IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Hearing Date (Sale Procedures): January 7, 2009 at 2:00 p.m. (ET) **Obj. Deadline (Sale Procedures): December 31, 2008 at 4:00 p.m. (ET)** **Hearing Date (Sale): February 4, 2009 at 10:00 a.m. (ET)** **Obj. Deadline (Sale): January 23, 2009 at 12:00 p.m. (ET)**

MOTION OF THE DEBTORS FOR ORDERS: (A)(I) APPROVING SALE PROCEDURES; (II) SCHEDULING A HEARING TO CONSIDER SALE OF CERTAIN ASSETS RELATED TO THE DEBTORS' PROPERTY MANAGEMENT BUSINESS; (III) APPROVING FORM AND MANNER OF NOTICE THEREOF; AND (IV) GRANTING RELATED RELIEF; AND (B)(I) AUTHORIZING THE SALE OF SUCH ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) AUTHORIZING AND APPROVING PURCHASE AGREEMENT THERETO; (III) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO; AND (IV) GRANTING RELATED RELIEF

DBSI, Inc. ("DBSI") and the above-captioned debtors and debtors in possession in the above cases (collectively, the "Debtors"), hereby submit this motion (the "Motion"), pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for entry of (A) an order, substantially in the form annexed hereto as Exhibit 1 (the "Sale Procedures Order"), (i) approving sale procedures (the "Sale Procedures"), substantially in the form annexed hereto as Exhibit 2, with respect to the sale (the

[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

"Sale") of certain assets relating to the Debtors' property management business (collectively, and as defined in greater detail below, the "PMB Assets") as set forth on the schedule annexed as Exhibit A to the Sale Procedures; (ii) scheduling a hearing (the "Sale Hearing") on the Sale(s) and setting objection and bidding deadlines with respect to the Sale(s); (iii) directing that notice of the Sale Procedures and the Sales(s) be given, substantially in the form annexed hereto as Exhibit 3 (the "Auction and Sale Notice"); (iv) approving the designation of certain parties as Qualified Bidders under the Sale Procedures; and (v) granting related relief; and (B) an order or orders, substantially in the form annexed hereto as Exhibit 4 (the "Sale Order"),[2] (i) authorizing the Sale(s) of the PMB Assets free and clear of liens, claims encumbrances, and other interests (excluding, however, the liens, claims, interests and encumbrances asserted by the TIC Lenders (the "TIC Lenders' Lien") pursuant to the terms of the form purchase, assumption and assignment agreement (collectively, the "Purchase Agreement"), substantially in the form annexed to the Sale Procedures as Exhibit F or such other form as may be agreed to by the Debtors on such terms no less favorable to the Debtors (an "Alternative Purchase Agreement"); (ii) authorizing and approving the Purchase Agreement or Alternative Purchase Agreement if any; (iii) approving the sale, assumption and assignment, rejection or other disposition of the PMB Assets (as defined below), executory contracts, and unexpired leases, as necessary in connection with the Sale(s), and as contemplated by the Sale Procedures; and (iv) granting related relief. In support of this Motion, the Debtors, by and through their undersigned counsel, respectfully represent:

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[2] If the terms of any agreement respecting the Sale require modification of the proposed Sale Order, the Debtors will provide notice of the modified proposed Sale Order to the Court and interested parties in advance of the Sale Hearing.

JURISDICTION

1. On November 6 and 10, 2008 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The cases of the Debtors are jointly administered pursuant to an order of the Court. The Debtors have continued in possession of their respective properties and have continued to operate their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On November 21, 2008, the United States Trustee for the District of Delaware appointed an Official Committee of Unsecured Creditors (the "Committee"). No trustee or examiner has been appointed.

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these cases and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 363, 365, 503 and 507, as complemented by Bankruptcy Rules 2002, 6004, 6006 and 9014.

BACKGROUND[3]

A. The TIC Transactions and Masterleases.

4. The Debtors have traditionally generated revenue in several ways. First, the Debtors generated revenue through the facilitation of tenant-in-common real estate sale transactions (each, a "TIC Transaction"). Under a typical TIC Transaction, DBSI or one of its wholly-owned subsidiaries (formed for the purposes of the individual TIC Transaction) acquired directly or contracted for the right to acquire real property improved by commercial or residential

[3] A detailed description of the Debtors' businesses and related business information is set forth in the Declaration of Douglas L. Swenson in Support of the Debtors' Chapter 11 Petitions and First Day Relief [Docket No. 3] and is incorporated herein by reference.

buildings (such as a retail shopping center, an office park or an apartment complex) (the "TIC Property"). A DBSI entity (typically a subsidiary of one of the Debtors) then located interested investors willing to purchase a fractional interest in the TIC Property to be owned by all such investors as a tenancy-in-common (the "TIC Investors"). The DBSI entity then sold the TIC Property to the TIC Investors, and earned a profit related to the sale (the "TIC Property Sale Fee").

5. Simultaneously with the sale, a DBSI entity (in many instances formed for the purpose of the TIC Transaction) (each, a "DBSI Masterlessee") entered into a master lease agreement (each a "Masterlease") with the TIC Investors pursuant to which the DBSI Masterlessee leased the TIC Property from the TIC Investors and sublet it to the commercial tenants. A Debtor is currently a DBSI Masterlessee in more than 200 TIC Properties.

6. In its role as masterlessee, the DBSI Masterlessee collects rent from the commercial tenants (the "TIC SubRent") and pays, among other things, the operating expenses associated with the TIC Property (the "Operating Expenses"), rent to the TIC Investors (the "TIC Rent") and a management fee (the "Management Fee") to Debtor DBSI Realty Inc. ("DBSI Realty")[4]. Under a typical TIC Masterlease, the TIC Rent includes, among other things, a fixed monthly payment to the TIC Investors (*i.e.* a monthly investment return) (the "TIC Return") and payment by the DBSI Masterlessee of the debt service (the "TIC Debt Service")[5] due to the lending institution (the "TIC Lender") who financed the acquisition of the TIC Property (the "TIC Loan"),

[4] Generally, the DBSI Masterlessee enters into a property management agreement with DBSI Realty, which property management agreement sets forth the terms and conditions of DBSI Realty's management of the TIC Property, including the management fee payable to DBSI Realty. The TIC Property management and fees earned therefrom by DBSI Realty are referred to herein as the "Property Management Business."

[5] The TIC Debt Service is assumed by the TIC Investors upon their purchase of the TIC Property.

which is typically secured by a mortgage on the TIC Property.[6] In many instances, DBSI, DBSI Master, an insider of DBSI or a combination of the three have guaranteed the TIC Loan. Additionally, in most if not all cases, each of the TIC Lenders has been granted an assignment of leases and rents with respect to the TIC Property securing its loan. That assignment purports to give the TIC Lender the right to collect any rents that accrue from the TIC Property following an uncured default under that TIC Loan.

7. Generally, amounts remaining from the TIC SubRent after payment of the Operating Expenses, TIC Rent and Management Fee, represent the DBSI Masterlessee's and, in turn, the Debtors' profit on the Masterlease.[7]

B. <u>The PMB Assets</u>

8. Prior to the Petition Date, the Debtors, in consultation with their advisors, developed a restructuring plan that the Debtors believed was best implemented through the chapter 11 process and would maximize the return to all of their creditor constituencies and stakeholders. In this regard, the Debtors – recognizing the significant value to be realized through the orderly sale of the PMB Assets – have, in consultation with the Committee, developed the strategy pursuant to which they intend to maximize the value of the PMB Assets.

9. The Debtors began the formal implementation of their strategy for liquidating the PMB Assets by filing several motions aimed at reducing and restructuring the

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[6] In most instances, the TIC Loan to TIC Property cost-ratio was in the range of 30-85% at the time of the original TIC Transaction, therefore, the Debtors believe there is a significant equity cushion in favor of the TIC Lenders on most, if not all of the, TIC Properties.

[7] Although the foregoing is generally representative of the typical TIC Transaction, there are several variations of this transaction relative to the Debtors. For example, in certain of the TIC Transactions, a Debtor entity is, in effect, a TIC Investor in the sense that the DBSI entity that facilitated the TIC Transaction retained a fractional ownership interest in the TIC Property (typically 1% or less). Additionally, in other instances, DBSI Realty may manage commercial property for a group of TIC Investors even though there is no DBSI Masterlessee on that particular commercial property.

Masterleases that comprise the PMB Assets the goal of which was to leave the Debtors with a more marketable portfolio of Masterleases that is likely to garner interest from potential purchasers even amidst the Debtors' tumultuous financial conditions.

10. Specifically, the Debtors filed two Masterlease rejection motions [Docket Nos. 31 and 63] (collectively, the "Rejection Motions") and then filed a motion [Docket No. 88] (the "Lease Rejection Alternative Motion") that sought the following options for treatment of the Masterleases not rejected by the Rejection Motions: (i) the Debtors' rejection of these Masterleases effective as of December 4, 2008; (ii) assignment by the Debtors to the TIC Parties of these Masterleases; or (iii) the TIC Parties entry into an agreement with the Debtors, which modifies the Masterlease to terms more favorable to the Debtors (each, a "Masterlease Modification Agreement").

11. The Rejection and Lease Rejection Alternative Motions were scheduled to be considered by the Court at the omnibus hearing scheduled for December 2, 2008. However, at the request of the Committee, and numerous parties in interest, to provide parties in interest with additional time to address the implications of the Debtors' motions to reject their Masterleases and to explore alternatives in connection therewith, the Debtors had agreed to adjourn the hearing on the Rejection and Lease Rejection Alternative Motions to December 30, 2008. At this time, in order to implement the Sale process discussed herein and in the Sale Procedures, the Debtors have decided to further adjourn the hearing on the Rejection and Lease Rejection Alternative Motions to February 4, 2009.

C. Development of the Proposed Bidding and Sale Process

12. Since the Petition Date, the Debtors' management, in consultation with their professionals, have engaged in significant efforts to market the Masterleases – either as may be

modified through a lease modification or on an "as is" basis – to a variety of entities in the commercial real property community. The Debtors have engaged in numerous in-person and telephonic meetings, have made several sale presentations to a number of potentially interested parties and have established an on-line due diligence data room, all of which has been geared toward maximizing the value of the Masterleases and the Property Management Business for the benefit of their estates and creditors. A number of parties have signed non-disclosure agreements and have commenced due diligence in connection with their interest in the Masterleases and the Property Management Business.

13. Since first adjourning the Rejection and Lease Rejection Alternative Motions, the Debtors and/or their professionals have additionally engaged in significant communications, discussions and/or in-person meetings with, among other parties, counsel to and members of the Committee, counsel to certain groups of TIC Investors, certain individual TIC Investors, certain TIC Lenders and various parties that have expressed an interest in acquiring the PMB Assets, including, but not limited to, NAI Global Commercial Real Estate Services, Thompson National Properties LLC, GVA Advantis and other nationally-known real estate management companies. The PMB Assets being offered for Sale through the procedures contemplated hereby are certain Masterleases, subleases (collectively, the "Subleases") and related executory contracts and non-real property leases (collectively, the "Contracts") (the MasterLeases, Subleases and Contracts, as they may be modified as part of the Sale, (are collectively referred to herein as the "PMB Assets") associated with the operation of the TIC Properties. Certain parties have already submitted written expressions of interest with respect to a proposed acquisition of the PMB Assets, certain of which contemplate an acquisition of all of the Masterleases (as may be modified prior to the Sale).

14. Over the last several weeks, the Debtors and their professionals, in significant consultation with the Committee and its professionals, have developed what they believed to be precise and concerted bidding, auction and sale procedures (as described more fully below and in the exhibits hereto) that will culminate in the disposition – through sale, assumption and assignment to TIC Investors or rejection – of all of the Masterleases and other PMB Assets in a manner that will realize the maximum value for the Debtors' interests in the Masterleases and the Property Management Business as a whole. The Debtors believe, in consultation with the Committee, that the bidding and sale procedures proposed herein will bring this aspect of the Debtors' bankruptcy cases – namely, that concerning the Masterleases – to an organized and rapid conclusion, all of which will significantly benefit the Debtors' estates and creditors.

RELIEF REQUESTED

15. By this Motion, the Debtors seek first, the entry of the Sale Procedures Order (i) approving the Sale Procedures; (ii) scheduling the Sale Hearing and establishing related deadlines; (iii) approving the form and manner of notice of the Sale Procedures, the Auction and Sale Hearing; (iv) approving the designation of certain parties as Qualified Bidders under the Sale Procedures; and (v) granting such other and further relief as is just and proper; and second, the entry of one or more Sale Orders (i) authorizing the Sale(s) of the PMB Assets free and clear of liens, claims, encumbrances, and interests (excluding, however, the TIC Lenders' Lien) pursuant to a Purchase Agreement(s) or Alternative Purchase Agreement(s); (ii) authorizing and approving the Purchase Agreement; (iii) approving the assumption and assignment of the PMB Assets and various executory contracts and unexpired leases related thereto; and (iv) granting related relief.

A. Sale Procedures[8]

16. The Debtors are proposing to sell the PMB Assets either in whole or part through a single or series of sales transactions pursuant to the terms of the applicable Purchase Agreement or Alternative Purchase Agreement. As a result, the Debtors propose the Sale Procedures, which are incorporated herein by reference, in an attempt to maximize the realizable value of the PMB Assets for the benefit of the Debtors' estates, creditors and other interested parties.

17. Pursuant to the Sale Procedures, parties will be afforded until **January 23, 2009 at noon (ET)** (the "Bid Deadline") to submit a bid for any or all of the PMB Assets. If bids are received by the Bid Deadline, an open auction (an "Auction") will be held on **January 28, 2009 at 10:00 a.m. (ET)** at the offices of the Debtors' counsel. The results of the Auction will be presented at a hearing to be held before this Court on **February 4, 2009 at 10:00 a.m.** Under all circumstances, the closing of any sale or other disposition of a PMB Asset (including a rejection thereof) must be effective **no later than January 30, 2009**.[9]

18. The TIC Investors on any particular TIC Property (excluding, however, the Sold Unchanged MasterLeases) may choose – **not later than 4:00 p.m. on January 26, 2009** – to opt their Masterlease(s) out of the Sale Procedures and make the following elections, as described more fully in the *TIC Investor Options with Respect To Each MasterLease and the Related Property, Excluding the Sold Unchanged MasterLeases* (the "TIC Options") annexed as Exhibit B to the Sale Procedures.

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[8] Terms not otherwise defined herein shall be given the meanings ascribed to them in the Sale Procedures.

[9] The below summary of the Sale Procedures is for the convenience of the Court and parties-in-interest and does not contain all terms and conditions of the Sale Procedures. All parties are directed to and encouraged to read the full Sale Procedures. Capitalized terms used but not otherwise defined in this summary shall have the meanings ascribed to them in the Sale Procedures.

19. The TIC Investors for the TIC Properties that are related to the MasterLeases that are defined as the Sold Unchanged MasterLeases will not have the option to select one of the TIC Options. Instead, the Sold Unchanged MasterLeases will be included in the Sale Procedures to be assumed and assigned (without modification) to a Successful Bidder.

20. The TIC Options for any particular TIC Property (excluding the Sold Unchanged MasterLeases) are summarized below:

> **Option #1(A)**: **Rejection**. Rejection of the MasterLease effecting the TIC Investors' TIC Property earlier than January 30, 2009. TIC Investors electing to do so waive any right, title or interest in (or claim against) the allocated funds for Chapter 11 Expenses (as defined in the Cash Collateral Orders applicable to the subject Property) and if such election is made on or before December 31, 2008, the TIC Investors shall, in addition, pay to the Debtors $7,500. Such TIC Investors shall retain all other claims against the Debtors. Concurrent with the MasterLease rejection under this clause A, the related Subleases and Contracts will be contemporaneously rejected.

> **Option #1(B)**: **Rejection of MasterLease/Assumption and Assignment of Subleases**. Rejection of the MasterLease effective the TIC Investors' TIC Property rejected effective as of January 30, 2009, but the applicable Subleases on the TIC Property assumed and assigned to the TIC Investors. TIC Investors electing this option must enter into an agreement on the terms more fully described in the TIC Options, summarized as follows:

- The TIC Investors agree to pay any and all cure costs associated with assumption and assignment of the Subleases (the "No Cure Provision")

- The TIC Investors shall retain a non-priority, general unsecured claim related to (i) any payments made with respect to curing Sublease monetary defaults, (ii) unpaid base rent payable to the TIC Investors under the Masterlease, and (iii) a fixed, liquidated claim in an amount provided to the TIC Investors in connection with the Sale Procedures with respect to all other defaults, if any, under the Masterlease (the "Retained Claims Provision").

- The TIC Investors shall pay to the Debtors $7,500 as a transaction fee to reimburse the estate for the costs of documenting and implementing the transaction (the "Transaction Fee Provision").

- A TIC Lender with a lien on the TIC Investors' TIC Property (and/or the

Debtors' interest in the MasterLease) shall either consent, or not object (or if such an objection is interposed, it shall be denied by the Bankruptcy Court), and in either event the Order or the Bankruptcy Court shall provide that the TIC Lender is deemed to consent, including the designation of any property manager in connection therewith and the waiver of any default arising from the Debtors' chapter 11 cases and the assignment of the Subleases. If a TIC Lender affirmatively consents, to the extent of available Property Cash, the Debtors shall use available Property Cash to pay principal and non-default interest debt service payments that have come due prior to the effective date of such assignment that is unpaid as of such date (the "TIC Lender Consent Provision").

- The balance of the cash that has been segregated post-petition by TIC Property and held pursuant to the Cash Collateral Orders shall remain identified by Property (the "Property Cash"), and an accounting thereof shall be provided by the Debtors within sixty (60) days. The Debtors shall within ninety (90) days file a motion with the Bankruptcy Court to establish a procedure for resolution of any then claims asserted against the MasterLessee and the Property Cash. Pending the resolution of such claims asserted, the Property Cash shall be held pending further order of the Bankruptcy Court; provided, however, (i) the Debtors shall comply with the provisions of any Cash Collateral Order (the "Property Cash Procedures").

- The assumption and assignment of the Subleases shall not modify, alter or determine the rights of any party, if any, with respect to funds, accounts, reserves, or other monies held (the "Lender Reserves") with respect to which such parties claim an interest (the "Lender Reserves Reservation").

- All objections and challenges to the Chapter 11 Expenses amount that has been allocated in accordance with the Cash Collateral Orders shall be deemed waived (the "Chapter 11 Expense Waiver").

- Other than as specifically reserved above, the TIC Investors shall waive any and all other claims against the Debtors ("TIC Claim Waiver").

- In consideration for the assumption and assignment of the SubLeases and Contracts, the TIC Investors shall pay to the Debtors an amount equal to the Minimum Price Per Property[‡]; provided, however, if Option #1B is implemented in connection with the Sale Process, the TIC Investors shall not

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‡ The Minimum Price Per Property is a fixed dollar amount for each Property, the calculation of which will be provided by the Debtors to the TIC Investors with respect to the applicable Property through the existing DBSI secured website for such Property, subject to agreement by the TIC Investors and the Debtors in consultation with the Committee to reflect facts and circumstances particular to a Property. The Minimum Price Per Property is to be calculated based upon a percentage of the 2009 scheduled projected rental income from the in-place tenants at the respective Property. The rental income shall be based upon the 2009 scheduled rental income (net of rent concessions), minus unfunded tenant improvements and leasing commissions, if any.

be required to pay the Minimum Price Per Property.

