

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

	X	
	:	Chapter 11
In re:	:	
	:	Case No. 18-11025 (CSS)
GIBSON BRANDS, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors. ¹	:	
	:	Re: Docket No. 530, 610
	X	

**ORDER (A) APPROVING BIDDING AND SALE PROCEDURES FOR THE SALE OF
THE CHURCH STREET PROPERTY, (B) AUTHORIZING THE DEBTORS TO ENTER
INTO A STALKING HORSE AGREEMENT AND TO PROVIDE BID PROTECTIONS
THEREUNDER, (C) SCHEDULING THE HEARING TO APPROVE THE SALE AND
(D) APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

The matter coming before the Court on the motion (the “Motion”)² filed by the Debtors seeking, pursuant to sections 105, 363, 503, 507, 1123 and 1146 of the Bankruptcy Code, Rules 2002, 3020, 6004, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 2002-1, 6004-1, 9006-1 and 9013-1 of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), an order (a) authorizing and approving the procedures that are attached hereto as Exhibit 1 (the “Bidding Procedures”) for the sale (the “Sale”) of the real property known as 1117 Church Street, Nashville, Davidson County, Tennessee (the “Property”), (b) authorizing the Debtors to enter into a Stalking Horse Agreement and to provide Bid Protections thereunder, (c) scheduling an Auction and Sale Hearing in connection with the Sale, and (d) approving the form and manner of

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Gibson Brands, Inc. (4520); Cakewalk, Inc. (2455); Consolidated Musical Instruments, LLC (4695); Gibson Café & Gallery, LLC (0434); Gibson International Sales LLC (1754); Gibson Pro Audio Corp. (3042), Neat Audio Acquisition Corp. (3784); Gibson Innovations USA, Inc. (4620); Gibson Holdings, Inc. (8455); Baldwin Piano, Inc. (0371); Wurlitzer Corp. (0031); and Gibson Europe B.V. (Foreign). The Debtors’ corporate headquarters is located at 309 Plus Park Blvd., Nashville, TN 37217.

² Capitalized terms not otherwise defined in their order shall have the meanings given to them in the Motion, or the Bidding Procedures, as applicable.

notice of the Auction and the Sale Hearing; the Court having reviewed the Motion and conducted a hearing to consider the relief requested therein regarding the Bidding Procedures and related matters (the “Bidding Procedures Hearing”); and the Court having considered the statements of counsel and the evidence presented at the Bidding Procedures Hearing;

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. The Court has jurisdiction over the matter and over the property of the Debtors pursuant to 28 U.S.C. §§ 157 and 1334. The matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105, 363, 365, 503 and 507 and Bankruptcy Rules 2002, 6004, 9007 and 9014. Venue of these cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The Debtors have offered good and sufficient reasons for, and the best interests of the Debtors’ estates and creditors will be served by, the Court granting the Motion to the extent provided in the Order, including approval of (i) the Bidding Procedures, attached hereto as Exhibit 1; (ii) the Debtors’ entry into a Stalking Horse Agreement, and the Bid Protections; and (ii) the form and manner of notice of the Auction and Sale Hearing described in the Motion and the Order.

C. If triggered in accordance with the terms of the Stalking Horse Agreement, the payment of the Bid Protections is (i) an actual and necessary cost of preserving the value of the Debtors’ estates, within the meaning of Sections 503(b) and 507(a) of the Bankruptcy Code, (ii) reasonably tailored to encourage, rather than hamper, bidding for the Property by providing a

³ 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. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. All findings of fact and conclusions of law announced by the Court at the Bidding Procedures Hearing are hereby incorporated herein to the extent not inconsistent herewith.

baseline of value, increasing the likelihood of competitive bidding at the Auction, and facilitating participation of other bidders in the sale process, thereby increasing the likelihood that the Debtors will receive the best possible price and terms for the Property, (iii) of substantial benefit to the Debtors' estates and stakeholders and all parties in interest herein, (iv) reasonable and appropriate, (v) a material inducement for, and condition necessary to, ensure that a Stalking Horse Bidder will agree to purchase the Property and (vi) reasonable in relation to a Stalking Horse Bidder's efforts and to the magnitude of the Sale and the Stalking Horse Bidder's lost opportunities resulting from the time spent pursuing such transaction.

D. Good and sufficient notice of the relief sought in the Motion has been given under the circumstances, and no further notice is required. Subject to the immediately preceding sentence, a reasonable opportunity to object to or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

E. The issuance and immediate effectiveness of the Order as of the date hereof, including approval of the Bidding Procedures, is supported by evidence of compelling business justifications and other circumstances demonstrating that the relief granted by the Order is necessary to prevent immediate and irreparable harm to the Debtors' estates and creditors.

F. The Auction and Hearing Notice, as set forth in the Motion and as to be delivered by the Debtors is appropriate and sufficient, and is reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the Sale Hearing and the Bidding Procedures, and no other or further notice shall be required for the Sale.

