i) brought against PFP or STORE by a third party provider or other service provider for unpaid goods or services if required to be paid by the Company per this Agreement, or (ii) brought against PFP or STORE by a customer or other third party for acts caused by the gross negligence, intentional misconduct or illegal act of Company, its agents or individuals under its control and direction (not including PFP or STORE).

16. No Amendment to Leases. Nothing in this Agreement shall act as an amendment to any lease agreement between STORE or any of its affiliates, as landlord, and the Company, as tenant, for the Sale Locations (the "Leases"). The Company acknowledges that it is obligated to pay all amounts as described in the Leases as they come due, regardless of whether the Rent (as defined herein) is sufficient to pay such amounts under the Leases, and any failure of the Company to pay an amount due under a Lease as it comes due shall constitute an event of default (after any notice or other requirement provided in the applicable Lease), regardless of whether the Rent (as defined herein) is sufficient to pay such amount payable under the Lease. The Leases shall be and remain in full force and effect in accordance with their terms and hereby are ratified and confirmed in all respects. The execution, delivery, and performance of this Agreement shall not operate as a waiver of, or

as an amendment of, any right, power, or remedy of STORE or any of its affiliates under any Lease, as in effect prior to the date hereof, except as specifically provided in Section 17.

17. Non-Interference & Acceptance of PMSI. Notwithstanding anything in this Agreement or any other agreement or document between STORE and the Company, STORE agrees, acknowledges and understands that it shall not and will not take any action whatsoever, directly or indirectly, against PFP, the Company, the Sale Locations, Company Inventory, the Sale Account, Backlog Account or any asset of the Company, where such action will in any way whatsoever interfere with the conduct of the Sale. This Section shall not preclude STORE from taking any action against Company that does not interfere with the conduct of the Sale. STORE also unconditionally acknowledges and agrees to PFP's purchase money security interest to the Additional Inventory and the proceeds thereof. STORE also agrees, acknowledges and understands that PFP will be paid, among other things, the PFP Fee and Profits of the Sale from proceeds of the Company's inventory. If STORE shall be finally adjudicated (including any appeal) to have breached this Section 17, STORE shall be liable to reimburse PFP for all reasonable attorneys' fees, costs and expenses in enforcing this Section 17.

18. Prior Representations. The parties hereto agree that PFP has not guaranteed the profitability of the Sale and the Company, and STORE, has not been induced into executing this Agreement by, or has relied upon, any projections of potential profitability of the Sale, other statements or other representations.

19. Company's Representations. The Company hereby represents and warrants to the other parties that:

19.1. The Company is duly organized and validly existing in good standing under the laws of the State of its formation, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein. This Agreement has been duly and validly authorized by all necessary action, has been duly and validly executed and delivered, and is a valid and binding obligation of the Company enforceable in accordance with its terms.

19.2. The execution, delivery and performance by the Company of this Agreement shall not violate any material agreement or instrument by which the Company is bound, including any real estate lease or obligation for borrowed money.

19.3. PFP shall have the right to the unencumbered use and occupancy of, and peaceful and quiet possession of, the Sale Locations during the Sale. Company shall pay timely all rent and other occupancy charges not included as Sale Expenses.

19.4. The Company is current with regards to all taxes owed, and there are no outstanding judgments or tax Liens against the Company or any of its assets and there are no pending or, to the Company's best knowledge, threatened actions against the Company.

19.5. The Company has good and marketable title to its assets, including, the Company Inventory and other PFP Collateral (as defined below), free and clear of all Liens, except for any Liens held by STORE. Other than any Liens held by STORE and the Liens provided for in this Agreement, the Company shall not create or permit to exist any Lien on any asset of the Company without prior written consent of PFP and STORE. For purposes of this Agreement, "Liens" means any security interest, pledge, mortgage, deed of trust, lien (including tax liens), charge, judgment, encumbrance, adverse claim, claim arising under Section 506(c) of the Bankruptcy Code, preferential arrangement, fraudulent transfer or other avoidance claim or restriction of any kind, including any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, and any lien, interest, restriction or limitation arising from or relating to personal or other property tax, sales and transaction privilege, claim of successor liability for any alleged unpaid sales or other tax, and any other lien or assessment of any governmental authority, whether or not allowable, recorded or contingent.

19.6. The financial, sales, inventory and other information provided by the Company to PFP, or hereafter requested by PFP, are accurate in all material respects and fairly present the financial and business

condition of the Company, and PFP has relied on the accuracy of the foregoing information in entering into this Agreement. The Company has not transferred any merchandise to or from the Sale Location in anticipation of the Sale.

19.7. The officer of the Company executing this Agreement has carefully read the entire terms of this Agreement and knows and understands its binding effect, and has been advised to take the opportunity to review this Agreement with an attorney prior to execution.

20. PFP's Representations. PFP hereby represents and warrants to the other parties that:

20.1. PFP is a corporation duly organized and validly existing in good standing under the laws of the State of Pennsylvania, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein.

20.2. This Agreement has been duly and validly authorized by all necessary corporate action, has been duly and validly executed and delivered, and is a valid and binding obligation of PFP enforceable in accordance with its terms.

20.3. The financial, sales, inventory and other information provided by PFP to the Company, or hereafter requested by or presented to Company, are accurate in all material respects and fairly present the financial and business condition of PFP and Sale, and Company has relied on the accuracy of the foregoing information in entering into this Agreement.

21. STORE'S Representations. STORES hereby represents and warrants to the other parties that:

21.1. STORES is a corporation duly organized and validly existing in good standing under the laws of its incorporation, with the full power and authority to enter into this Agreement and to consummate the transactions contemplated herein.

21.2. This Agreement has been duly and validly authorized by all necessary corporate action, has been duly and validly executed and delivered, and is a valid and binding obligation of STORES enforceable in accordance with its terms.

22. Default.

22.1. The occurrence of any of the following is an event of default ("Event of Default"): (a) the failure of either Party to perform any of its material obligations under this Agreement, which failure is not remedied within five (5) days after the defaulting party has received written notice from the other party of such failure; (b) any representation or warranty made by the a party to the other party shall prove to be untrue in any material respect; (c) a petition in bankruptcy is filed by or against a party, or any of a party's property is attached, or a receiver is appointed for a party; (d) a substantial portion of the Company Inventory or Additional Inventory is destroyed, encumbered, seized, or confiscated at one or more of the Sale Locations; or (e) the Sale is interrupted or terminated by a party other than PFP at one or more of the Sale Locations and the Sale is not resumed as of the second (2nd) day thereafter.

22.2. In the event of an Event of Default by Company, PFP shall have the right to (a) immediately terminate the Sale at one or more of the Sale Locations and enforce its security interests under the Uniform Commercial Code; (b) in lieu of terminating the Sale, PFP may suspend operation of the Sale and the Sale Term at one or more of the Sale Locations and its obligations to pay Sale Expenses until the Sale Term is re-commenced, (c) assert all of its rights and remedies under this Agreement; and (d) assert all of its rights and remedies under law or in equity.