Option #1(C): Rejection Extension. If the TIC Investors desire to extend the date of rejection of the MasterLease and the rejection or assumption of the SubLeases beyond January 30, 2009, but not beyond February 28, 2009, the TIC Investors must: (i) consent to the use of cash collateral by the Debtors consistent with the Cash Collateral Orders; (ii) waive any right, title or interest in (or claim against) the allocated funds for Chapter 11 Expenses; and (iii) waive any administrative claim arising from and after November 12, 2008 (for MasterLeases covered by the First Rejection Motion), November 14, 2008 (for MasterLeases covered by the Second Rejection Motion) and December 2, 2008 (for MasterLeases covered by the Third Rejection Motion) (the "Extension Election").

Option #2: Assumption of the Masterlease, Sublease and Contracts and assignment to the TIC Investors (or designee) of the related TIC Property. Assumption of the Masterlease, Sublease and Contracts and assignment to the TIC Investors of the related TIC Property. TIC Investors electing this option must enter into an agreement on the terms more fully described in the TIC Options, summarized as follows:

- The No Cure Provision (including with respect to the Masterlease and Contracts), Retained Claims Provision, Transaction Fee Provision, TIC Lender Consent Provision, Property Cash Procedures, Lender Reserves Reservation, Chapter 11 Expense Waiver, TIC Claim Waiver and Extension Election shall all be included and apply to such a transaction.

- If the MasterLease is included in the Sale Process such that the Successful Bidder (the TIC's designee) under the Sale Process closes an Assumption/Assignment Transaction with respect to the MasterLease, the TIC Investors will not be required to pay any consideration to the Debtors in connection with the Assumption and Assignment; provided, however, the Successful Bidder will have to pay the Debtors' estate the purchase price as set forth in the Successful Bid.

- If the MasterLease is not included in the Sale Process such that there is no Successful Bidder under the Sale Process that closes an Assumption/Assignment Transaction with respect to the MasterLease, the TIC Investors shall pay to the Debtors' estates an amount equal to the Minimum Price Per Property.

- If the Property applicable to TIC Investors is included within the Sale Process and the Successful Bidder closes a transaction with the Debtors with respect to such Property, an amount equal to: (i) 5% of the purchase price paid by the Successful Bidder with respect to the Property shall be paid to the TIC Investors; provided, however, in the event the Successful Bidder closes a Modified MasterLease Assumption and Assignment transaction that provides a guaranteed rent to the TIC Investors, the amount payable to the

TIC Investors shall be 15% of the purchase price paid by the Successful Bidder with respect to the Property; provided, however, the payment provided for herein to be made to the TIC Investors shall be reduced as necessary such that the price paid by the Successful Bidder that is retained by the Debtors (after making the payment to the TIC Investors provided for herein), is not less then the Minimum Price Per Property under all circumstances.

Option #3: Assumption of the Masterlease, Sublease and Contracts and assignment to a third party selected by the TIC Investors of the related TIC Property. Assumption of the Masterlease, Sublease and Contracts and assignment to a third party selected by the TIC Investors of the related TIC Property. TIC Investors electing this option must enter into an agreement on the terms more fully described in the TIC Options, summarized as follows:

- The MasterLease (as modified by a modified Masterlease agreement) shall be in a form acceptable to the TIC Investors and the Third Party to whom the MasterLease is to be assigned.

- The No Cure Provision (including with respect to the Masterlease and Contracts), Retained Claims Provision, Transaction Fee Provision (subject to the provision below), TIC Lender Consent Provision, Property Cash Procedures, Lender Reserves Reservation, Chapter 11 Expense Waiver, TIC Claim Waiver and Extension Election shall all be included and apply to such a transaction.

- If the MasterLease is included in the Sale Process such that the Successful Bidder is the Third Party under the Sale Process and the Third Party closes a Modified Lease Transaction with respect to the MasterLease, the TIC Investors will not be required to pay any consideration to the Debtors in connection with the Modified MasterLease Assumption and Assignment; provided, however, the Successful Bidder will have to pay the Debtors' estate the purchase price as set forth in the Successful Bid.

- If the MasterLease is not included in the Sale Process such that there is no Successful Bidder under the Sale Process that closes a Modified Lease Transaction with respect to the MasterLease, the TIC Investors shall pay to the Debtors' estates an amount equal to Minimum Price Per Property.

- If the Property applicable to TIC Investors is included within the Sale Process and the Successful Bidder closes a transaction with the Debtors with respect to such Property, an amount equal to: (i) 5% of the purchase price paid by the Successful Bidder with respect to the Property shall be paid to the TIC Investors; provided, however, in the event the Successful Bidder closes a Modified MasterLease Assumption and Assignment transaction that provides a guaranteed rent to the TIC Investors, the amount payable to the TIC Investors shall be 15% of the purchase price paid by the Successful

Bidder with respect to the Property; provided, however, the payment provided for herein to be made to the TIC Investors shall be reduced as necessary such that the price paid by the Successful Bidder that is retained by the Debtors (after making the payment to the TIC Investors provided for herein), is not less then the Minimum Price Per Property under all circumstances.

21. If and to the extent the TIC Investors on a particular TIC Property (except for the Sold Unchanged Masterleases) do not elect any of the foregoing options and opt out of the sale process, the PMB Assets for that TIC Property will be sold at an Auction pursuant to the Sale Procedures. Pursuant to the Sale Procedures, potential bidders may bid on any or all of the PMB Assets, which potential bid contemplates on or more of the following sale transactions:

- the Debtors reject the MasterLease and SubLeases and contemporaneously therewith the Successful Bidder(s) enters into a transaction with the TIC Investors (or their designee) to manage, to provide services in connection with, or to otherwise be engaged with respect to, the Property (a "Rejection Transaction");

- the Debtors assume and assign the MasterLease and SubLeases to the TIC Investors (or their designee) and the Successful Bidder(s) enters into a transaction with the TIC Investors (or their designee) to manage, provide services in connection with, or otherwise be engaged with respect to, the Property (an "Assumption/Assignment Transaction");

- the Debtors assume and assign the MasterLease (as modified) and SubLeases to the Successful Bidder(s) (a "Modified Lease Transaction");

- the Debtors assume and assign the existing MasterLease and related SubLeases (identified on Exhibit D to the Sale Procedures) to the Successful Bidder(s) (the "Sold Unchanged MasterLeases").

22. A Qualifying Bid may include all of the PMB Assets, or one or more of a series of Properties (and associated MasterLease, SubLeases and Contracts), and with respect to the PMB Assets may include one or more of a series of transactions, including, without limitation: (1) a Rejection Transaction; (2) an Assumption/Assignment Transaction; (3) a Modified Lease Transaction; and/or (4) Sold Unchanged MasterLease.

23. Any Qualified Bidder who makes a bid irrevocably agrees to pay to the Debtors an amount equal to the greater of the average or the median price for bids by all of the Successful Bidders (as calculated based upon a per square foot basis by Property) for all Properties (with respect to a transaction and type of Property comparable to the type of transaction contemplated by such Qualified Bidder's bid), but in no event less than the Minimum Price Per Property plus the Transaction Fee, if such Qualified Bidder (including any Qualified Bidder that is a Successful Bidder) enters into any transaction involving a Property, on or before June 30, 2010, with the TIC Investors (or their designee) to manage, to provide services in connection with, or to otherwise be engaged with respect to, a Property; provided, however, if the Qualified Bidder enters into a transaction with a TIC Investor pursuant to and concurrent with the TIC Investor Options, no such fee shall be due and payable.

24. The Debtors in consultation with the Committee reserve the right to (i) seek approval of the Sale(s) through a single transaction or a series of transactions with different Successful Bidders in the event that the combination of such Sales is determined by the Debtors, in consultation with the Committee, to result in a transaction or transactions that are in the best interests of the Debtors' estates; (ii) to enter into agreements to sell any combination of PMB Assets with respect to one or more Properties, pursuant to: (1) a Rejection Transaction; (2) an Assumption/Assignment Transaction; (3) a Modified Lease Transaction; (4) a Sold Unchanged MasterLease; and/or (5) an alternative transaction; (iii) enter into one or more stalking horse agreements with respect to the PMB Assets and seek Court approval of expense reimbursements and/or break-up fees related thereto; (iv) waive or modify the Sale Procedures to the extent such waiver or modification is in the best interests of the Debtors' estates as determined by the Debtors,

in consultation with the Committee; and (v) change the composition of the Sold Unchanged MasterLease.

25. The pending Rejection and Lease Rejection Alternative Motions shall be continued to February 4, 2009 at 10:00 a.m.; provided, however, if an order of the Bankruptcy Court is not entered authorizing the Debtors to use Cash Collateral for a Property through and including at least January 30, 2009 on terms of the entered Cash Collateral Orders, the hearing on the Rejection and Lease Rejection Alternative Motions as applied to such Property shall be heard at a hearing date prior to January 30, 2009 in the Debtors' discretion, in consultation with the Committee.

B. Notice of Auction and Sale Hearing

26. The Debtors have scheduled the hearing (the "Procedures Hearing") on this Motion for January 7, 2009 at 2:00 p.m. (ET) with objections due pursuant to Local Rule 9006-1(c), on December 31, 2008 at 4:00 p.m. (ET). At the Procedures Hearing, the Debtors will request that the Court (i) approve the Sale Procedures, (ii) approve the qualification of certain parties determined by the Debtors, in consultation with the Committee, as Qualified Bidders under the Sale Procedures, (iii) set January 23, 2009 at 12:00 p.m. noon (ET) as the Bid Deadline (as defined below) and the deadline to object to the Sale(s), (iv) set January 21, 2008 at 4:00 p.m. as the Cure Objection Deadline (as set forth below); (v) set January 28, 2009 as the date for the Auction, (vi) set February 4, 2009 at 10:00 a.m. (ET)as the date for hearing to approve the Successful Bid(s) and the Sale Hearing, and (vii) set January 30, 2008 as the effective date of any PMB Asset disposition and the date to close the Sale(s).

27. On or before three (3) business days after the entry of the Sale Procedures Order, the Debtors will serve copies of the Auction and Sale Notice and the Sale Procedures (including the TIC Options (as defined in the Sale Procedures)) by mail, postage prepaid to: (i) the

Office of the United States Trustee; (ii) counsel for the Committee; (iii) all entities known to have expressed a bona fide interest, within the last six months, in acquiring the PMB Assets; (iv) all entities (or counsel therefor) known to have asserted any lien, claim, encumbrance, right of refusal, or other interest in or upon the PMB Assets; (v) federal, state, and local regulatory or taxing authorities or recording offices or any other governmental authorities that, as a result of the Sale of the PMB Assets may have claims, contingent or otherwise, in connection with the PMB Assets or have any reasonably known interest in the relief requested by the Motion; (vi) all parties, if any, who are known to claim interests in any Executory Contracts and Leases (defined below); (ix) the United States Attorney's office; (x) the Internal Revenue Service; (xi) all parties who have requested notice pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Sale Procedures Order; (xii) all known TIC Investors and their counsel, if known; and (xiii) all known TIC Lenders and their counsel, if known.

AUTHORITY FOR REQUESTED RELIEF

A. The Sale is Within the Sound Business Judgment of the Debtors and Should be Approved

28. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor in possession, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets prior to confirmation of a plan. However, courts in this Circuit and others have required that the decision to sell assets outside the ordinary course of business be based upon the sound business judgment of the debtors. See In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986); see also Myers v. Martin (In re Martin), 91 F.3d 389, 395 (3d Cir. 1996); Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722

F.2d 1063, 1071 (2d Cir. 1983); Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp., (In re Montgomery Ward Holding Corp.), 242 B.R. 147, 153 (D. Del. 1999); In re Delaware & Hudson Ry. Co., 124 B.R. 169, 176 (D.D.C. 1991).

29. The "sound business judgment" test requires a debtor to establish four elements in order to justify the sale or lease of property outside the ordinary course of business, namely, (a) that a "sound business purpose" justifies the sale of assets outside the ordinary course of business, (b) that adequate and reasonable notice has been provided to interested persons, (c) that the debtors have obtained a fair and reasonable price, and (d) good faith. Abbotts Dairies, 788 F.2d 143; Titusville Country Club v. Pennbank (In re Titusville Country Club), 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); In re Sovereign Estates, Ltd., 104 B.R. 702, 704 (Bankr. E.D. Pa. 1989). In this case, the Debtors submit that the decision to proceed with the Sale of the PMB Assets and the Sale Procedures related thereto are based upon their sound business judgment and should be approved. A debtor's showing of a sound business purpose need not be unduly exhaustive but, rather, a debtor is "simply required to justify the proposed disposition with sound business reasons." In re Baldwin United Corp., 43 B.R. 888, 906 (Bankr. S.D. Ohio 1984). Whether or not there are sufficient business reasons to justify a transaction depends upon the facts and circumstances of each case. Lionel, 722 F.2d at 1071; Montgomery Ward, 242 B.R. at 155 (approving funding of employee incentive and severance program; business purpose requirement fulfilled because stabilizing turnover rate and increasing morale were necessary to successful reorganization).

30. Additionally, section 105(a) of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case under the Bankruptcy Code. Section 105(a) provides that "[t]he court may issue any order, process, or judgment that is necessary or

appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). Provided that a bankruptcy court does not employ its equitable powers to achieve a result not contemplated by the Bankruptcy Code, the exercise of its section 105(a) power is proper. In re Fesco Plastics Corp., 996 F.2d 152, 154 (7th Cir. 1993); Pincus v. Graduate Loan Ctr. (In re Pincus), 280 B.R. 303, 312 (Bankr. S.D.N.Y. 2002). Pursuant to section 105(a), a court may fashion an order or decree that helps preserve or protect the value of a debtor's assets. See, e.g., Chinichian v. Campolongo (In re Chinichian), 784 F.2d 1440, 1443 (9th Cir. 1986) ("Section 105 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code."); In re Cooper Props. Liquidating Trust, Inc., 61 B.R. 531, 537 (Bankr. W.D. Tenn. 1986) (noting that bankruptcy court is "one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of its creditors as long as that protection is implemented in a manner consistent with the bankruptcy laws.").

31. The Debtors submit that more than ample business justification exists to sell the PMB Assets to the Successful Bidder(s) (or Next Highest Bidder(s)) pursuant to the Sale Procedures and on substantially the terms set forth in the Purchase Agreement or any Alternative Purchase Agreement. The Debtors believe that it is essential to sell the PMB Assets promptly. Simply put, given the circumstances facing the Debtors, it is necessary to promptly sell the PMB Assets to avoid a deterioration in the value of the PMB Assets, improve the Debtors' liquidity position, and enable the Debtors' limited workforce to divert their attention from the time-consuming tasks associated with the Property Management Business so that they may focus on the liquidation of the estates' other assets. The Debtors believe that the Sale Procedures and the Auction will generate interest and bidding, and that the bidding process will yield the highest and best bids for the PMB Assets. Accordingly, the Debtors believe that the relief sought by this

Motion is not only reasonable, but necessary, to maximize the value of the Debtors' estates for the benefit of their stakeholders.

32. The notice described herein and the Sale Procedures is designed to provide adequate notice to all potentially interested parties, including those who have previously expressed an interest in purchasing the PMB Assets. Accordingly, the proposed Sale satisfies the second prong of the Abbotts Dairies standard.

33. Moreover, the Sale Procedures are designed to maximize the value received for the PMB Assets. The process proposed by the Debtors was designed in close consultation with the Committee and allows for a timely auction process, given the circumstances currently facing the Debtors, while providing bidders and consultants with ample time and information to submit a timely bid. The Sale Procedures are designed to ensure that the PMB Assets will be sold for the highest or otherwise best possible purchase price under the circumstances. The Debtors are subjecting the value of the PMB Assets to market testing and permitting prospective purchasers to bid on the PMB Assets. The proposed Sale(s) will be further subject to a market check through the solicitation of competing bids in a court-supervised Auction process as set forth in the Sale Procedures. Accordingly, the Debtors and all parties in interest can be assured that the consideration received for the PMB Assets will be fair and reasonable, and the third prong of the Abbotts Dairies standard is satisfied. As discussed below, the "good faith" prong of the Abbotts Dairies standard is also satisfied here.

B. The Sale is Proposed in "Good Faith" Under Section 363(m) of the Bankruptcy Code

34. The Debtors request that the Court find that the Successful Bidder(s) (or Next Highest Bidder(s)) is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the Sale.

35. Section 363(m) of the Bankruptcy Code provides, in pertinent part:

> The reversal or modification on appeal of an authorization under subsection (b) . . . of this section of a sale . . . of property does not affect the validity of a sale . . . under such authorization to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal.

11 U.S.C. § 363(m).

36. Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal. By its terms, section 363(m) of the Bankruptcy Code applies to sales of interests in tangible assets, such as the PMB Assets. Additionally, the United States Court of Appeals for the Third Circuit (the "Third Circuit") has indicated that section 363(m) of the Bankruptcy Code also protects the assignee of a debtor's interest in executory contracts under Bankruptcy Code section 365. Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc., 141 F.3d 490, 497-98 (3d. Cir. 1998). In Krebs, the Court considered "whether assignments of [certain automobile dealership] franchises under section 365 are also sales of estate property subject to section 363(m)." Id. at 497. Despite the absence of an explicit reference to assignments of executory contracts under section 365 of the Bankruptcy Code, the Court in Krebs concluded that section 363(m) of the Bankruptcy Code protected an assignment of a debtor's interest in certain automobile franchise agreements pursuant to an auction sale. Like the franchise agreements protected in Krebs, the Executory Contracts and Leases (as defined below) are executory contracts that may be assumed and assigned pursuant to section 365 of the Bankruptcy Code. In light of Krebs, the Debtors respectfully submit that section 363(m) applies to protect the Successful Bidder(s) (or Next Highest Bidder(s)) with respect to both the Executory

Contracts and Leases (as defined and described more fully below) designated for assumption and assignment and the PMB Assets that are included in such bids.

37. As required by section 363(m) of the Bankruptcy Code, the Sale Procedures have been proposed in good faith and provide for both the Debtors and the potential purchaser to act in good faith in negotiating the Sale and the assignment of the designated Executory Contracts and Leases (as defined below). Although the Bankruptcy Code does not define "good faith purchaser," the Third Circuit, construing section 363(m) of the Bankruptcy Code, has stated that "the phrase encompasses one who purchases in 'good faith' and for 'value'." Abbotts Dairies, 788 F.2d at 147. To constitute lack of good faith, a party's conduct in connection with the sale must usually amount to "fraud, collusion between the purchaser and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders." Id. (citing In re Rock Indus. Mach. Corp., 572 F.2d 1195, 1198 (7th Cir. 1978)). See also In re Bedford Springs Hotel, Inc., 99 B.R. 302, 305 (Bankr. W.D. Pa. 1989); In re Perona Bros., Inc., 186 B.R. 833, 839 (D.N.J. 1995). Due to the absence of a bright line test for good faith, the determination is based on the facts of each case, concentrating on the "integrity of [an actor's] conduct during the sale proceedings." In re Pisces Leasing Corp., 66 B.R. 671, 673 (E.D.N.Y. 1986) (quoting In re Rock Indus. Mach. Corp., 572 F.2d 1195, 1998 (7th Cir. 1978)).