G. The Bidding Procedures are reasonably designed to maximize the value to be achieved for the Property.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED with respect to the Bidding Procedures as set forth herein.
2. All objections to the entry of the Order or to the relief provided herein, that have not been withdrawn with prejudice, waived, resolved or settled are hereby denied and overruled on the merits with prejudice.
3. The Bidding Procedures, as attached as Exhibit 1 hereto, are hereby approved, are incorporated herein by reference, and shall govern all bids and bid proceedings relating to the Property. The Debtors are authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures.
4. Subject to final Court approval at the Sale Hearing, the Debtors are authorized to enter into a Stalking Horse Agreement, which shall be substantially in form and substance as that attached hereto as Exhibit D, and to provide the Bid Protections thereunder, provided that the Debtors enter into such Stalking Horse Agreement no later than **August 24, 2018**. The Debtors shall file a copy of the Stalking Horse Agreement (but the Debtors shall not be required to file any schedules or exhibits thereto) with the Court as soon as reasonably practicable after entering into such Stalking Horse Agreement. Any Stalking Horse Agreement the Debtors enter into shall be subject to the Bidding Procedures and shall be a Qualified Bid.
5. As further described in the Bidding Procedures, the Bid Deadline shall be **September 20, 2018 at 4:00 p.m. (Eastern Time)**.
6. All bidders submitting a bid are deemed to have submitted to the exclusive jurisdiction of the Court with respect to all matters related to the Sale, the Auction and the terms and conditions of the transfer of the Property.

7. If at least two Qualified Bids in respect of the Property are received by the Bid Deadline, the Debtors will conduct the Auction for the Property. The Auction will take place at the location set forth in the Auction and Hearing Notice at **10:00 a.m. (Central Time) on September 25, 2018**, or such other location, or date or time, as the Debtors may notify Qualified Bidders who have submitted Qualified Bids.

8. Each bidder participating at the Auction will be required to confirm in writing, that (a) it has not engaged in any collusion with respect to the bidding process, and (b) its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

9. The Auction will be conducted openly and will be transcribed or videotaped, at the Debtors' option.

10. The Court will convene the Sale Hearing on **September 27, 2018 at 9:00 a.m. (Eastern Time)** or as soon thereafter as counsel and interested parties may be heard, at which time the Court will consider approval of the Sale to the Successful Bidder and the entry of the Sale Order. The Debtors, in their sole discretion, may adjourn the Sale Hearing from time to time without further notice to creditors or other parties in interest other than by announcement of said adjournment at the Sale Hearing.

11. Objections to approval of the Sale of the Property, including all right, title and interest thereto and all permitted liabilities in connection therewith, or the Sale Order must be in writing, state the basis of such objection with specificity and be filed with the Court and served so as to be received on or before **September 20, 2018 at 4:00 p.m. (Eastern Time)** (the "Objection Deadline") by the Debtors' counsel: (a) Goodwin Procter LLP, 620 Eighth Avenue, New York, NY 10018-1405, Attn: Michael H. Goldstein, Gregory W. Fox, and Barry Z. Bazian

(mgoldstein@goodwinlaw.com; gfox@goodwinlaw.com; bbazian@goodwinlaw.com), and (b) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, P.O. Box 1709, Wilmington, DE 19899-1709, Attention: David M. Fournier (fournied@pepperlaw.com). If the Auction is held, parties may object to the conduct of the Auction, the Successful Bidder, or the Sale to the Successful Bidder, at the Sale Hearing. Failure to timely file an objection in accordance with the Order may forever bar the assertion of any objection to the Motion or consummation of the Sale, and may be deemed to constitute consent to consummation of the Sale and all transactions related thereto.

12. The form of the Auction and Hearing Notice as to be mailed by the Debtors is hereby approved and appropriate and sufficient for all purposes and no other or further notice shall be required.

13. Within five (5) business days following entry of this Bidding Procedures Order, Debtors shall serve a copy of the Auction and Hearing Notice, or another notice substantially similar thereto, upon the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Creditors' Committee; (iii) counsel to the DIP Agent; (iv) counsel to the Ad Hoc Group of Secured Noteholders; (v) all parties holding liens on the Property; (vi) the Office of the United States Attorney General for the District of Delaware; (vii) the Internal Revenue Service and any other applicable taxing authorities with respect to the Property; and (viii) all parties entitled to notice pursuant to Local Rule 2002-1(b).

14. Compliance with the notice provisions set forth above shall constitute sufficient notice of the Debtors' contemplated sale of the Property contemplated in the Motion and the Sale Order, substantially in the form attached to the Motion, approving such sale to a Successful Bidder, and no additional notice of such contemplated transactions need be given.

15. Subject to the terms of the Bidding Procedures (including with respect to the consultation rights contained therein), the Debtors 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 or otherwise best proposal and which is the next highest or otherwise best proposal; (iv) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (v) waive terms and conditions herein with respect to all bidders; (vi) impose additional terms and conditions with respect to all bidders; (vii) extend the deadlines set forth herein; (viii) modify the Bidding Procedures, as the Debtors may determine to be in the best interests of their estates or (ix) withdraw the Motion at any time prior to the Sale Hearing with or without prejudice.