38. Here, the sale, assumption and assignment of the PMB Assets and the assumption and assignment of the Executory Contracts and Leases (as defined below) which are designated by the purchaser is in good faith. There is no evidence of fraud or collusion in the terms of the Sale and the assignment of the Executory Contracts and Leases. To the contrary, as discussed throughout this Motion, and as will be further demonstrated at the Sale Hearing, the Purchase Agreement(s) or an Alternative Purchase Agreement, if any, will be the culmination of a

solicitation and negotiation process in which all parties will be represented by counsel. All negotiations have been and will continue to be conducted on an arms length, good faith basis. With respect to the potential bidders, the Sale Procedures are designed to ensure that no party is able to exert undue influence over the process. Under the circumstances, the Successful Bidder(s) (or Next Highest Bidder(s)) should be afforded the protections that section 363(m) of the Bankruptcy Code provides to a good faith purchaser. Furthermore, the Sale Procedures are designed to prevent the Debtors or the Successful Bidder(s) (or Next Highest Bidder(s)) from engaging in any conduct that would cause or permit the Purchase Agreement(s) or Alternative Purchase Agreement(s), or the Sale of the PMB Assets to the Successful Bidder(s) (or Next Highest Bidder(s)) pursuant thereto and hereto, to be avoided under section 363(n) of the Bankruptcy Code.

39. All parties in interest will receive notice of the Sale and will be provided with an opportunity to be heard. Additionally, all counterparties to Executory Contracts and Leases will be provided notice of the potential assumption and assignment of their agreements and an opportunity to be heard. The Debtors submit that such notice is adequate for entry of the Sale Order and satisfies the requisite notice provisions required under sections 363(b) and 365 of the Bankruptcy Code.

C. The Sale Satisfies the Requirements of Section 363(f) of the Bankruptcy Code

40. Under section 363(f) of the Bankruptcy Code, a debtor-in-possession may sell all or any part of its property free and clear of any and all liens, claims or interests in such property if: (i) such a sale is permitted under applicable non-bankruptcy law; (ii) the party asserting such a lien, claim or interest consents to such sale; (iii) the interest is a lien and the purchase price for the property is greater than the aggregate amount of all liens on the property;

(iv) the interest is the subject of a *bona fide* dispute; or (v) the party asserting the lien, claim or interest could be compelled, in a legal or equitable proceeding, to accept a money satisfaction for such interest. 11 U.S.C. § 363(f); Citicorp Homeowners Serv., Inc. v. Elliot (In re Elliot), 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that section 363(f) of the Bankruptcy Code is written in the disjunctive; therefore, a court may approve a sale "free and clear" provided at least one of the subsections is met). Because the Debtors expect that they will satisfy the second and fifth of these requirements, if not others as well, approving the sale of the PMB Assets free and clear of all adverse interests is warranted. Furthermore, courts have held that they have the equitable power to authorize sales free and clear of interests that are not specifically covered by section 363(f). See, e.g., In re Trans World Airlines, Inc., 2001 WL 1820325 at *3, 6 (Bankr. D. Del. March 27, 2001); Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.), 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987).

D. Assumption and Assignment of the PMB Assets, Executory Contracts and Unexpired Leases Should be Approved

41. To facilitate and effectuate the sale of the PMB Assets, the Debtors seek authority to assume and assign, in addition to the PMB Assets, various other executory contracts and unexpired leases related to the PMB Assets (as may be identified by separate notice prior to the Sale Hearing, the "Executory Contracts and Leases") to the Successful Bidder (or the Next Highest Bidder) to the extent required by such Successful Bidder(s) (or Next Highest Bidder(s)). Section 365 of the Bankruptcy Code authorizes a debtor to assume and/or assign its executory contracts and unexpired leases, subject to the approval of the Bankruptcy Court, provided that the defaults under such contracts and leases are cured and adequate assurance of future performance is provided. A debtor's decision to assume or reject an executory contract or unexpired lease must only satisfy the "business judgment rule" and will not be subject to review unless such decision is

clearly an unreasonable exercise of such judgment. Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific Ry. Co., 318 U.S. 523 (1943) (applying Bankr. Act section 77 subsection (b), the predecessor to Bankruptcy Code section 365) (rejecting the test of whether the executory contract was burdensome in favor of whether rejection is within the debtor's business judgment); Lubrizol Enter., Inc. v. Richmond Metal Finishers, Inc., 756 F.2d 1043, 1046-47 (4th Cir. 1985).

42. The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." See Carlisle Homes. Inc. v. Azzari (In re Carlisle Homes, Inc.), 103 B.R. 524, 538 (Bankr. D.N.J. 1989). Among other things, adequate assurance may be given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. In re Bygaph, Inc., 56 B.R. 596, 605-6 (Bankr. S.D.N.Y. 1986) (finding adequate assurance of future performance present when the prospective assignee of a lease from the debtors has the financial resources and has expressed a willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding; "chief determinant of adequate assurance of future performance is whether rent will be paid").

43. In addition to acquiring the PMB Assets by assignment, the Successful Bidder(s) (or the Next Highest Bidder(s)) may desire to take assignment of certain executory contracts and unexpired leases related to the PMB Assets. To the extent Executory Contracts and Leases are identified for assumption and assignment by the Successful Bidder(s) (or the Next Highest Bidder(s)), the Debtors believe that they can and will demonstrate that all requirements for assumption and/or assignment of the such Executory Contracts and Leases will be satisfied at the Sale Hearing. The Debtors, as required by the Sale Procedures, will evaluate the financial

wherewithal of all potential bidders before qualifying such bidders to bid for the PMB Assets. Further, for the reasons stated throughout this Motion, the Debtors, in exercising their sound business judgment, believe that selling the PMB Assets and assuming and assigning to the Successful Bidder(s) (or the Next Highest Bidder(s)) the PMB Assets and selected Executory Contracts and Leases would be in the best interests of their estates.

44. Moreover, the Debtors will provide all relevant parties-in-interest an opportunity to be heard. Specifically, a notice, in the form annexed hereto as Exhibit 5, identifying the PMB Assets, Executory Contracts and Leases will be served by the Debtors by first class mail to each non-Debtor party to an Executory Contract and Lease and/or on each TIC Lender (or their counsel, if known) on or before three (3) business days after entry the Sale Procedures Order. Such notice will, among other things, list the Debtors' proposed cure amount and the deadline to object to the proposed cure amount. If no objection is received on or before January 21, 2009 at 4:00 p.m. (ET) (the "Cure Objection Deadline"), the assignment of the applicable PMB Asset, Executory Contract or Lease should be deemed consented to, and the Debtors' proposed cure amount, if any, would be approved (if such PMB Asset, Executory Contract and Lease is included in a Successful Bid) and any party having the right to consent to the assumption or assigment or sale of the PMB Assets that failed to object to such assumption or assignment on any grounds, including the commencement of these chapter 11 cases, the financial condition of the Debtors, the selection of the Successful Bidder, and the transfer and/or modification of the MasterLease, shall be deemed to have consented to such assumption and assignment and to the extent the assumption and assignment of the PMB Assets may constitute a default under any related documents, all such defaults shall be deemed to have been irrevocably waived.

45. Furthermore, by January 29, 2009, a notice identifying the Successful Bidders will be sent by electronic mail, overnight courier, hand delivery or facsimile to the counter parties to the Contracts, Subleases and Masterleases identified for assumption and assignment in such Successful Bids as well as to the TIC Lenders, counsel to the Committee, any TIC Investor having filed a request for notice in these cases and all other parties having filed requests for notice in these cases. The Debtors propose that such parties be given until 4:00 p.m. (ET) on February 2, 2009 to object to such assumption and assignment solely on the issue of whether such Successful Bidder can provide adequate assurance of future performance as required by Section 365 of the Bankruptcy Code and on no other basis.

E. Relief from the Ten Day Waiting Periods Under Bankruptcy Rules 6004(h) and 6006(d) is Appropriate.

46. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise." Similarly, Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise." The Debtors request that the Sale Order(s) be effective immediately by providing that the ten (10) day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

47. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the ten (10) day stay period, Collier on Bankruptcy suggests that the ten (10) day stay period should be eliminated to allow a sale or other transaction to close

immediately "where there has been no objection to the procedure." 10 Collier on Bankruptcy 15th Ed. Rev., ¶6064.09 (L. King, 15th rev. ed. 1988). Furthermore, Collier's provides that if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. Id.

48. The Debtors hereby request that the Court waive the ten-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

NOTICE

49. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Committee; (iii) the Internal Revenue Service; and (iv) all parties entitled to notice under Local Rule 2002-1(b). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is required.

CONCLUSION

WHEREFORE, the Debtors respectfully request (A) approval of the Sale Procedures Order, substantially in the form attached hereto, (B) entry of Sale Order(s) substantially in the form attached hereto, and (C) such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware
Dec. 19, 2008

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Attorneys for the Debtors and Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Hearing Date (Sale Procedures): January 7, 2009 at 2:00 p.m. (ET) **Obj. Deadline (Sale Procedures): December 31, 2008 at 4:00 p.m. (ET)** **Hearing Date (Sale): February 4, 2009 at 10:00 a.m. (ET)** **Obj. Deadline (Sale): January 23, 2009 at 12:00 noon (ET)**

NOTICE OF MOTION

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE; (II) COUNSEL TO THE COMMITTEE; (III) THE INTERNAL REVENUE SERVICE; AND (IV) ALL PARTIES ENTITLED TO NOTICE UNDER LOCAL RULE 2002-1(B)

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the "Debtors") have filed the attached **MOTION OF THE DEBTORS FOR ORDERS: (A)(I) APPROVING SALE PROCEDURES; (II) SCHEDULING A HEARING TO CONSIDER SALE OF CERTAIN ASSETS RELATED TO THE DEBTORS' PROPERTY MANAGEMENT BUSINESS; (III)-APPROVING FORM AND MANNER OF NOTICE THEREOF; AND (IV) GRANTING RELATED RELIEF; AND (B)(I) AUTHORIZING THE SALE OF SUCH ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) AUTHORIZING AND APPROVING PURCHASE AGREEMENT THERETO; (III) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO; AND (IV) GRANTING RELATED RELIEF** with the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE FURTHER NOTICE that objections to the Sale Procedures (as defined in the Motion), if any, must be filed on or before **December 31, 2008 at 4:00 p.m. (ET)** (the "Sale Procedures Objection Deadline") with the United States Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must also serve a copy of the objection upon the Debtors' undersigned counsel so as to be received on or before the Sale Procedures Objection Deadline.

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[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE that a hearing on the Sale Procedures will be held on **January 7, 2009 at 2:00 p.m. (ET)** before the Honorable Peter J. Walsh, United States Bankruptcy Judge, 824 North Market Street, Wilmington, Delaware 19801, or at such other time thereafter as the Court may indicate.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: Wilmington, Delaware
December 19, 2008

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Michael R. Nestor (No. 3526)
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Attorneys for the Debtors and Debtors in Possession

EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Ref. Docket No. _____

ORDER (I) APPROVING SALE PROCEDURES; (II) SCHEDULING A HEARING TO CONSIDER SALE OF CERTAIN ASSETS ASSOCIATED WITH THE DEBTORS' PROPERTY MANAGEMENT BUSINESS; (III) APPROVING FORM AND MANNER OF NOTICE THEREOF; AND (IV) GRANTING RELATED RELIEF

Upon the consideration of the motion (the "Motion")[2] of DBSI, Inc. ("DBSI") and the other debtors and debtors in possession in the above cases (collectively, the "Debtors") pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for entry of an order, *inter alia*, (i) approving sale procedures (the "Sale Procedures") with respect to the sale (the "Sale") of certain assets associated with the Debtors' property management business (the "PMB Assets"); (ii) approving the qualifications of the Potential Bidders identified as of the hearing on the Motion; (iii) scheduling a hearing (the "Sale Hearing") on the Sale(s) and setting objection and bidding deadlines with respect to the Sale(s); (iv) directing that notice of the Sale Procedures and the Sale be given, substantially in the form annexed as Exhibit D to the Motion (the "Auction and Sale Notice"); and (v) granting related

[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

[2] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures.

relief; and the Court having determined that the relief provided herein is in the best interest of the Debtors, their estates, their creditors and other parties in interest; and due and adequate notice of the Motion, the Sale Procedures and the Sale having been given under the circumstances; and upon the record of the hearing on the Motion, and the full record of these cases; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. This Court has jurisdiction over the Motion and the transactions contemplated by the Purchase Agreement pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. Good and sufficient notice of the Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required. A reasonable opportunity to object and be heard regarding the relief provided herein has been afforded to all known parties in interest.

D. The Debtors' proposed notice of the Sale Procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, Sale and the Sale Procedures to be employed in connection therewith.

E. The entry of this Sale Procedures Order is in the best interests of the Debtors, their estates, their creditors and other parties-in-interest.

F. The Sale Procedures are reasonably designed to maximize the value to be achieved for the PMB Assets.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted.

2. All objections to the Motion or the relief provided herein that have not been withdrawn, waived or settled, and all reservations of rights included therein, hereby are overruled and denied on the merits.

3. The Sale Procedures annexed hereto as Exhibit A are hereby approved. The Potential Bidders identified on Exhibit B are hereby approved as Qualified Bidders. In accordance with the Sale Procedures, additional Potential Bidders may be determined to be Qualified Bidders.

4. The Debtors may sell the PMB Assets by conducting the Auction in accordance with the Sale Procedures.

5. The Auction shall take place on January 28, 2009 at 10:00 a.m. (prevailing Eastern Time) at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, Wilmington, Delaware 19899, or such other place and time as the Selling Debtors shall notify all Qualified Bidders, the Official Committee of Unsecured Creditors (the "Committee"), and other invitees.

6. The Sale Hearing shall be held before this Court on February 4, 2009 at 10:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel and interested parties may be heard.

7. On or before three (3) business days after the entry of the Sale Procedures Order, the Debtors will serve copies of the Auction and Sale Notice and the Sale Procedures

(including the TIC Options (as defined in the Sale Procedures)) by mail, postage prepaid to: (i) the Office of the United States Trustee; (ii) counsel for the Committee; (iii) all entities known to have expressed a bona fide interest, within the last six months, in acquiring the PMB Assets; (iv) all entities (or counsel therefor) known to have asserted any lien, claim, encumbrance, right of refusal, or other interest in or upon the PMB Assets; (v) federal, state, and local regulatory or taxing authorities or recording offices or any other governmental authorities that, as a result of the Sale of the PMB Assets may have claims, contingent or otherwise, in connection with the PMB Assets or have any reasonably known interest in the relief requested by the Motion; (vi) all parties, if any, who are known to claim interests in any Executory Contracts and Leases (defined below); (ix) the United States Attorney's office; (x) the Internal Revenue Service; (xi) all parties who have requested notice pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Sale Procedures Order; (xii) all known TIC Investors and their counsel, if known; and (xiii) all known TIC Lenders and their counsel, if known.

8. On or before three (3) business days after the entry of this Sale Procedures Order, a notice identifying the PMB Assets and corresponding proposed cure amounts (the "Cure Amounts"), will be served by the Debtors by first class mail to each non-Debtor party to a PMB Asset and/or on each TIC Lender (or their counsel, if known)

9. Objections, if any, to the Cure Amounts and the assignment of the applicable PMB Asset must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 Market Street, Wilmington, Delaware 19801, on or before 4:00 p.m. (prevailing Eastern Time) on January 21, 2009, or such later date and time as the Debtors may agree (the "Cure Amount Objection Deadline") and (d) be served so as to be received no later

than 4:00 p.m. (prevailing Eastern Time) on the same day, upon (i) DBSI, Inc., 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713 (Attn: Timothy D. Boates, Chief Restructuring Officer); (ii) Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn.: Michael R. Nestor and Joseph M. Barry) and Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199 (Attn: Stephen I. Burr), counsel to the Debtors; (iii) Greenberg Traurig, LLP, 2450 Colorado Ave, Suite 400E, Santa Monica, CA 90404 (Attn: Michael H. Goldstein) and The Nemours Building, 1007 North Orange Street, Suite 1200, Wilmington, DE 19801 (Attn: Donald J. Detweiler), counsel to the Committee; and (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn: Richard L. Schepacarter) (collectively, the "Notice Parties").

10. If a PMB Asset is included in a Successful Bid, the Debtors shall, on January 29, 2009, after the conclusion of the Auction, serve a notice identifying the Successful Bidders by overnight courier or facsimile to the non-Debtor parties to the PMB Assets identified for assumption and assignment in such Successful Bids as well as to the TIC Lenders, counsel to the Committee, any TIC Investor having filed a request for notice in these cases and all other parties having filed requests for notice in these cases. The non-Debtor parties shall have until February 2, 2009 (the "Adequate Assurance Objection Deadline") to object to the assumption and assignment of such PMB Asset solely on the issue of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code, and no other issue, and such objection must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 Market Street, Wilmington, Delaware

19801, on or before 4:00 p.m. (prevailing Eastern Time) on the Adequate Assurance Objection Deadline (February 2, 2009) and (d) be served so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on the same day, upon the Noticed Parties.

11. Any party having that has the right to consent to the assumption or assigment of the PMB Assets that fails to object to such assumption or assignment shall be deemed to have consented to such assumption and assignment as required by section 365(c) of the Bankruptcy Code and to the extent the assumption and assignment of the PMB Assets may constitute a default under any related documents, such default shall be deemed to have been irrevocably waived.

12. Any party that fails to object to the assumption and assignment of the PMB Assets shall be barred, enjoined and prohibited from asserting any claim or debt against the Debtors or their property or estates other than the Cure Amounts, if any, or from offsetting, seeking to offset, recoup, deduct or set-off any Claims such party may have against the Debtors from any amounts that may be or may become due in the future to the Purchaser under such PMB Asset.

13. Objections, if any, to the Sale, or the relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 Market Street, Wilmington, Delaware 19801, on or before 4:00 p.m. (prevailing Eastern Time) on January 21, 2009, or such later date and time as the Selling Debtors may agree and (d) be served so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on the same day, upon the Notice Parties.

14. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Dated: January ____, 2009
Wilmington, Delaware

_____
Peter J. Walsh
United States Bankruptcy Judge

EXHIBIT 2

SALE PROCEDURES

By motion dated December 19, 2008 (the "Motion"), DBSI, Inc. ("DBSI") and certain affiliated debtors and debtors in possession (collectively, the "Debtors") seek approval of, among other things, the procedures (the "Sale Procedures") through which the Debtors will conduct an auction ("Auction") for the sale (the "Sale") of certain masterleases (each, a MasterLease" and collectively, the "MasterLeases"), subleases (each, a "Sublease" and collectively, the "Subleases") and related executory contracts and non-real property leases (collectively, the "Contracts") (the MasterLeases, Subleases and Contracts, as they may be modified as part of the Sale, (are collectively referred to herein as the "PMB Assets") associated with the operation of the properties (each, a "Property," and collectively, the "Properties") identified on Exhibit "A". The Sale will be consummated pursuant to the terms of definitive documents (the "Final Purchase Agreement") as may be agreed to among the successful bidder(s) ("Successful Bidder(s)") resulting from the Auction and the Debtors in consultation with the Official Committee of Unsecured Creditors (the "Committee"), and such Final Purchase Agreement will be subject to the terms, conditions and provisions of the TIC Investor Options With Respect To Each MasterLease And The Related Property (collectively, the "TIC Investor Options") as described in Exhibit "B" annexed hereto (except, however, for the Sold Unchanged MasterLeases (as defined below) which shall not be subject to the TIC Investor Options), and the form of assumption and assignment document related to the TIC Investor Options to be in substantial conformity with that set forth in Exhibit "C" annexed hereto.

The Sale of the PMB Assets (except for the Sold Unchanged MasterLeases) shall consist of payment by the Successful Bidder(s) to the DBSI estates with respect to each Property (and associated MasterLease and SubLeases), and an agreement with the respective TIC Investors consistent with the TIC Investor Options, that satisfies one of the following categories: (i) the Debtors reject the MasterLease and SubLeases and contemporaneously therewith the Successful Bidder(s) enters into a transaction with the TIC Investors (or their designee) to manage, to provide services in connection with, or to otherwise be engaged with respect to, the Property (a "Rejection Transaction"); (ii) the Debtors assume and assign the MasterLease and SubLeases to the TIC Investors (or their designee) and the Successful Bidder(s) enters into a transaction with the TIC Investors (or their designee) to manage, provide services in connection with, or otherwise be engaged with respect to, the Property (an "Assumption/Assignment Transaction"); (iii) the Debtors assume and assign the MasterLease (as modified) and SubLeases to the Successful Bidder(s) (a "Modified Lease Transaction"); and (iv) the Debtors assume and assign the existing MasterLease and related SubLeases (identified on Exhibit "D" annexed hereto) to the Successful Bidder(s) (the "Sold Unchanged MasterLeases"). The proposed documentation related to the Assumption/Assignment Transaction and the Modified Lease Transaction as it relates to the TIC Investors is set forth in Exhibit "C" annexed hereto.

Any Qualified Bidder who makes a bid irrevocably agrees to pay to the Debtors an amount equal to the greater of the average or the median price for bids by all of the Successful Bidders (as calculated based upon a per square foot basis by Property) for all Properties (with respect to a transaction and type of Property comparable to the type of transaction contemplated by such Qualified Bidder's bid), but in no event less than the

Minimum Price Per Property* plus the Transaction Fee, if such Qualified Bidder (including any Qualified Bidder that is a Successful Bidder) enters into any transaction involving a Property, on or before June 30, 2010, with the TIC Investors (or their designee) to manage, to provide services in connection with, or to otherwise be engaged with respect to, a Property; provided, however, if the Qualified Bidder enters into a transaction with a TIC Investor pursuant to and concurrent with the TIC Investor Options (described below), no such fee shall be due and payable.

A hearing to approve the Sale Procedures is currently scheduled for **January 7, 2009 at 2:00 p.m.** (ET) (the " Procedures Hearing") before the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") at which time the Debtors will seek approval of the Sale Procedures and the pre-qualification of Qualified Bidders. At the Procedures Hearing, the Debtors will request the Court set **January 23, 2009** as the Bid Deadline (as defined below), **January 28, 2009** as the date for the Auction, **February 4, 2009 at 10:00 a.m. (ET)** as the date for hearing to approve the Successful Bid(s) (as defined below) and the Sale (the "Sale Hearing"), and **January 30, 2009** as the effective date of and the date to close the Sale(s) or any other disposition of the PMB Assets (including rejection thereof) (the "Closing Date"), or, in each case, such adjourned date as may be determined by the Debtors in consultation with the Committee.

A Qualifying Bid may include all of the PMB Assets, or one or more of a series of Properties (and associated MasterLease, SubLeases and Contracts), and with respect to the PMB Assets may include one or more of a series of transactions, including, without limitation: (1) a Rejection Transaction; (2) an Assumption/Assignment Transaction; (3) a Modified Lease Transaction; and/or (4) Sold Unchanged MasterLease.

The Debtors in consultation with the Committee reserve the right to (i) seek approval of the Sale(s) through a single transaction or a series of transactions with different Successful Bidders in the event that the combination of such Sales is determined by the Debtors, in consultation with the Committee, to result in a transaction or transactions that are in the best interests of the Debtors' estates; (ii) to enter into agreements to sell any combination of PMB Assets with respect to one or more Properties, pursuant to: (1) a Rejection Transaction; (2) an Assumption/Assignment Transaction; (3) a Modified Lease Transaction; (4) a Sold Unchanged MasterLease; and/or (5) an alternative transaction; (iii) enter into one or more stalking horse agreements with respect to the PMB Assets and seek Court approval of expense reimbursements and/or break-up fees related thereto; and (iv) waive the Sale Procedures to the extent such waiver is in the best interests of the Debtors' estates as determined by the Debtors, in consultation with the Committee.

Participation Requirements

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* The Minimum Price Per Property is a fixed dollar amount for each Property, the calculation of which will be provided by the Debtors to the TIC Investors with respect to the applicable Property through the existing DBSI secured website for such Property, subject to agreement by the TIC Investors and the Debtors in consultation with the Committee to reflect facts and circumstances particular to a Property. The Minimum Price Per Property is to be calculated based upon a percentage of the 2009 scheduled projected rental income from the in-place tenants at the respective Property. The rental income shall be based upon the 2009 scheduled rental income (net of rent concessions), minus unfunded tenant improvements and leasing comissions, if any.

In order to participate in the bidding process or otherwise be considered for any purpose hereunder, a person interested in the acquisition of all or a portion of the PMB Assets (a "Potential Bidder") must first deliver the following materials to counsel for the Debtors and the Committee:

(a) An executed confidentiality agreement substantially in form and substance of Exhibit "E" annexed hereto; and

(b) The most current audited and latest unaudited financial statements (collectively, the "Financials") of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of the Sale, (x) Financials of the equity holder(s) of the Potential Bidder or such other form of financial disclosure as is acceptable to the Debtors in consultation with the Committee; (y) the written commitment acceptable to the Debtors, in consultation with the Committee, of the equity holder(s) of the Potential Bidder to be responsible for the Potential Bidder's obligations in connection with the Sale; and (y) a detailed summary of the Potential Bidder's qualifications and relevant experience. In the event that a Potential Bidder is unable to provide Financials, the Debtors, in consultation with the Committee may accept such other information sufficient to demonstrate to the satisfaction of the Debtors, in consultation with the Committee that such Potential Bidder has the financial wherewithal to consummate the Sale.

A "Qualified Bidder" is a Potential Bidder whose Financials or other information demonstrates the financial capability to consummate and perform obligations in connection with the Sale and which the Debtors, in consultation with the Committee, determine is reasonably likely to make a bona fide offer and would be able to consummate the proposed Sale of the PMB Assets if selected as the Successful Bidder (as defined herein). It is understood that any Potential Bidder that subsequently becomes a Qualified Bidder shall, at its own expense, take any and all actions reasonably necessary to support its bid, including, but not limited to provision of any and all documents that may be requested by the Debtors, the Committee or any TIC Investor and work cooperatively with the Debtors, the Committee and/or any other affected party to obtain Court approval of the Sale. The Debtors will promptly advise the Potential Bidder in writing of the determination whether or not the Potential Bidder is a Qualified Bidder.

Obtaining Due Diligence Access

The Debtors shall immediately establish an electronic database comprised of all necessary due diligence materials related to the Properties, the Masterleases, the Subleases, and Contracts, and, in addition, shall provide each Qualified Bidder reasonable due diligence information as requested. The Debtors, in consultation with the Committee, shall coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders.

Bid Deadline

The deadline for submitting bids by a Qualified Bidder shall be January 23, 2009 at 12:00 Noon (prevailing Eastern Time), or such adjourned date as may be determined by the Debtors in consultation with the Committee **(the "Bid Deadline").**

Prior to the Bid Deadline, a Qualified Bidder that desires to make a bid for all or a portion of the PMB Assets shall deliver written copies of its bid to: (i) DBSI, Inc., 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713 (Attn: Timothy D. Boates, Chief Restructuring Officer); (ii) Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn.: Michael R. Nestor and Joseph M. Barry) and Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199 (Attn: Stephen I. Burr), counsel to the Debtors; (iii) Greenberg Traurig, LLP, 2450 Colorado Ave, Suite 400E, Santa Monica, CA 90404 (Attn: Michael H. Goldstein) and The Nemours Building, 1007 North Orange Street, Suite 1200, Wilmington, DE 19801 (Attn: Donald J. Detweiler), counsel to the Committee; and (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn: Richard L. Schepacarter) (collectively, the "Notice Parties").

Due Diligence From Bidders

Each Qualified Bidder shall comply with all reasonable requests for additional information by the Debtors, the Committee, or their advisors regarding such Qualified Bidder's financial wherewithal to consummate and perform obligations in connection with the Sale. Failure by a Qualified Bidder to comply with requests for additional information may be a basis for the Debtors, in consultation with the Committee, to determine that a bid made by such Qualified Bidder is not a Qualified Bid.

Bid Requirements

A Qualified Bidder shall (i) submit a specific price for each Property covered by the bid; and (b) with respect to each Property identify the type of transaction through which the Qualified Bidder intends to implement the Sale of the Properties so identified - Rejection Transaction, Assumption/Assignment Transaction, Modified Lease Transaction, Sold Unchange MasterLease and/or an alternative transaction. If the scope of the acquisition of the PMB Assets includes a Modified Lease Transaction, the Qualified Bidder should also identify if the proposed Modified Lease Transaction is to take the form of either: (i) a property management fee structure; or (ii) a guaranteed rent structure.

In addition to the foregoing, a bid must be a written irrevocable offer from a Qualified Bidder and:

1. State that the Qualified Bidder offers to consummate the Sale pursuant to an agreement that has been marked to show amendments and modifications to the Draft Purchase Agreement (a copy of which is annexed hereto as Exhibit "F"), including price and terms, that are being proposed by the Qualified Bidder, as applicable, (the "Marked Purchase Agreement") or, if such Bid is in a form significantly different from that contemplated by Purchase Agreement, a purchase agreement in a form acceptable to the Qualified Bidder, (an "Alternative Purchase Agreement"), and include a copy of the proposed Marked Purchase Agreement or Alternative Purchase Agreement;

2. The Marked Purchase Agreement or the Alternative Purchase Agreement should include a draft form of: (i) a proposed Property Management Agreement, in the event of a Rejection Transaction; (ii) a proposed Property Management Agreement and Assumption and Assignment Agreement to be used in connection with an Assumption/Assignment Transaction; or (iii) Modified Lease to be used in connection with a Modified Lease Transaction;

3. Confirm that the offer shall remain open and irrevocable until the closing of a Sale to the Successful Bidder or the Next Highest Bidder (as defined herein);

4. Contain a list of the Contracts that the bidder seeks assignment from the Debtors;

5. The Marked Purchase Agreement or Alternative Purchase Agreement must provide that the Qualified Bidder (or other party other than the Debtors) will pay all cure costs associated with the Contracts identified for assumption and assignment;

6. Be accompanied by a certified or bank check or wire transfer (delivered to counsel for the Debtors, and in the case of a check made payable to DBSI, Inc., Debtor In Possession, and in the case of a wire transfer, pursuant to wire transfer instructions provided by counsel to the Debtors to be held in counsel's trust account) in an amount equal to a non-refundable good faith deposit in an amount specified by the Qualified Bidder for each PMB Asset included in the Qualified Bid (the "Non-refundable Deposit");

7. Be accompanied by a certified or bank check or wire transfer (delivered to counsel for the Debtors, and in the case of a check made payable to DBSI, Inc., Debtor In Possession, and in the case of a wire transfer, pursuant to wire transfer instructions provided by counsel to the Debtors to be held in counsel's trust account) as a refundable good faith deposit in an amount equal to ten percent (10%) of the purchase price for the PMB Assets identified in the Marked Purchase Agreement or Alternative Purchase Agreement as a minimum good faith deposit (the "Minimum Deposit"), which Minimum Deposit shall be used to fund a portion of the purchase price provided for in the Qualified Bid;

8. The Marked Purchase Agreement or Alternative Purchase Agreement must provide that the sale of the PMB Assets shall close and be effective on or before **January 30, 2009,** unless otherwise agreed to by the Debtors, in consultation with the Committee.

9. Be on terms that are not materially more burdensome or conditional than the terms of the Draft Purchase Agreement;

10. Not be conditioned on obtaining financing;

11. Not request or entitle the Qualified Bidder to any break-up fee, expense reimbursement or similar type of payment; and

12. Fully disclose the identity of each entity that will be bidding for the PMB Assets or otherwise participating in connection with such bid, and the complete terms of any such participation.

A bid received from a Qualified Bidder and that meets the requirements set forth above will be considered a "Qualified Bid" if the Debtors, in consultation with the Committee, believe that such bid would be consummated if selected as a Successful Bid (as defined herein).

After the Bid Deadline, the Debtors, in consultation with the Committee, shall determine which Qualified Bid(s) represents the then-highest or otherwise best bid(s) (the "Initial Bid"). Prior to the commencement of the Auction, the Debtors shall distribute copies of the Initial Bid(s) to each Qualified Bidder bidding on such assets.

Auction

If the Debtors receive a Qualified Bid from a Qualified Bidder by the Bid Deadline, an auction (the "Auction") with respect to the Sale will take place on **January 28, 2009 at 10:00 a.m. (prevailing Eastern Time)**, or such adjourned date as may be determined by the Debtors in consultation with the Committee (the "Auction Date") at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, Wilmington, Delaware 19899, or such later time and place as the Debtors, in consultation with the Committee, may provide so long as such change is communicated reasonably in advance by the Debtors to all Qualified Bidders, and other invitees.

If an Auction is held, the following rules for its conduct (the "Auction Rules") shall be observed:

1. Only a Qualified Bidder who has submitted a Qualified Bid by the Bid Deadline will be eligible to participate at the Auction.

2. At the Auction, Qualified Bidders will be permitted to increase their bids. The bidding at the Auction shall start at the purchase price stated in the Initial Bid and then continue in increments as determined by the Debtors, in consultation with the Committee, and announced at the commencement of the auction, provided the bidding increments shall not be more than 10% of the Initial Bid for the Exclusive Rights and the PMB Assets.

3. Each Qualified Bidder will be permitted a fair, but limited, amount of time (no more than fifteen minutes, unless otherwise agreed by the Debtors, in consultation with the Committee) to respond to the previous bid at the Auction. Bidding at the Auction will continue until such time as the highest or otherwise best offer(s) is determined in accordance with these Sale Procedures.

4. The Debtors, in consultation with the Committee, will, from time to time, in an open forum advise Qualified Bidders participating in the Auction of the then highest or otherwise best bid(s).

5. The Auction may be adjourned by the Debtors, in consultation with the Committee. Reasonable notice of the time and place for the resumption of the Auction will be given to all Qualified Bidders and other invited parties.

6. Immediately prior to concluding the Auction, the Debtors, in consultation with the Committee, shall (a) review each Qualified Bid on the basis of its financial and contractual terms and the factors relevant to the Sale process and the best interests of the Debtors' estates and creditors; (b) determine and identify the highest or otherwise best Qualified Bid(s) (the "Successful Bid(s)") and the Qualified Bidder(s) submitting such bid (the "Successful Bidder(s)"); (c) determine and identify the next highest or otherwise best Qualified Bid(s) after the Successful Bid(s) (the "Next Highest Bid(s)") and the Qualified Bidder(s) submitting such bid(s) (the "Next Highest Bidder(s)"); and (d) have the right to reject any and all bids.

7. Within one business day of the completion of the Auction, the Successful Bidder(s) shall: (a) deliver to the Debtors a certified or bank check or wire transfer in an amount necessary to fund the balance of the Successful Bid; and (b) execute the final form of the agreed upon final purchase agreement.

Acceptance of the Successful Bid

The Debtors will present the results of the Auction to the Bankruptcy Court at the Sale Hearing, at which certain findings will be sought from the Bankruptcy Court regarding the Sale Procedures and Auction, including, among other things, that (i) the Sale Procedures and Auction were conducted and the selection of the Successful Bidder(s) was in accordance with these Sale Procedures, (ii) the Auction was fair in substance and procedure, and (iii) consummation of the Sale contemplated by the Successful Bid(s) will provide the highest or otherwise best value for the PMB Assets and is in the best interests of the Debtors and their creditors.

If an Auction is held, the Debtors shall be deemed to have accepted a Qualified Bid only when (i) such bid(s) is declared the Successful Bid(s) at the Auction and (ii) definitive documentation has been executed in respect thereof. Such acceptance is conditioned upon approval by the Bankruptcy Court of the Successful Bid(s) and the entry of an Order approving such Successful Bid(s).

Sale Hearing

A hearing to consider approval of the Sale(s) to the Successful Bidder(s) will take place on **February 4, 2009 at 10:00 a.m. (prevailing Eastern Time)** before the Honorable Peter J. Walsh, in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801, or such adjourned date as may be determined by the Debtors in consultation with the Committee (i.e., the "Sale Hearing").

If (i) an Auction is held (ii) Successful Bidder(s) and Next Highest Bidder(s) are selected, (iii) the Bankruptcy Court approves the Sale(s) to the Successful Bidder(s), and (iv) the sale to such Successful Bidder(s) is not consummated because of a breach or failure to perform

on the part of such Successful Bidder(s), then the Debtors shall be authorized, in consultation with the Committee, to consummate the Sale(s) to the Next Highest Bidder(s) without further court order or notice to any other party. The Debtors specifically reserve the right to seek all appropriate damages from a defaulting Successful Bidder(s) or Next Highest Bidder(s).

Return of Minimum Deposit

Except as otherwise provided in this paragraph with respect to any Successful Bid and any Next Highest Bid, the Minimum Deposits of all Qualified Bidders required to submit such a deposit under the Sale Procedures shall be returned upon or within three (3) business days after the entry of an order approving the sale of the assets for which such Minimum Deposit relates. The Minimum Deposit of the Successful Bidder(s) shall be held until the closing of the Sale(s) and applied in accordance with the Successful Bid(s). The Minimum Deposit of the Next Highest Bidder with respect to the PMB Assets shall be returned upon or within three (3) business days after closing of the Sale(s) to the Successful Bidder(s). If the Successful Bidder(s) fails to close the Sale(s), such party's Minimum Deposit shall be forfeited to the Debtors.

Reservation of Rights

The Debtors, in consultation with the Committee, reserve the right to seek approval of the Sale of portions of the PMB Assets through separate Purchase Agreements with different purchasers in the event that the combination of such Sales is determined by the Debtors, in consultation with the Committee, to be in the best interests of the estates. The Debtors, in consultation with the Committee, further reserve the right as they may reasonably determine to be in the best interests of their estates, to: (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal, (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Sale Procedures, the Sale Procedures Order or the requirements of the Bankruptcy Code or (c) contrary to the best interests of the Debtors and their estates; (v) remove some or all of the PMB Assets from the Auction, including, without limitation, adding to, or deleting from, the list of Sold Unchanged MasterLeases, (vi) enter into one or more stalking horse agreements and seek Court approval of expense reimbursements and/or break-up fees; (vii) waive terms and conditions set forth herein with respect to all potential bidders, (viii) impose additional terms and conditions with respect to all potential bidders, (ix) extend the deadlines set forth herein, (x) adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; and (xi) modify the Sale Procedures as they may determine to be in the best interests of their estates or to withdraw the Sale Motion at any time with or without prejudice.

Rejection Motions

The pending Rejection Motions shall be continued to February 4, 2009 at 10:00 a.m.; provided, however, if an order of the Bankruptcy Court is not entered authorizing the Debtors to use Cash Collateral for a Property through and including at least January 30, 2009 on terms of the entered Cash Collateral Orders, the hearing on the Rejection Motions as applied to such Property shall be heard at a hearing date prior to January 30, 2009 in the Debtors' discretion, in consultation with the Committee.

In Consultation with the Committee

As used herein, the phrase "in consultation with the Committee" shall mean that whenever an action or determination is to be made by the Debtors in consultation with the Committee, representatives of the Debtors and the Committee, including their respective professionals, shall meet and consult with respect to such action and determination, and acting in good faith, consistent with their duties and obligations, confer and seek to reach consensual agreement as to such actions or determinations. To the extent that such consensual agreement cannot be reached, either party may seek instruction from the Bankruptcy Court, by way of a written motion, which shall be heard on notice to the non-moving party, on an expedited basis, and pursuant to a sealed hearing.

Exhibits

Exhibit A - Properties

Exhibit B - TIC Investor Options With Respect To Each MasterLease And The Related Property, Excluding the Sold Unchanged MasterLeases

Exhibit C — Draft Agreements: (i) proposed form of assumption and assignment document related to the TIC Investor Options; amd (ii) proposed documentation related to the Assumption/Assignment Transaction and the Modified Lease Transaction

Exhibit D - Potential Sold Unchanged MasterLeases

Exhibit E — Confidentiality Agreement

Exhibit F — Draft Purchase Agreement

EXHIBIT A

The Properties

Properties	Street Address	City	State	Zip
12 South	1515 Highway 12 South	Ashland City	TN	37015
1301 East Collins	1301 E. Collins	Richardson	TX	75081
1881 Valley View	1881 Valley View Lane	Farmers Branch	TX	75234
400 & 440 Executive Drive	400 & 440 Executive Drive	Brookfield	WI	53005
48 Perimeter	48 Perimeter Center East	Atlanta	GA	30346
700 Locust	700 Locust Street	Des Moines	IA	50309
7275 W. 105th	7275 W. 105th	Overland Park	KS	66212
Abbotts Bridge	10700 Abbotts Bridge Road	Duluth	GA	30097
Academy Spectrum	2004-2070 N. Academy Blvd	Colorado Springs	CO	80909
ACI Omaha	330 S. 108th Avenue	Omaha	NE	68154
Advantage	12426 W. Explorer Drive	Boise	ID	83713
Allison Pointe Office Portfolio	8440 Allison Pointe Blvd and 8275 & 8335 Allison Pointe Trail	Indianapolis	IN	46250
Amarillo Apartments	4600 & 4711 South Virginia Street	Amarillo	TX	79109
Anna Plaza	13201 Ranch Road	Austin	TX	78759
Appleton	1100 Blake Street	Edwardsville	KS	66111
Arlington Town Square	69 S. Evergreen Ave., 5 S. Arlington Heights Road and 17 S. Dunton Ave.	Arlington Heights	IL	60005
Arrowhead	1695 and 1705-1750 Indian Wood Circle	Maumee	OH	43537
Atlantic Blvd	9365 Atlantic Blvd	Jacksonville	FL	32225
Avenues North Center	9357 and 9365 Phillips Highway	Jacksonville	FL	32256
Bandera Trails Shopping Center	11820 Bandera Road	San Antonio	TX	78023
Battlefield Station (aka Sentry Station)	2535-2645 Battlefield Parkway	Fort Oglethorpe	GA	30742
Baymeadows	8226 Phillips Highway	Jacksonville	FL	32256
Beacon Point Service Center	7700-7740 Service Center Drive	West Chester	OH	45069
Belton	900-906 E. North Avenue	Belton	MO	64012
Blue Cross (aka Wellesley)	2400 Wellesley Drive	Albuquerque	NM	87107
Breckinridge Exchange	3005, 3025, 3055 & 3075 Breckinridge Blvd.	Duluth	GA	30096
Brookfield/Pelham	400 Brookfield Parkway and 7001, 7003, 7005 Pelham Road	Greenville	SC	29607 and 29615
Brookhill Towne Center III (88th Ave)	6735-3795 West 88th Avenue	Westminster	CO	80031
Brookhollow One	2121 Avenue J	Arlington	TX	76006
Call Ctr - Post Falls	784 S. Clearwater Loop	Post Falls	ID	83854
Cambridge Place	711 Boston Drive	Kokomo	IN	46902
Capital One (Kimball)	456 N. Kimball Place	Boise	ID	83704
Carolina Commons	9869 Ocean Highway West	Calabash	NC	28467
Centre Plaza	45 NE Loop 410	San Antonio	TX	78216
Clear Creek Square	600 12th St.	Golden	CO	80401
Colonnade at West Lake Houston Parkway	18411, 18445, 18455 and 18477 W. Lake Houston Parkway	Humble	TX	77346
Cornerstone Crossing	1300 N. Central Expressway	Allen	TX	76006
Corporate Center I	2225 Avenue J	Arlington	TX	76006
Corporate Center III	2233 Avenue J	Arlington	TX	76006
Corporate Two	2229 Avenue J	Arlington	TX	76006
Corporate Woods	5029 & 5041 Corporate Woods Drive	Virginia Beach	VA	23462
Covington	19375 North 4th Street	Covington	LA	70433
Cross Rds	3515 West FM 120	Denison	TX	75020
Crosstown Woods	10125 Crosstown circle	Eden Prairie	MN	55344
Currell Centre	7616 Currell Boulevard	Woodbury	MN	55125
Dectaur	5101 Decatur Blvd.	Indianapolis	IN	46241
Dorado Plaza	8850 W. Emerald Street	Boise	ID	83704
Eagle Ridge Apartments	530 Elderidge Street	Lawrence	KS	66049
Eagles Landing	900-970 Eagle's Landing Parkway	McDonough	GA	30281
East 21st Street (a.k.a. Wilson Est. 2)	8310, 8415 and 8521 E. 21st Street	Wichita	KS	67206
Eau Claire	1218 McCann Drive	Altoona	WI	54720
Embassy Tower	9300 Underwood Avenue	Omaha	NE	68114

Emerald Tech C & D	10215 and 10295 W. Emerald St.	Boise	ID	83704
Executive Plaza	6455 East Commerce Avenue	Kansas City	MO	64120
Executive Tower	10909 Mill Valley Road	Omaha	NE	68154
Fairway Center	14220-14242 Interurban Ave. S.	Tukwila	WA	98168
Farrow	8911 Farrow Road	Columbia	SC	29203
Financial Plaza (aka Executive Park)	9050 Executive Park Drive	Knoxville	TN	37923
Fireman's Fund Building	2490 West Shaw Avenue	Fresno	CA	93711
Florissant	8182 and 8200 N. Lindberg Blvd.	Florissant	MO	63031
Fresno E	1645-1735 E Street	Fresno	CA	93706
Fresno Forms	2624-2628 S. Cherry Avenue	Fresno	CA	93706
Friar's Branch Crossing	6020 Shallowford Road	Chattanooga	TN	37421
Gadd Crossing	5510 Highway 153	Chattanooga	TN	37343
Genesis	12301 W. Explorer Dr.	Boise	ID	83713
Ghent Rd	175 Ghent Road	Fairlawn	OH	44333
Gladstone	2900 NE 60th Street	Gladstone	MO	64119
Goshen Village	4542 Elkhart Road	Elkhart	IN	46517
Green Street Commons I and II	1147 & 1317 Second Street South	Waite Park	MN	56387
Haverford Place Apartments	101 Haverford Path	Georgetown	KY	40324
Heritage Park II	6666 E. 75th Street	Indianapolis	IN	46250
Hickory Plaza	3622 Edison Road	South Bend	IN	46615
Highlander	701 W. Highlander Blvd.	Arlington	TX	76015
Highlands & Southcreek	10740 W. 107th, 12900 Foster	Overland Park	KS	66214 and 66213
Houston Levee Galleria	3660, 3670, & 3680 Houston Levee Road	Collierville	TN	38017
Indian Canyon	S. 1306 Westcliff Place	Spokane	WA	99224
Intech 11(Network)	6625 Network Way	Indianapolis	IN	46278
Ironwood (Center Partners)	1201 Ironwood Drive	Coeur d'Alene	ID	83814
KCI	8023 Vantage Drive	San Antonio	TX	78230
Kemper Point	7870 E. Kemper Road	Cincinnati	OH	45249
Kenwood	17733-17823 Kenwood Trail	Lakeville	MN	55044
Keystone Commerce Center	410 Keystone Drive	Warrendale	PA	15086
Lake Ellenor	1450 Lake Ellenor Drive	Orlando	FL	32089
Lake Natoma	1900, 1920, 1940 and 1960 Alabama Ave.	Rancho Cordova	CA	95742
Lakes at Bent Tree	17400 North Dallas Parkway	Dallas	TX	75287
Lamar (Arbors of Brookhollow)	2201 E. Lamar Boulevard	Arlington	TX	76006
Lifestyle Center	45835-45883 and 45905-45983 Hayes Road	Shelby Township	MI	48315
Lindbergh (Decatur)	5101 Decatur Boulevard	Indianapolis	IN	46241
Mansell Forest	4555 Mansell Road	Alpharetta	GA	30022
Mansell Place	1605 Mansell Road	Alpharetta	GA	30004
Mansell Plaza	7855 North Pointe Parkway	Alpharetta	GA	30022
McCormick (Daniel Burnham)	6525 Daniel Burnham Drive	Portage	IN	46368
Meadow Chase Apartments	5234 Boulder Drive	West Des Moines	IA	50265
Megan Crossings	200 Megan Avenue	O'Fallon	MO	63366
Mercy Medical Center	1750 48th Street	Des Moines	IA	50310
Metro Annex 07	1152 - 1193 West 2400 South	West Valley City	UT	84119
Metro Annex 08	1152 - 1193 West 2400 South	West Valley City	UT	84119
Metro Annex 09	1152 - 1193 West 2400 South	West Valley City	UT	84119
Metro Annex 10	1152 - 1193 West 2400 South	West Valley City	UT	84119
Metro Annex 12	1441 West 2400 South	West Valley City	UT	84119
Metro Annex 13	2440 South 1070 West	West Valley City	UT	84119
Metro Annex 15	2431 South 1070 West	West Valley City	UT	84119
Metro Annex 16	2401 South 1070 West	West Valley City	UT	84119
Metropolitan Offices	11128 John Galt Blvd.	Omaha	NE	68137
Metropolitan Square	300, 310, 1518 Market St., 656 Pearson St., 660 Metropolitan Way and 1453 Marion St.	Des Plaines	IL	60016
Mid Valley	10243-10391 W. Fairview Avenue	Boise	ID	83704
Missouri Falls	645 E. Missouri Boulevard	Phoenix	AZ	85012
Morningside Forest	3875 Mansell Road	Alpharetta	GA	30022
Motorcoach	9787 Clifford Drive	Dallas	TX	75225
Network - Intech	6625 Network Way	Indianapolis	IN	46278
North Logan	151 East 1600 north Street	North Logan	UT	84341
North Park	1108 Grant Street (Bldg 1), 2301 117th Avenue (Bldg 2)	Omaha	NE	68164
North Park Office Portfolio 1 (Grant Street Port)	1108 Grant Street (Bldg 1), 2301 117th Avenue (Bldg 2)	Omaha	NE	68164

North Park Office Portfolio 2	2121 and 2525 North 117th Avenue	Omaha	NE	68164
North Park Office Portfolio 3	11819 Miami Street & 2533 North 117th Avenue	Omaha	NE	68164
Northgate	6906-7158 State Street	Boise	ID	83714
Northpark Ridgeland	1025 Northpark Drive	Ridgeland	MS	39157
Northridge	365 & 375 Northridge Road	Atlanta	GA	30350
Nuvell Building	3301 West Airport Freeway	Bedford	TX	76021
Oakwood Plaza	1837 Homer Adams Parkway	Alton	IL	62002
Offices at Brookhollow	1701 E. Lamar Boulevard	Arlington	TX	76006
Old National Town Center	6175 Old National Highway	Atlanta	GA	30349
Olympic Gateway	1165 E. Wishkah Street	Aberdeen	WA	98520
One Executive Center	8500 Menaul Boulevard NE	Albuquerque	NM	87112
One Hanover	16633 Dallas Parkway	Addison	TX	75001
Overland Park	8300 College Boulevard	Overland Park	KS	66210
Park Creek Apartments	1100 Park Creek Court	Gainesville	GA	30504
Park Plaza Retail Shopping Center	406 and 411 West Grand Parkway South	Katy	TX	77450
Park Ten	15720, 15730, 15740 Park Row	Houston	TX	77061
Parkhill	10975 El Monte Street	Overland Park	KS	66211
Peachtree Corners Pavilion	5770 Peachtree Industrial Boulevard	Norcross	GA	30071
Phoenix Peak	7310 N. 16th Street	Phoenix	AZ	85020
Pinehurst Square West	1203 W. Century Avenue	Bismarck	ND	58503
Plano Tech Center	1100 Klein Road, 3301 and 3501 Plano Parkway	Plano	TX	75074
Plaquemine	24655 Plaza Drive	Plaquemine	LA	70764
Plaza at Ridgmar	6660 W. Freeway 30 and 2400 Lands End Blvd.	Fort Worth	TX	76116
Progress Center 7	6767 Old Madison Pike NW	Huntsville	AL	35806
Quorum Building	14801 Quorum Drive	Dallas	TX	75240
Regents Park I & II	85 and 87 IH-10	Beaumont	TX	77702
Republic Insurance	5525 Lyndon B. Johnson Freeway	Dallas	TX	75240
Riverbend Tech Center	2301 Gravel Drive & 7401 Pebble Drive	Fort Worth	TX	76118
Riverside Corporate Center	4885 Riverside Drive	Macon	GA	31210
Riverstone at Vision Park (Medical)	111 Vision Park	Shenandoah	TX	77384
Road 68 Retail Center	4525 North Road 68	Pasco	WA	99301
Rowesix Offices	4224 5th Avenue SE	Lacey	WA	98503
Royal Montreal Plaza	2004 S. Mason Road	Katy	TX	77450
Salem State Offices	3150 Lawrence Drive NE	Salem	OR	97305
Sam Houston	3993 W. Sam Houston Parkway North	Houston	TX	77043
Sapphire Pointe	1911 SE Washington	Idabel	OK	74745
Second Street Quad	400 2nd Street South	Waite Park	MN	56387
Shawnee Mission	11215-11225 Shawnee Mission Parkway	Shawnee	KS	66203
Sherwood	4512-4556 Sherwood Way	San Angelo	TX	76901
Sherwood Plaza	4000 S. Sherwood Forest Boulevard	Baton Rouge	LA	70816
Shoppes at Misty Meadows	3800-3810 Hacks Road	Memphis	TN	38125
Shoppes at Misty Meadows Lane	3800-3810 Hacks Road	Memphis	TN	38119
Shoppes at Trammel	1652-1688 Buford Highway	Cummings	GA	30041
Shops at Katy	2001 Katy Mills	Katy	TX	77494
Shops of Turkey Creek	10903, 10911 and 10915 Turkey Drive	Knoxville	TN	37934
Signature Place	3200 Northline Avenue	Greensboro	NC	27408
Silver Lakes Professional	17720-177796 Pines Blvd.	Pembroke Pines	FL	33029
Solitude	6149 N. Meeker Place	Boise	ID	83713
South 75 Center	200-250 Business Center Drive	Stockbridge	GA	30281
South Trust Tower (aka One Broward)	One East Broward Boulevard	FortLauderdale	FL	33301
Southport	5325 East Southport Road	Indianapolis	IN	46237
Spalding Triangle	5255-5295 Triangle Way	Norcross	GA	30092
Sprague & Hatch	627 E. Sprague Avenue	Spokane	WA	99202
Spring Valley Road	4801 Spring Valley Road	Dallas	TX	75244
Springville Corner	442 & 484 South 1750 West	Springville	UT	84663
St. Andrews Place	2705 Old Fort Parkway	Murfreesboro	TN	37128
Stone Glen Village	721 Keller Parkway	Keller	TX	76248
Stone Oak Crossing	19137 Stone Oak Parkway	San Antonio	TX	78258
Stony Brook South	3500-3630 Hurstbourne Parkway	Louisville	KY	40299
Streetside at Towne Lake	6422-6426 Bells Ferry Road	Woodstock	GA	30189
Sumitt Woods II	300 E-Business Way	Sharonville	OH	42211
Summit Woods I	100 East Business Way	Sharonville	OH	45211
Texarkana Plaza	131 Arkansas Boulevard	Texarkana	AR	71854
Topsham Fair Mall	105 Topsham Fair Mall Road	Topsham	ME	04086

Torrey Chase	14425 Torrey Chase, 14505 Torrey Chase, 13700 Verterans Memorial	Houston	TX	77014
Treasure Valley Tech		Meridian	ID	83642
Trinity Center	2312 & 2340 Trinity Mills Road	Carrollton	TX	75006
University Park	6103 Farinon Drive, 6203 Farinon	San Antonio	TX	78249
Vatterott College	11818 I Street	Omaha	NE	68137
Venture Tech VIII	8708 Technology Forest Place	The Woodlands	TX	77380
Village at Old Trace	3405 Dallas Highway SW	Marietta	GA	30064
Village Townhomes	308-536 N. Brentwood and 516-536 N. Chicago Avenue	Lubbock	TX	79416
Vineyard Center	1450 and 1452 Hughes Road	Grapevine	TX	76051
Watkins (AM General)	2000 Watkins Glen Drive	Franklin	OH	45005
West Oaks Square	9470 W. Colonial Drive	Ocoee	FL	34761
West Shaw Offices	2520-2540 West Shaw	Fresno	CA	93711
Weston Parkway 13000	13000 Weston Parkway	Cary	NC	27513
Weston Parkway 14001	14001 Weston Parkway	Cary	NC	27513
Westpark	403 Westpark Court	Peach Tree City	GA	30269
White Pond	450, 460, 470 White Pond Drive	Akron	OH	44320
Wilson Estates Portfolio 1	8535 and 8621 E. 21st St. N. and 8110 E. 32nd St. N.	Wichita	KS	67226
Winchester	746 East Winchester Street	Salt Lake City	UT	84107
Wisdom Pointe	275 & 290 Highway 74 North	Peachtree City	GA	30269
Woodlands I & 2	2900 North 3000 Brooktree Lane	Gladstone	MO	64119
Woodlands Medical (Lantern Bend)	411 Lantern Bend Drive	Houston	TX	77090
Woodside Center	1000 Mansell Exchange West	Alpharetta	GA	30022

EXHIBIT B

TIC Investor Options with Respect To Each MasterLease and the Related Property, Excluding the Sold Unchanged MasterLeases*

Either as part of, or independent of, the Sale Process, the TIC Investors applicable to each MasterLease (a "MasterLease") and the real property related to such MasterLease (a "Property") (but not the MasterLeases designated as "Sold Unchanged MasterLeases" in the Sale Procedures) shall elect on or before **January 26, 2009** one of the alternatives (Option #1, Option #2 or Option #3) set forth below.

If the TIC Investors do not make an election to implement one of the options discussed below, on or before January 26, 2009, the TIC Investors' MasterLease and related subleases (a "SubLease") and related executory contracts ("Contracts") will be rejected effective as of January 30, 2009, unless the TIC Investors elect to delay the rejection as provided for in Option #1 C below.

The alternatives below shall be implemented pursuant to agreements to be agreed upon by the Debtors, in consultation with the Committee, and the TIC Investors, substantially in conformity with the following:

Option # 1) Lease Rejection

A) For those TIC Investors who elect to have the MasterLease effecting its Property rejected on a date earlier than **January 30, 2009**, the Debtors will stipulate to rejection as of such earlier date, provided, however, such TIC Investors so electing waive any right, title or interest in (or claim against) the allocated funds for Chapter 11 Expenses (as defined in the order(s) approved by the Bankruptcy Court authorizing the Debtors' use of cash collateral (collectively, the "Cash Collateral Orders" applicable to the subject Property) and if such election is made on or before December 31, 2008, the TIC Investors shall, in addition, pay to the Debtors $7,500. Such TIC Investors shall retain all other claims against the Debtors.

Concurrent with the MasterLease rejection under this clause A, the related Subleases and Contracts will be contemporaneously rejected.

B) If the TIC Investors elect (pursuant to a written noticed delivered to counsel to the Debtors and the Committee) on or before **January 26, 2009** to have the applicable MasterLease rejected but the applicable Subleases assumed and assigned to the TIC Investors (or their designee) (the "SubLease Assumption and Assignment"), effective as of **January 30, 2009** (unless extended as provided for below, in each case, the "SubLease Assumption and Assignment Effective Date"), the Debtors and the TIC Investors will enter into an agreed upon form SubLease Assumption and Assignment agreement, but which agreement shall provide for the following:

1) Neither the MasterLessee (nor any of the Debtors) shall be required to pay, or provide, any cure amounts, or provide compensation for any defaults, or provide adequate assurance of future performance, or otherwise comply with conditions set forth in

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* Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures to which this is annexed.

Section 365 of the Bankruptcy Code for the assumption and assignment of the Subleases and Contracts (the "Sublease Cure Amounts") with respect to the SubLease Assumption and Assignment and neither the MasterLessee nor the Debtors shall have any liability to the Subtenants, or counterparties to the Contracts, for any administrative expense claim. The TIC Investors (or their designee) shall be required to pay all such Sublease Cure Amounts. The Debtors shall establish a procedure in the Bankruptcy Court for the determination of such Sublease Cure Amounts, if any. To the extent that the TIC Investors (or their designee) are required to pay a Sublease Cure Amount on the SubLease Assumption and Assignment Effective Date, the TIC Investors (or their designee), as the case may be, shall have the right to assert a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person or entity (hereinafter, a "Person")) against the MasterLessee (the "Sublease Cure Claim"). Other than the Sublease Cure Amounts, the Subtenants shall have no other claims against the Debtors.

2) From and after the SubLease Assumption and Assignment Effective Date (i.e. January 30, 2009 or earlier), the MasterLessee shall have no liability under the Subleases or Contracts arising under the Subleases or Contracts from and after the SubLease Assumption and Assignment Effective Date, and the TIC Investors (and their designee) shall indemnify, defend and hold harmless the Debtors for all such liabilities, and the Debtors shall have a right of offset, recoupment and the like with respect to any claims the TIC Investors retain against the Debtors.

3) The TIC Investors shall retain: (x) as a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other Person) that portion of Base Rent due under the MasterLease through the SubLease Assumption and Assignment Effective Date that was to be paid directly to the TIC Investors and was not so paid, if any, (the "General Unsecured Rent Claim"); and (y) shall retain a general unsecured prepetition claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person) on account of all prepetition and postpetition defaults under the MasterLease (other than the General Unsecured Rent Claim) in an amount equal to the amount to be provided for each Property[†] (the "Other General Unsecured Claim"), and shall have no other general unsecured claim, administrative claim, or other claim against the Debtors with respect to amounts due and owing under, or in connection with, the MasterLease. The allowance of the General Unsecured Rent Claim and the Other General Unsecured Claim shall be in the nature of a settlement, shall not be deemed an adjudication of the merits of any parties' claims and/or shall not be deemed an admission by any party, including, but not limited to the Debtors, any party affiliated with the Debtors and/or the TIC Investors.

4) The TIC Investors shall release, and shall be deemed to release, revoke, waive, and rescind, any financing statement, recording, lien, charge, order, demand, assertion, or other encumbrance on the assets of the Debtors that was filed, recorded, perfected, entered, asserted, demanded, or the like, within ninety days of the earliest date of the commencement of the Debtors' chapter 11 cases (the "Petition Date"), or otherwise.

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† The amount of the Other General Unsecured Claim will be provided by the Debtors to the TIC Investors with respect to the applicable Property through the existing DBSI secured website for such Property.

5) A Lender (a "TIC Lender") with a lien on the TIC Investors Property (and/or the Debtors' interest in the MasterLease) shall either consent to the SubLease Assumption and Assignment, or not object to the SubLease Assumption and Assignment (or if such an objection is interposed, it shall be denied by the Bankruptcy Court), and in either event the Order or the Bankruptcy Court shall provide that the TIC Lender is deemed to consent to the SubLease Assumption and Assignment, including the designation of any property manager in connection therewith and the waiver of any default arising from the Debtors' chapter 11 cases, and the SubLease Assumption and Assignment. If a TIC Lender affirmatively consents to the SubLease Assumption and Assignment, to the extent of available Property Cash, the Debtors shall use available Property Cash (as defined below) to pay principal and non-default interest debt service payments that have come due prior to the SubLease Assumption and Assignment Effective Date that is unpaid as of such date.

6) The balance of the cash that has been segregated post-petition by Property and held pursuant to the Cash Collateral Orders shall, as of the SubLease Assumption and Assignment Effective Date, remain identified by Property (the "Property Cash"), and an accounting thereof shall be provided by the Debtors within sixty (60) days of said SubLease Assumption and Assignment Effective Date. The Debtors shall within ninety (90) days of the SubLease Assumption and Assignment Effective Date file a motion with the Bankruptcy Court to establish a procedure for resolution of any then claims asserted against the MasterLessee and the Property Cash. Pending the resolution of such claims asserted, the Property Cash shall be held pending further order of the Bankruptcy Court; provided, however, (i) the Debtors shall comply with the provisions of any Cash Collateral Order entered and effective through the SubLease Assumption and Assignment Effective Date. The time periods provided for herein may be extended by order of the Bankruptcy Court. The TIC Investors claim against such Property Cash shall be limited to the assertion of the General Unsecured Rent Claim, the Other General Unsecured Claim and the Sublease Cure Claim. All objections and challenges to the Chapter 11 Expenses amount that has been allocated in accordance with the Cash Collateral Orders shall be deemed waived.

7) The TIC Investors shall pay to the Debtors $7,500 as a transaction fee to reimburse the estate for the costs of documenting and implementing the SubLease Assumption and Assignment, and the costs of transferring applicable documents; provided, however, if Option #1 is implemented in connection with the Sale Process, the TIC Investors shall not be required to pay the $7,500 transaction fee.

8) The SubLease Assumption and Assignment shall not modify, alter or determine the rights of any party, if any, with respect to funds, accounts, reserves, or other monies held (the "Lender Reserves") with respect to which such parties claim an interest.

9) Except with respect to asserting the General Unsecured Rent Claim, the Sublease Cure Claim, and the Other General Unsecured Claim as against the Property Cash, the TIC Investors shall waive any and all other claims against the Debtors. In addition, the TIC Investors shall retain all claims, if any, against funds held as Lender Reserves.

10) In consideration for the assumption and assignment of the SubLeases and Contracts, the TIC Investors shall pay to the Debtors an amount equal to the Minimum Price Per Property[‡]; provided, however, if Option #1 is implemented in connection with the Sale Process, the TIC Investors shall not be required to pay the Minimum Price Per Property.

C) If the TIC Investors with respect to a Property desire to extend the date of rejection of the MasterLease and the SubLeases or the Effective Date of the SubLease Assumption and Assignment beyond January 30, 2009, but not beyond February 28, 2009, the TIC Investors must: (i) consent to the use of cash collateral by the Debtors consistent with the Cash Collateral Orders; (ii) waive any right, title or interest in (or claim against) the allocated funds for Chapter 11 Expenses; and (iii) waive any administrative claim arising from and after November 12, 2008 (for MasterLeases covered by the First Rejection Motion), November 14, 2008 (for MasterLeases covered by the Second Rejection Motion) and December 2, 2008 (for MasterLeases covered by the Third Rejection Motion).

Option # 2) Assumption and Assignment of Existing MasterLease and Subleases

For those TIC Investors who elect (pursuant to a written noticed delivered to counsel to the Debtors and the Committee) on or before **January 26, 2009** to have the applicable existing MasterLease, Subleases and Contracts assumed and assigned the TIC Investors (or their designee) (the "Assumption and Assignment") effective as of January 30, 2009 (unless extended as provided for below, but no later than February 28, 2009, in each case, the "Assumption and Assignment Effective Date"), the Debtors and the TIC Investors will enter into an agreed upon form Assumption and Assignment agreement, but which agreement shall provide for the following:

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‡ The Minimum Price Per Property is a fixed dollar amount for each Property, the calculation of which will be provided by the Debtors to the TIC Investors with respect to the applicable Property through the existing DBSI secured website for such Property, subject to agreement by the TIC Investors and the Debtors in consultation with the Committee to reflect facts and circumstances particular to a Property. The Minimum Price Per Property is to be calculated based upon a percentage of the 2009 scheduled projected rental income from the in-place tenants at the respective Property. The rental income shall be based upon the 2009 scheduled rental income (net of rent concessions), minus unfunded tenant improvements and leasing comissions, if any.

1) Neither the MasterLessee (nor any of the Debtors) shall be required to pay or provide any cure amounts, or provide compensation for any defaults, or provide adequate assurance of future performance, or otherwise comply with conditions set forth in Section 365 of the Bankruptcy Code for the assumption and assignment of a nonresidential real property lease, with respect to the assumption and assignment of the MasterLease and neither the MasterLessee nor the Debtors shall have any liability to the TIC Investors (and their designee) for any administrative expense claim.

Neither the MasterLessee (nor any of the Debtors) is required to pay or provide any Sublease Cure Amounts with respect to the assumption and assignment of the SubLeases and the Contracts and neither the MasterLessee nor the Debtors shall have any liability to the Subtenants or the counterparties to the Contracts for any administrative expense claim. The TIC Investors (or their designee) shall be required to pay all such Sublease Cure Amounts. The Debtors shall establish a procedure in the Bankruptcy Court for the determination of such Sublease Cure Amounts, if any. To the extent that the TIC Investors (or their designee) is required to pay a Sublease Cure Amount on the Assumption and Assignment Effective Date, the TIC Investors (or their designee) as the case may be shall have the right to assert a Sublease Cure Claim as a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other Person) against the MasterLessee. Other than the Sublease Cure Amounts, the Subtenants shall have no other claims against the Debtors.

2) From and after the Assumption and Assignment Effective Date (i.e. January 30, 2009 or earlier), the MasterLessee shall have no liability under either the MasterLease, the SubLeases or the Contracts arising under the MasterLease, the SubLeases or the Contracts from and after the Assumption and Assignment Effective Date, and the TIC Investors (and their designee) shall indemnify, defend and hold harmless the Debtors for all such liabilities, and the Debtors shall have a right of offset, recoupment and the like with respect to any claims the TIC Investors retain against the Debtors.

3) The TIC Investors: (x) shall retain as a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person) the General Unsecured Rent Claim; and (y) shall retain a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person) the Other General Unsecured Claim, and shall have no other general unsecured claim, administrative claim, or other claim against the Debtors with respect to amounts due and owing under, or in connection with, the MasterLease. The allowance of the General Unsecured Rent Claim and the Other General Unsecured Claim shall be in the nature of a settlement, shall not be deemed an adjudication of the merits of any parties' claims and/or shall not be deemed an admission by any party, including, but not limited to the Debtors, any party affiliated with the Debtors and/or the TIC Investors.

4) The TIC Investors shall release, and shall be deemed to release, revoke, waive, and rescind, any financing statement, recording, lien, charge, order, demand, assertion, or

other encumbrance on the assets of the Debtors that was filed, recorded, perfected, entered, asserted, demanded, or the like, within ninety days of the Petition Date, or otherwise.

5) The TIC Lender with a lien on the TIC Investors Property (and/or the Debtors' interest in the MasterLease) shall either consent to the Assumption and Assignment, or not object to the Assumption and Assignment (or if such an objection is interposed, it shall be denied by the Bankruptcy Court), and in either event the Order or the Bankruptcy Court shall provide that the Lender is deemed to consent to the Assumption and Assignment, including the designation of any property manager in connection therewith and the waiver of any default arising from the Debtors' chapter 11 cases, and the SubLease Assumption and Assignment. If a Lender affirmatively consents to the Assumption and Assignment, to the extent of available Property Cash, the Debtors shall use available Property Cash to pay principal and non-default interest debt service payments that have come due prior to the Assumption and Assignment Effective Date that is unpaid as of such date.

6) The balance of the Property Cash shall, as of the Assumption and Assignment Effective Date, remain identified by Property , and an accounting thereof shall be provided by the Debtors within sixty (60) days of said Assumption and Assignment Effective Date. The Debtors shall within ninety (90) days of the Assumption and Assignment Effective Date file a motion with the Bankruptcy Court to establish a procedure for resolution of any then claims asserted against the MasterLessee and the Property Cash. Pending the resolution of such claims asserted, the Property Cash shall be held pending further order of the Bankruptcy Court; provided, however, the Debtors shall comply with the provisions of any Cash Collateral Order entered and effective through the Assumption and Assignment Effective Date. The time periods provided for herein may be extended by order of the Bankruptcy Court. The TIC Investors claim against such cash shall be limited to the assertion of the General Unsecured Rent Claim, the Other General Unsecured Claim and the Sublease Cure Claim. All objections and challenges to the Chapter 11 Expenses amount that has been allocated in accordance with the Cash Collateral Orders shall be deemed waived.

7) If the MasterLease is included in the Sale Process such that the Successful Bidder (the TIC's designee) under the Sale Process closes an Assumption/Assignment Transaction with respect to the MasterLease, the TIC Investors will not be required to pay any consideration to the Debtors in connection with the Assumption and Assignment; provided, however, the Successful Bidder will have to pay the Debtors' estate the purchase price as set forth in the Successful Bid.

If the MasterLease is not included in the Sale Process such that there is no Successful Bidder under the Sale Process that closes an Assumption/Assignment Transaction with respect to the MasterLease, the TIC Investors shall pay to the Debtors' estates an amount equal to the Minimum Price Per Property.

8) The Assumption and Assignment shall not modify the rights of any party, if any, with respect to Lender Reserves with respect to which such parties claim an interest.

9) If the TIC Investors elect to extend the Assumption and Assignment Effective Date beyond January 30, 2009, but not beyond February 28, 2009, the TIC Investors

must: (i) consent to the use of cash collateral by the Debtors consistent with the Cash Collateral Orders ; (ii) waive any right, title or interest in (or claim against) the allocated funds for Chapter 11 Administrative Expenses; and (iii) waive any administrative claim arising from and after November 12, 2008 (for MasterLeases covered by the First Rejection Motion), November 14, 2008 (for MasterLeases covered by the Second Rejection Motion) and December 2, 2008 (for MasterLeases covered by the Third Rejection Motion).

10) The TIC Investors shall pay to the Debtors $7,500 as a transaction fee to reimburse the estate for the costs of documenting and implementing the Assumption and Assignment, and the costs of transferring applicable documents; provided, however, if Option #2 is implemented in connection with the Sale Process, the TIC Investors shall not be required to pay the $7,500 transaction fee.

11) Except with respect to asserting the General Unsecured Rent Claim, the SubLease Cure Claim, the Other General Unsecured Claim as against the Property Cash, the TIC Investors shall waive any and all other claims against the Debtors. In addition, the TIC Investors shall retain all claims, if any, against funds held as Lender Reserves.

12) If the Property applicable to TIC Investors is included within the Sale Process and the Successful Bidder closes a transaction with the Debtors with respect to such Property, an amount equal to: (i) 5% of the purchase price paid by the Successful Bidder with respect to the Property shall be paid to the TIC Investors; provided, however, in the event the Successful Bidder closes a Modified MasterLease Assumption and Assignment transaction that provides a guaranteed rent to the TIC Investors, the amount payable to the TIC Investors shall be 15% of the purchase price paid by the Successful Bidder with respect to the Property; provided, however, the payment provided for herein to be made to the TIC Investors shall be reduced as necessary such that the price paid by the Successful Bidder that is retained by the Debtors (after making the payment to the TIC Investors provided for herein), is not less then the Minimum Price Per Property under all circumstances.

Option # 3) Assumption and Assignment Of Modified MasterLease and Subleases

For those TIC Investors who elect (pursuant to a written noticed delivered to counsel to the Debtors and the Committee) on or before **January 26, 2009** to have the existing MasterLease assumed and assigned (as modified), and the SubLeases and Contracts assumed and assigned, in each case, to a third party that is unrelated to the TIC Investors (a "Third Party") (the "Modified MasterLease Assumption and Assignment") effective as of January 30, 2009 (unless extended as provided for below, but no later than February 28, 2009, in each case, the "Modified MasterLease Assumption and Assignment Effective Date"), the Debtors and the TIC Investors will enter into an agreed upon form Modified MasterLease Assumption and Assignment agreement, but which agreement shall provide for the following:

1) The MasterLease (as modified) shall be in a form acceptable to the TIC Investors and the Third Party to whom the MasterLease is to be assigned; provided, however, the current MasterLessee shall not be required to pay any cure amounts, or provide compensation for any defaults, or provide adequate assurance of future performance, or otherwise comply with conditions set forth in Section 365 of the Bankruptcy Code for the assumption and assignment of

a nonresidential real property lease, with respect to the assumption and assignment of the MasterLease (as so modified) and neither the MasterLessee nor the Debtors shall have any liability to the TIC Investors (or the Third Party) for any administrative expense claim.

Neither the MasterLessee (nor any of the Debtors) shall be required to pay or provide any Sublease Cure Amounts with respect to the assumption and assignment of the SubLeases and Contracts and neither the MasterLessee nor the Debtors shall have any liability to the Subtenants or counterparties to the Contracts for any administrative expense claim. The Third Party shall be required to pay all such Sublease Cure Amounts. The Debtors shall establish a procedure in the Bankruptcy Court for the determination of such Sublease Cure Amounts, if any.

2) From and after the Modified MasterLease Assumption and Assignment Effective Date (i.e. January 30, 2009 or earlier), the MasterLessee shall have no liability under either the MasterLease, the SubLeases or Contracts arising under the MasterLease, the SubLeases or the Contracts from and after the Modified MasterLease Assumption and Assignment Effective Date, and the TIC Investors (and the Third Party) shall indemnify, defend and hold harmless the Debtors for all such liabilities, and the Debtors shall have a right of offset, recoupment and the like with respect to any claims the TIC Investors retain against the Debtors.

3) The TIC Investors: (x) shall retain as a prepetition general unsecured claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person) the General Unsecured Rent Claim; and (y) shall retain a prepetition general unsecured prepetition claim (and solely as a general unsecured claim against the MasterLessee and not as any other claim against any other person) the Other General Unsecured Claim, and shall have no other general unsecured claim, administrative claim, or other claim against the Debtors with respect to amounts due and owing under, or in connection with, the MasterLease. The allowance of the General Unsecured Rent Claim and the Other General Unsecured Claim shall be in the nature of a settlement, shall not be deemed an adjudication of the merits of any parties' claims and/or shall not be deemed an admission by any party, including, but not limited to the Debtors, any party affiliated with the Debtors and/or the TIC Investors.

4) The TIC Investors shall release, and shall be deemed to release, revoke, waive, and rescind, any financing statement, recording, lien, charge, order, demand, assertion, or other encumbrance on the assets of the Debtors that was filed, recorded, perfected, entered, asserted, demanded, or the like, within ninety days of the Petition Date, or otherwise.

5) A TIC Lender with a lien on the TIC Investors Property (and/or the Debtors' interest in the MasterLease) shall either consent to the Assumption and Assignment (including the MasterLease (as modified), or not object to the Assumption and Assignment (or if such an objection is interposed, it shall be denied by the Bankruptcy Court), and in either event the Order or the Bankruptcy Court shall provide that the Lender is deemed to consent to the Assumption and Assignment (and the MasterLease (as modified)), including the designation of any property manager in connection therewith and the waiver of any default arising from the Debtors' chapter 11 cases, and the SubLease Assumption and Assignment. If a Lender affirmatively consents to the Modified MasterLease Assumption and Assignment, to the extent of available Property Cash, the Debtors shall use available Property Cash to pay principal and non-default interest debt service payments that have come due prior to the Modified MasterLease Assumption and Assignment Effective Date that is unpaid as of such date.

6) The balance of the Property Cash shall, as of the Modified MasterLease Assumption and Assignment Effective Date, remain identified by Property, and an accounting thereof shall be provided by the Debtors within sixty (60) days of said Modified MasterLease Assumption and Assignment Effective Date. The Debtors shall within ninety (90) days of the Assumption and Assignment Effective Date file a motion with the Bankruptcy Court to establish a procedure for resolution of any then claims asserted against the MasterLessee and the Property Cash. Pending the resolution of such claims asserted, the Property Cash shall be held pending further order of the Bankruptcy Court; provided, however, the Debtors shall comply with the provisions of the Cash Collateral Orders through the Modified MasterLease Assumption and Assignment Effective Date. The time periods provided for herein may be extended by order of the Bankruptcy Court. The TIC Investors claim against such Property Cash shall be limited to the assertion of the General Unsecured Rent Claim, the Other General Unsecured Claim and the Sublease Cure Claim. All objections and challenges to the Chapter 11 Expenses amounts that have been allocated in accordance with the Cash Collateral Orders shall be deemed waived.

7) If the MasterLease is included in the Sale Process such that the Successful Bidder is the Third Party under the Sale Process and the Third Party closes a Modified Lease Transaction with respect to the MasterLease, the TIC Investors will not be required to pay any consideration to the Debtors in connection with the Modified MasterLease Assumption and Assignment; provided, however, the Successful Bidder will have to pay the Debtors' estate the purchase price as set forth in the Successful Bid.

If the MasterLease is not included in the Sale Process such that there is no Successful Bidder under the Sale Process that closes a Modified Lease Transaction with respect to the MasterLease, the TIC Investors shall pay to the Debtors' estates an amount equal to Minimum Price Per Property.

8) The Assumption and Assignment shall not modify the rights of any party, if any, with respect to Lender Reserves with respect to which such parties claim an interest.

9) If the TIC Investors want to extend the Effective Date beyond January 30, 2009, but not beyond February 28, 2009, the TIC Investors must: (i) consent to the use of cash collateral by the Debtors consistent with the Cash Collateral Orders; (ii) waive any right title or interest in the allocated funds for Chapter 11 Administrative Expenses; and (iii) waive any administrative claim arising from and after November 12, 2008 (for MasterLeases covered by the First Rejection Motion), November 14, 2008 (for MasterLeases covered by the Second Rejection Motion) and December 2, 2008 (for MasterLeases covered by the Third Rejection Motion).

10) The TIC Investors shall pay to the Debtors $7,500 as a transaction fee to reimburse the estate for the costs of documenting and implementing the Modified MasterLease Assumption and Assignment, and the costs of transferring applicable documents; provided, however, if Option #3 is implemented in connection with the Sale Process, the TIC Investors shall not be required to pay the $7,500 transaction fee.

11) Except with respect to asserting the General Unsecured Rent Claim and the Other General Unsecured Claim against the Property Cash, the TIC Investors shall waive any and all other claims against the Debtors. In addition, the TIC Investors shall retain all claims, if any, against funds held as Lender Reserves.

12) If the Property applicable to TIC Investors is included within the Sale Process and the Successful Bidder closes a transaction with the Debtors with respect to such Property, an amount equal to: (i) 5% of the purchase price paid by the Successful Bidder with respect to the Property shall be paid to the TIC Investors; provided, however, in the event the Successful Bidder closes a Modified MasterLease Assumption and Assignment transaction that provides a guaranteed rent to the TIC Investors, the amount payable to the TIC Investors shall be 15% of the purchase price paid by the Successful Bidder with respect to the Property ; provided, however, the payment provided for herein to be made to the TIC Investors shall be reduced as necessary such that the price paid by the Successful Bidder that is retained by the Debtors (after making the payment to the TIC Investors provided for herein), is not less then the Minimum Price Per Property under all circumstances.

With respect to Options #1B, #2 and #3:

4) DBSI Ownership Interest In Properties. DBSI will make available the sale of its ownership interest in each Property at a price based upon a formula equal to the following: DBSI TIC Percentage X [(2009 Budgeted NOI Based Upon Existing Leases/Capitalization Rate Per Property Type[§]) less (the sum of: (i) TIC Lender Secured Debt; and (ii) committed unfunded tenant improvements and leasing commissions].[**]

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§ The Capitalization Rates used will be: (i) Suburban Office - 7.59%; (ii) Strip Shopping Centers - 7.49%; (iii) Flex R&D - 7.76%; and (iv) Multifamily - 6.13%.

** The calculation of the formula for each Property will be provided by the Debtors to the TIC Investors with respect to the applicable Property through the existing DBSI secured website for such Property.

5) **Waivers.** For the avoidance of doubt, the waiver of claims by the TIC Investors provided for in connection with Options #1B, 2 or 3 shall not extend to claims against any party other than the Debtors, including, without limitation, the Debtors' directors and officers and any third party insurers. The Debtors who are the beneficiaries of a release from the TIC Investors provided for shall release such TIC Investors from any claim for the avoidance of any cash payment made to such TIC Investors, or for the benefit of such TIC Investors, made within the ninety (90) days of the commencement of the respective Debtors' chapter 11 case that is avoidable as a preferential transfer pursuant to Section 547 of the Bankruptcy Code.

6) **Subtenant Security Deposits.** To the extent that Debtors, in compliance with applicable state law, established prepetition segregated and identifiable accounts to hold specific security deposits provided by Subtenants, such security deposits shall be transferred in connection with any assumption and assignment of a SubLease.

7) **Utility Deposits.** To the extent that the Debtors provided pre-petition or post-petition security deposits to Utility Companies, the Debtors shall retain all right, title and interest in such deposits.

8) **Information.** Prior to the rejection or assumption and assignment of a MasterLease, the Debtors shall make available to counsel for the TIC Investors and the authorized representative of the TIC Investors with respect to the Property that is the subject of the respective TIC Investors' MasterLease:

(i) SubLeases;

(ii) property specific operating financial information, including the Property Cash;

(iii) information related to Lender Reserves;

(iv) access to the local property manager for a Property.

9) **Reconciliation Items Re Effective Date and Closing Date.** The documentation in respect of Options #1B, #2 and #3 will address any items to be reconciled to take into account the time delay between the Effective Date and the Closing Date, including the transfer to the Successful Bidder or the TIC Investors, as the case may be, of any rents actually received from Subtenants for the period from and after the Effective Date and not used by the Debtors to pay amounts due in respect of the Property.

EXHIBIT C

To be filed on or about December 22, 2008

EXHIBIT D

Properties	Street Address	City	State	Zip
Arbors at Mallard Creek	2115, 2121 & 2130 E. Arbors Drive	Charlotte	NC	28262
Brendan Way	11 Brendan Way	Greenville	SC	29615
Cedar East & Cypress	3101 & 3117 Poplarwood Court	Raleigh	NC	27604
Chattahoochee	3400 Corporate Way	Duluth	GA	30096
Colony Commons	2211 & 251 FM 646	League City	TX	77573
Cranberry Business Park	3104 Unionville Road	Cranberry Township	PA	16066
Cross Creek	3601 Main Street	Durant	OK	74701
Cross Pointe Center	1441 & 1453 N. Saginaw Blvd.	Saginaw	TX	76179
Dacula	3625 Braselton Highway	Dacula	GA	30019
Draper	11770 South Lone Peak Parkway	Draper	UT	84020
Fayette	46 Fayette Town Center Road	Fayetteville	WV	25840
Hampton	903 Gateway Boulevard	Hampton	VA	23666
Holly Hill	1025 & 1027 Nova Road	Holly Hill	FL	32117
Lakeview Sojourn	4450 Sojourn Drive, 1199 S. Belt Line Road	Addison, Coppell	TX	75001 and 75019
Landmark Tower	345 St. Peter Street	St. Paul	MN	55101
Legacy Country	187 & 195 Country Place	Parkway Pearl	MS	39208
Legacy Main & High	1072 High Street, Jackson MS 39202 and 2160 Main Street	Madison	MS	39110
Lincoln Park 10	15810 Park Ten Place	Houston	TX	77084
Metcalf 103	6876 105th Street	Overland Park	KS	66212
North Stafford Centre for Business and Technology	50 Tech Parkway	Stafford	VA	22556
Northlite Commons	2202-2230 Roxie Street	Kannapolis	NC	28083
Parkway III	600 Lynhaven Parkway	Virginia Beach	VA	23452
Pinehurst Square East	901 W. Interstate Avenue	Bismarck	ND	58503
Portofino	19241 David Memorial Drive	Shenandoah	TX	77385
Tollview	3005 – 3075 Tollview Drive	Rolling Meadows	IL	60008
Tower Park	131-201 W. Tower Park Drive	Waterloo	IA	50701
Trinity Pl	1201 Edwards Mill Road	Raleigh	NC	27607
Trinity Ridge Business Center	7730-7760 & 7866 Trinity Road	Memphis	TN	38138
Two Notch	8906 Two Notch Rd.	Columbia	SC	29223
University Towers	1650 University Blvd. NE	Albuquerque	NM	87102
Willow Bend	508-524 South Willow Avenue	Cookeville	TN	38501
Windcom	6101 Windcom Court	Plano	TX	75093
Wistar	8101-8157 Staple Mills Road	Richmond	VA	23228

EXHIBIT E

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT ("Agreement") is entered into this __day of _____, 2008, by and between _____ ("Recipient"), and DBSI, Inc. and its subsidiaries and affiliated entities ("Seller"). Recipient and Seller are collectively referred to herein as the "parties" and individually as a "party."

W I T N E S S E T H:

WHEREAS, Seller is the owner of real property leasehold interest in commercial and investment properties, property and asset management contracts and related assets (the "Business Assets");

WHEREAS, Seller and Recipient are considering entering into certain transactions and business arrangements for the sale of the Business Assets to Recipient (the "Transaction");

WHEREAS, in order to evaluate the Transaction, it is anticipated that Seller will provide Recipient certain confidential financial and business information relating to the Business Assets as well as Seller's business operations; and

WHEREAS, Seller desires to maintain the confidential nature of its items of financial and business information,

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. In order to evaluate the Transaction, Seller agrees to provide business and financial information as reasonably requested by Recipient in connection with evaluation of the Transaction. All such information is herein referred to as the "Confidential Information" and shall include information maintained by Seller in any format, including, without limitation, computer files, papers, documents, contracts, letters, communications and other tangible and intangible media.

2. All Confidential Information supplied pursuant to this Agreement shall be held in strict confidence by the Recipient and shall be used by the Recipient solely for the purpose of evaluating the Transaction contemplated by the parties. Confidential Information received by Recipient shall not be, directly or indirectly, disclosed to any third person, except for a Recipient's officers, agents, legal counsel, accountants, or lenders (collectively, "Recipient Representatives"); provided, however, that any Recipient Representatives shall be required to maintain all Confidential Information in strict confidence in accordance with this Agreement and Recipient shall be liable for any unauthorized disclosure of Confidential Information by its Recipient Representatives.

3. Recipient agrees that for a period of three (3) years it shall not, directly or indirectly, whether alone or in combination with any other person or persons or whether as a stockholder, partner, sole proprietor, member, employee, independent contractor, investor or otherwise, utilize or profit in any way (except in connection with the Transaction, if consummated among the parties) from the Confidential Information disclosed pursuant to this Agreement.

4. Upon request by Seller, Recipient, within two (2) business days after such request, shall return or cause the destruction of the original and all copies of any and all Confidential Information provided or produced pursuant to this Agreement.

5. No party shall, without the prior written consent of the others, make any statement or public announcement with respect to the parties' discussions and negotiations with respect to the Transaction. Nor shall any party make any statement to any competitor, customer, or any other third person regarding the Transaction, the Confidential Information, or the parties' discussions or negotiations with respect to the Transaction, except as may be necessary, in the opinion of their respective counsel, to comply with the requirements of any law, governmental order, or regulation.

6. Recipient agrees that money damages may not be a sufficient remedy for any breach of this Agreement and Seller shall be entitled to specific performance, injunctive relief, or other equitable relief as a remedy for such breach without the necessity for posting a bond. Such remedy shall be in addition to and not in lieu of all other remedies available at law or equity. In the event any arbitration or action is commenced to enforce any of the provisions of this Agreement, the party prevailing therein by final award or judgment shall be entitled to recover attorneys' fees in addition to any other relief awarded.

7. Confidential Information shall not include information that (i) was or becomes generally known or available to the public other than as a result of disclosure by Recipient or any Recipient Representatives; (ii) was or becomes available to a Recipient or a Recipient Representative on a non-confidential basis from a source other than Seller, provided that such source is not known by the Recipient or Recipient Representative to be bound by a confidentiality agreement; or (iii) was, or in the future is, developed independently without reference to Confidential Information furnished by Seller.

8. No party may assign its rights or obligations under this Agreement without obtaining the prior written consent of all the other party hereto.

9. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, supersedes all existing agreements between the parties with respect to such matters, and shall not be modified or amended except by a further written document signed by all parties.

10. No provision hereof may be waived except by an agreement in writing signed by the waiving party. Any waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any other breach of

that provision or of any breach of any other provision of this Agreement. The failure of a party to insist upon strict adherence to any term of this Agreement on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

11. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

12. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.

13. If any provision of this Agreement, or any part thereof, is declared invalid, illegal, or incapable of being enforced by any court of competent jurisdiction for any reason whatsoever, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provisions unless so expressed herein. The invalid unenforceable provision shall be interpreted, if possible, so as to render it enforceable on a limited and reasonable basis.

14. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the conflicts of law provisions thereof. Each party hereto consents to the exclusive jurisdiction of the federal and state courts sitting in the State of Delaware with respect to any dispute under this Agreement applicable to agreements made and to be performed within such State.

15. Each of the parties to this Agreement participated in the drafting of this Agreement and the interpretation of any ambiguity contained in this Agreement will not be affected by the claim that a particular party drafted any provision hereof.

{Signature Page Follows}

IN WITNESS WHEREOF, Seller and Recipient have caused this Agreement to be executed as of the date first above-written.

Seller:
DBSI, Inc.
And its subsidiaries and affiliated entities

By:_____
Name:
Title:

Recipient:

_____

By:_____
Name:
Title:

EXHIBIT F

To be filed on or about December 22, 2008

EXHIBIT 3

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Hearing Date (Sale): February 4, 2009 at 10:00 a.m. (ET) **Obj. Deadline (Sale): January 23, 2009 at 4:00 p.m. (ET)** **Auction Date: January 28, 2009 at 10:00 a.m. (ET)**

NOTICE OF AUCTION AND HEARING

PLEASE TAKE NOTICE that on December 19, 2008, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") a motion (the "Motion") for entry of (A) an order (the "Sale Procedures Order") (i) approving sale procedures (the "Sale Procedures") with respect to the sale (the "Sale") of certain assets relating to the Debtors' property management business (collectively, the "PMB Assets"); (ii) scheduling a hearing (the "Sale Hearing") on the Sale(s) and setting objection and bidding deadlines with respect to the Sale(s); (iii) finding that the form and manner of notice of the Sale Procedures and the Sale was appropriate; (iv) approving the designation of certain parties as Qualified Bidders under the Sale Procedures; and (v) granting related relief; and (B) an order or orders (the "Sale Order") (i) authorizing the Sale(s) of the PMB Assets free and clear of liens, claims encumbrances, and other interests pursuant to the terms of a form purchase, assumption and assignment agreement (collectively, the "Purchase Agreement") or such other form as may be agreed to by the Debtors on such terms no less favorable to the Debtors (an "Alternative Purchase Agreement"); (ii) authorizing and approving the Purchase Agreement or Alternative Purchase Agreement if any; (iii) approving the assumption assignment, rejection or other disposition of the PMB Assets, as necessary in connection with the Sale(s) and as contemplated by the Sale Procedures; and (iv) granting related relief.

PLEASE TAKE FURTHER NOTICE that on January 7, 2009, the Court entered the Sale Procedures Order [Docket No. ___].

PLEASE TAKE FURTHER NOTICE that objections to the Sale, if any, must be filed on or before **January 23, 2009 at 12:00 noon (ET)** (the "Objection Deadline") with the United States Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must also serve a copy of the objection upon the Debtors' undersigned counsel so as to be received on or before the Objection Deadline.

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[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE that an auction (the "Auction") shall take place on **January 28, 2009, at 10:00 a.m. (ET)** at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, Wilmington, Delaware 19801. Only Qualified Bidders (as defined in the Sale Procedures attached to the Motion) may participate in the Auction. Any party that wishes to take part in this process and submit a bid for the PMB Assets must submit their bid no later than **January 23, 2009 at 12:00 Noon (ET)** and in accordance with the Sale Procedures. Parties interested in receiving information regarding the Sale should contact Timothy D. Boates, 1285 Sharps Cove Road, Gurley, AL 35748, Tel: (401) 846-5990, Email: tboates@rasmanagement.com.

PLEASE TAKE FURTHER NOTICE that the Sale Hearing will be held before the Honorable Peter J. Walsh, United States Bankruptcy Judge, 824 North Market Street, Wilmington, Delaware 19801 on **February 4, 2009 at 10:00 a.m. (prevailing Eastern Time)**, or at such other time thereafter as the Court may indicate. The Sale Procedures Hearing and the Sale Hearing may be adjourned from time to time by the Debtors, in consultation with the Committee, without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for such hearing.

PLEASE TAKE FURTHER NOTICE that a notice identifying the PMB Assets will be served by the Debtors by first class mail to each non-Debtor party to a PMB Asset and/or on each TIC Lender (or their counsel, if known) on or before three (3) business days after entry of the Sale Procedures Order. Such notice will, among other things, list the Debtors' proposed cure amount and the deadline to object to the proposed assumption, assignment and cure amount. Any party that fails to object to the assumption and assignment of the PMB Assets shall be barred, enjoined and prohibited from asserting any claim or debt against the Debtors or their property or estates other than the Cure Amounts, if any, or from offsetting, seeking to offset, recoup, deduct or set-off any claims such party may have against the Debtors from any amounts that may be or may become due in the future to the Purchaser under such PMB Asset.

PLEASE TAKE FURTHER NOTICE that this Notice of Auction and Hearings is subject to the fuller terms and conditions of the Motion and the Sale Procedures, which shall control in the event of any conflict and the Debtors encourage parties in interest to review such documents in their entirety. Copies of the Motion, the Purchase Agreement, the Sale Procedures and/or the Sale Procedures Order may be obtained by written request to counsel to the Debtors, c/o Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn: Kimberly Beck, email: kbeck@ycst.com). In addition, copies of the aforementioned pleadings may be found on the Bankruptcy Court's website, www.deb.uscourts.gov, and are on file with the Clerk of the Bankruptcy Court, Third Floor, 824 Market Street, Wilmington, Delaware 19801.

Dated: Wilmington, Delaware
January __, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP

_____

James L. Patton, Jr. (No. 2202)
Michael R. Nestor (No. 3526)
Joseph M. Barry (No. 4221)
Kenneth J. Enos (No. 4544)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-6758
Facsimile: (302) 571-1253

Attorneys for the Debtors and Debtors in Possession

EXHIBIT 4

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Ref. Docket No. _____

ORDER (I) AUTHORIZING THE SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) AUTHORIZING AND APPROVING PURCHASE AGREEMENT THERETO; (III) APPROVING THE ASSUMPTION AND ASSIGNMENT OF THE PMB ASSETS; AND (IV) GRANTING RELATED RELIEF[2]

Upon the consideration of the motion (the "Motion")[3] of DBSI, Inc. ("DBSI") and the other debtors and debtors in possession in the above cases (collectively, the "Debtors"), pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for entry of an order or orders, *inter alia*, (i) authorizing the Sale(s) of the PMB Assets free and clear of liens, claims encumbrances, and other interests pursuant to the terms of the form purchase agreement substantially in the form annexed to the Motion, excluding, however, the TIC Lender liens (if any); (ii) authorizing and approving the Purchase

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[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

[2] A separate Order will be lodged for each Property, or Properties if sold in a group, to a Successful Bidder.

[3] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures.

Agreement; (iii) approving the assumption and assignment of the PMB Assets as necessary in connection with the Sale(s); and (iv) granting related relief; and a hearing on the Sale Procedures Order having been held before this Court on January 7, 2009; and the Court having entered the Sale Procedures Order on January 7, 2009 thereby approving, among other things, sale procedures in connection with the PMB Assets (the "Sale Procedures"); and the Court having conducted the Sale Hearing to consider the approval of the Sale and related transactions pursuant to the terms of the Purchase Agreement annexed hereto as Exhibit 1 (the "Sale Agreement"), between the certain Debtors and the purchaser identified therein (the "Purchaser") and the related agreements annexed hereto as Exhibit 2 (the "Related Sale Agreements") between the certain Debtors and the applicable TIC Investors; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the approval of the Sale Agreement and transactions contemplated thereby; and the Court having reviewed and considered the Motion and any objections thereto, and the arguments of counsel made, and evidence adduced, related thereto; and upon the record of the Sale Procedures Order hearing, the Auction and Sale Hearing held before this Court on February 4, 2009 and the full record of these cases; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates, their creditors and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. This Court has jurisdiction over the Motion and the transactions contemplated by the Sale Agreement pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. A sound business purpose justified the Sale of the PMB Assets outside the ordinary course of business.

D. Good and sufficient notice of the Motion and the relief sought therein has been given and no other or further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Motion has been afforded to parties in interest.

E. Good and sufficient notice of the assumption and assignment of the PMB Assets has been given and no other or further notice is required and a reasonable opportunity to object or be heard has been offered to parties in interest.

F. The Debtors solicited offers for, conducted an auction of, and selected the Successful Bidder for the Sale of the PMB Assets in accordance with the Sale Procedures.

G. The Auction was fair in substance and procedure.

H. The Debtors have obtained a fair and reasonable price for the Sale of the PMB Assets.

I. The Purchaser's offer for the PMB Assets, as embodied in the Sale Agreement, is the highest and/or best offer received by the Debtors therefor.

J. Consummation of the Sale transaction contemplated by the Successful Bid will provide the highest or otherwise best value for the PMB Assets under the circumstances and is in the best interests of the Debtors and their estates.

K. The Sale Agreement has been negotiated by the Debtors and the Purchaser in good faith and at arm's length.

L. The Purchaser is a Qualified Bidder, has demonstrated the ability to provide adequate assurance of future performance under the assigned agreements, as applicable, and is a "good faith purchaser" entitled to the benefits and protections of section 363(m) of the Bankruptcy Code.

M. The Cure Amounts established by the Debtors are final, conclusive, and binding upon all parties.

N. The applicable Debtors are entitled to the benefit of Section 365(k) with respect to all PMB Assets assumed and assigned pursuant to the Sale Agreement and the Related Sale Agreement.

O. The settlement, compromises, and waivers, releases, prohibitions, and claim allowances all as set forth in the Related Sale Agreement are under the totality of the circumstances fair and reasonable and in the best interests of the estates.

M. The Debtors and the Purchasers have not engaged in any conduct that would permit the Sale Agreement or the transactions provided therein to be avoided under section 363(n) of the Bankruptcy Code.

N. The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

O. The relief requested in the Motion is an exercise of the Debtors' sound business judgment and is in the best interests of the Debtors and their estates and creditors.

P. The entry of this Order is in the best interests of the Debtors, their estates, their creditors and other parties in interest.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted.

2. All objections and responses to the Motion that have not been overruled, withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby overruled and denied.

3. The Purchaser's offer for the PMB Assets, as embodied in the Sale Agreement, is the highest and best offer for the PMB Assets and is hereby approved.

4. The Sale Agreement annexed hereto as Exhibit 1 is hereby approved pursuant to section 363(b) of the Bankruptcy Code and the Debtors are authorized to consummate and perform all of their obligations under the Sale Agreement and to execute such other documents and take such other actions as are necessary or appropriate to effectuate the Sale Agreement.

5. Pursuant to section 363(f) of the Bankruptcy Code, the PMB Assets may be sold and transferred free and clear of all liens, claims, interests and encumbrances, exscluding, however, the liens, claims, interests and encumbrances asserted by the TIC Lenders, and except as otherwise provided in the Sale Agreement (collectively, "Liens"), with any and all such Liens to attach to proceeds of such sale with the same validity, priority, force and effect such Liens had on the PMB Assets immediately prior to the sale and subject to the rights, claims, defenses, and objections, if any, of the Debtors and all interested parties with respect to any such asserted Liens.

6. The Related Sale Agreement annexed hereto as Exhibit 2 is hereby approved pursuant to section 363(b) and 365 of the Bankruptcy Code and the Debtors are authorized to consummate and perform all of their obligations under the Related Sale Agreement

and to execute such other documents and take such other actions as are necessary or appropriate to effectuate the Related Sale Agreement.

7. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Sale by the Debtors to the Purchaser of the PMB Assets and transactions related thereto, including, without limitation, the transactions contemplated by the Related Sale Agreement, upon the closing under the Sale Agreement are authorized and approved in all respects.

8. Pursuant to section 365 of the Bankruptcy Code, the assumption, assignment and sale of the PMB Assets, as identified in the Sale Agreement, by the Purchaser, and in accordance with the Related Sale Agreement, is hereby authorized and approved in all respects. Upon the effective date of the Sale and the assumption and assignment of the PMB Assets, as applicable, in accordance with the Sale Agreement and the Related Sale Agreement, the Debtors shall, have no liability to any party with respect to any default, or cure and compensation requirement pursuant to section 365((b) and (f), or otherwise, and the Cure Amounts shall be paid by the Successful Bidder. Pursuant to section 365(k), from and after the effective date of the Sale and the Assumption and Assignment of the PMB Assets, as applicable, the Debtors shall have no liability to any party with respect to any default or breach arising thereunder.

9. Any party having the right to consent to the assumption or assigment or sale of the PMB Assets that failed to object to such assumption or assignment on any grounds, including the commencement of these chapter 11 cases, the financial condition of the Debtors, the selection of the Successful Bidder, and the transfer and/or modification of the MasterLease, is deemed to have consented to such assumption and assignment as required by section 365(c) of the Bankruptcy Code and to the foregoing objections to the assumption and assignment of the

PMB Assets may constitute a default under any related documents, all such defaults shall be deemed to have been irrevocably waived.

10. Any non-debtor party to a PMB Asset is hereby barred, enjoined and prohibited from asserting any claim or debt against the Debtors or their property or estates other than the Cure Amount, if any, or from offsetting, seeking to offset, recoup, deduct or set-off any Claims such party may have against the Debtors from any amounts that may be or may become due in the future to the Purchaser under such PMB Asset.

11. Adequate assurance of future performance has been demonstrated by or on behalf of the Purchaser with respect to the PMB Assets, and the Purchaser shall be entitled to have the Debtors assume such PMB Assets, pursuant to section 365 of the Bankruptcy Code, and to have such PMB Assets assigned to the Purchaser.

12. After the payment of the Cure Amounts, if any, with respect to the PMB Assets, if any, the Debtors are not and will not be in default in any of their obligations under such contracts with the possible exception of defaults identified in section 365(b)(2) of the Bankruptcy Code, which defaults, if any, are null and void and without effect.

13. The stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived and this Order shall be effective immediately upon its entry.

14. The terms of this Order shall be binding on the Purchaser and its successors, the Debtors, creditors of the Debtors and all other parties in interest in the Debtors' cases, and any successors of the Debtors, including any trustee or examiner appointed in these cases or upon a conversion of these cases to chapter 7 of the Bankruptcy Code.

15. The Purchaser is a good faith purchaser entitled to the benefits and protections afforded by section 363(m) of the Bankruptcy Code.

16. The consideration provided by the Purchaser for the PMB Assets under the Sale Agreement is fair and reasonable, and the Sale may not be avoided under section 363(n) of the Bankruptcy Code.

17. The consideration provided in connection with the Related Sale Agreement is fair and reasonable, and the transactions pursuant thereto may not be avoided under section 363(n) of the Bankruptcy Code.

18. With respect to the transactions consummated pursuant to this Order, this Order shall be sole and sufficient evidence of the transfer of title to any particular purchaser, and the sale transaction consummated pursuant to this Order shall be binding upon and shall govern the acts of all persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the property sold pursuant to this Order, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state, and local officials, and each of such persons and entities is hereby directed to accept this Order as sole and sufficient evidence of such transfer of title and shall rely upon this Order in consummating the transactions contemplated hereby.

19. This Court retains jurisdiction to interpret, implement and enforce the provisions of, and resolve any disputes arising under or related to, this Order and the Sale Agreement, all amendments thereto, any waivers and consents thereunder and each of the agreements executed in connection therewith.

20. The failure specifically to include any particular provisions of the Sale Agreement or any of the documents, agreements or instruments executed in connection therewith in this Order shall not diminish or impair the efficacy of such provision, document, agreement or instrument, it being the intent of the Court that the Sale Agreement and each document, agreement or instrument be authorized and approved in its entirety.

21. The Sale Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Selling Debtors' estates.

Dated: February ___, 2009
Wilmington, Delaware

_____
Peter J. Walsh
United States Bankruptcy Judge

EXHIBIT 5

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
DBSI, INC., *et al.*,[1]	Case No. 08-12687 (PJW)
Debtors.	Jointly Administered
	Hearing Date (Sale): February 4, 2009 at 10:00 a.m. (ET) **Obj. Deadline (Sale): January 23, 2009 at 4:00 p.m. (ET)** **Auction Date: January 28, 2009 at 10:00 a.m. (ET)**

NOTICE OF POSSIBLE (I) ASSUMPTION AND ASSIGNMENT OF THE PMB ASSETS AND (II) PROPOSED CURE AMOUNTS

PLEASE TAKE NOTICE that on December 19, 2008, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") a motion (the "Motion") for entry of (A) an order (the "Sale Procedures Order") (i) approving sale procedures (the "Sale Procedures") with respect to the sale (the "Sale") of certain assets relating to the Debtors' property management business (collectively, the "PMB Assets"); (ii) scheduling a hearing (the "Sale Hearing") on the Sale(s) and setting objection and bidding deadlines with respect to the Sale(s); (iii) finding that the form and manner of notice of the Sale Procedures and the Sale was appropriate; (iv) approving the designation of certain parties as Qualified Bidders under the Sale Procedures; and (v) granting related relief; and (B) an order or orders (the "Sale Order") (i) authorizing the Sale(s) of the PMB Assets free and clear of liens, claims encumbrances, and other interests pursuant to the terms of a form purchase, assumption and assignment agreement (collectively, the "Purchase Agreement") or such other form as may be agreed to by the Debtors on such terms no less favorable to the Debtors (an "Alternative Purchase Agreement"); (ii) authorizing and approving the Purchase Agreement or Alternative Purchase Agreement if any; (iii) approving the assumption assignment, rejection or other disposition of the PMB Assets, as necessary in connection with the Sale(s) and as contemplated by the Sale Procedures; and (iv) granting related relief.

PLEASE TAKE FURTHER NOTICE that, by the Motion, the Debtors requested, among other things, the authority to assume and assign the PMB Assets pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code.

PLEASE TAKE FURTHER NOTICE that on January 7, 2009, the Court entered the Sale Procedures Order [Docket No. ___].

PLEASE TAKE FURTHER NOTICE that the Sale Hearing will be held before the Honorable Peter J. Walsh, United States Bankruptcy Judge, 824 North Market Street, Wilmington,

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[1] The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these jointly administered cases, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.kccllc.net/dbsi, or by contacting the proposed undersigned counsel for the Debtors.

Delaware 19801 on **February 4, 2009 at 2:00 p.m. (prevailing Eastern Time)**, or at such other time thereafter as the Court may indicate. The Sale Procedures Hearing and the Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for such hearing.

PLEASE TAKE FURTHER NOTICE that pursuant to the Sale Procedures Order, the Debtors are required to provide a notice identifying the PMB Assets and corresponding proposed cure amounts (the "Cure Amounts"), to each non-Debtor party to a PMB Asset and/or on each TIC Lender (or their counsel, if known). The PMB Assets and corresponding Cure Amounts are listed on the attached Exhibit A.

PLEASE TAKE FURTHER NOTICE that, according to the Sale Procedures Order, objections, if any, to the Cure Amounts and the assignment of the applicable PMB Asset must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 Market Street, Wilmington, Delaware 19801, on or before **4:00 p.m. (prevailing Eastern Time) on January 21, 2009**, or such later date and time as the Debtors may agree (the "Cure Amount Objection Deadline") and (d) be served so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on the same day, upon (i) DBSI, Inc., 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713 (Attn: Timothy D. Boates, Chief Restructuring Officer); (ii) Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn.: Michael R. Nestor and Joseph M. Barry) and Foley & Lardner LLP, 111 Huntington Avenue, Boston, MA 02199 (Attn: Stephen I. Burr), counsel to the Debtors; (iii) Greenberg Traurig, LLP, 2450 Colorado Ave, Suite 400E, Santa Monica, CA 90404 (Attn: Michael H. Goldstein) and The Nemours Building, 1007 North Orange Street, Suite 1200, Wilmington, DE 19801 (Attn: Donald J. Detweiler), counsel to the Committee; and (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn: Richard L. Schepacarter) (collectively, the "Notice Parties")

PLEASE TAKE FURTHER NOTICE that any party that fails to object to the assumption and assignment of the PMB Assets shall be barred, enjoined and prohibited from asserting any claim or debt against the Debtors or their property or estates other than the Cure Amounts, if any, or from offsetting, seeking to offset, recoup, deduct or set-off any claims such party may have against the Debtors from any amounts that may be or may become due in the future to the Purchaser under such PMB Asset.

PLEASE TAKE FURTHER NOTICE that an auction (the "Auction") shall take place on **January 23, 2009, at 10:00 a.m. (ET)** at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, Wilmington, Delaware 19801. If a PMB Asset is included in a successful bid at the Auction (each, a "Successful Bid"), the Debtors will provide a further notice to the affected non-Debtor parties to such PMB Asset identifying the party submitting a Successful Bid (each a "Successful Bidder") and the deadline to object to the assumption and assignment of such agreement solely on the basis of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that, unless the non-Debtor party to a PMB Asset or any other party in interest files an objection on or before the Cure Objection Deadline such parties shall (i) be forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts with respect to such PMB Asset and the Debtors shall be entitled to rely solely upon the Cure Amount included on Exhibit A; (ii) be deemed to have consented to the assumption and assignment of such PMB Asset and shall be forever barred and estopped from asserting or claiming against the Debtors, the Successful Bidder at the Auction or any other assignee of the relevant PMB Asset

that any additional amounts are due or defaults exist, or conditions to assumption and assignment must be satisfied under such PMB Asset; and (iii) to the extent the assumption and assignment of the PMB Asset may constitute a default under any related documents, such default shall be deemed to have been irrevocably waived.

PLEASE TAKE FURTHER NOTICE that if you agree with the Cure Amounts indicated on Exhibit A hereto, you need not take any further action.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court will hear the Cure Objections, if any, at the Sale Hearing. Only those Cure Objections that are timely filed and served as provided above will be considered at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to modify the Cure Amounts listed on Exhibit A hereto at any time. To the extent that the Debtors modify the Cure Amounts listed on Exhibit A hereto, the affected party shall receive a separate notice and an additional opportunity to object to such modified Cure Amount.

PLEASE TAKE FURTHER NOTICE THAT, BY LISTING A PMB ASSET ON THE FOLLOWING EXHIBIT, (I) THE DEBTORS DO NOT CONCEDE THAT ANY SUCH CONTRACT OR LEASE IS EXECUTORY, AND (II) NO PARTY IS ASSURED THAT ANY DMB ASSETS WILL BE ASSUMED.

Dated: Wilmington, Delaware
January __, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP

_____

James L. Patton, Jr. (No. 2202)
Michael R. Nestor (No. 3526)
Joseph M. Barry (No. 4221)
Kenneth J. Enos (No. 4544)
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Facsimile: (302) 571-1253

Attorneys for the Debtors and Debtors in Possession