16. The Assumption and Assignment Procedures are approved. The form of Assumption and Assignment Notice is approved.

17. Unless otherwise ordered by the Bankruptcy Court, counterparties to Contracts and Leases that are identified on the Contracts List attached to an Assumption and Assignment Notice shall have until 14 calendar days after the date on which the Assumption and Assignment Notice was mailed to the counterparty to file with the Court and serve on the Debtors' counsel an objection to the Debtors' proposed assumption and assignment of such Contract or Lease or to the proposed Cure Amount (each an "Assumption and Assignment Objection"); provided, however, that objections with respect to adequate assurance of future performance of a Successful Bidder other than the Stalking Horse Bidder, if applicable, may be filed and served at any time prior to the Sale Hearing. Any objections with respect to the

assumption or assignment or Cure Amounts of Contracts and Leases will be heard and determined at the Sale Hearing.

18. A counterparty that fails to timely file an Assumption an Assignment Objection shall be (a) barred from objecting to the Cure Amount, (b) estopped from asserting or claiming any Cure Amount against the Debtors, Reorganized Debtors or Successful Bidder that is greater than the Cure Amount set forth on the Contracts List and (c) deemed to have consented to the assumption and/or assignment of the Contract or Lease.

19. Unless otherwise provided in the Successful Bidder's REPA, at any time until one (1) day prior to Sale Hearing, the Successful Bidder may add or remove from the schedule of "Assigned Contracts" annexed to its REPA (the "Assigned Contracts Schedule") a Contract or Lease which was identified in an Assumption and Assignment Notice; provided that to the extent an Assumption and Assignment Objection (defined below) is pending as of the Sale Hearing, the Successful Bidder may elect to remove such Contract or Lease from the Assigned Contracts Schedule within three (3) business days following the Court's determination of such Assumption and Assignment Objection.

20. The requirements set forth in Local Rules 6004-1 and 9013-1 are hereby satisfied or waived.

21. All time periods set forth in the Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

22. Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately and shall not be stayed.

23. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of the Order.

Dated: 8/20, 2018
Wilmington, Delaware



HONORABLE CHRISTOPHER S. SONTCHI
CHIEF UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

BIDDING PROCEDURES

BIDDING PROCEDURES¹

Set forth below are the bidding procedures (the “Bidding Procedures”) to be employed in connection with the sale (the “Sale”) of real property known as 1117 Church Street, Nashville, Davidson County, Tennessee (the “Property”).

By the motion (the “Motion”), dated August 1, 2018, the Debtors sought, among other things, approval of the Bidding Procedures for soliciting bids, conducting an auction, and consummating the Sale of the Property. The United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) has entered an order (Docket No. [____]) (the “Bidding Procedures Order”) that, among other things, authorizes the Debtors to solicit bids in respect of the Property through the procedures described below (the “Bidding Procedures”), subject to the approval of one or more Successful Bids (as defined below) by the Bankruptcy Court following a hearing before the Bankruptcy Court.

Important Dates and Contact Information

With the assistance of CBRE, the Debtors’ broker, the Debtors will:

- assist Potential Bidders (as defined below) in conducting their respective due diligence investigations and accept Qualified Bids (as defined below) until the deadline for receipt of Qualified Bids, which is **4:00 p.m. (Eastern time) on September 20, 2018 (the “Bid Deadline”)**;
- evaluate bids and negotiate with bidders in preparation for an auction (the “Auction”) to begin at **10:00 a.m. (Central Time) on September 25, 2018**; and
- select the Successful Bidder and the Back-Up Bidder (as defined below) for the Property at the conclusion of the Auction and seek approval of the Successful Bid for the Property at a hearing scheduled for **September 27, 2018 at 9:00 a.m. (Eastern Time)** before the Honorable Christopher S. Sontchi (the “Sale Hearing”).

Information that must be provided under these Bidding Procedures must be provided in both Portable Document Format (.pdf) and Microsoft Word (.doc/.docx) format to the following parties (collectively, the “Notice Parties”):

a) The Debtors:

Gibson Brands Inc., 309 Plus Park Blvd., Nashville, TN 37217
Attn: Bruce A. Mitchell and Brian J. Fox (Bruce.Mitchell@gibson.com;
bfox@alvarezandmarsal.com);

b) Real Estate Broker for the Debtors:

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Bidding Procedures Order or the Motion, as applicable.

CBRE, Inc., 222 2nd Avenue S., Suite 1800, Nashville, TN 37201
Attn: Steve Preston (Steve.Preston@cbre.com); and

c) Counsel to the Debtors:

Goodwin Procter LLP, 620 Eighth Avenue, New York, NY 10018-1405
Attn: Michael H. Goldstein, Gregory W. Fox, and Barry Z. Bazian
(mgoldstein@goodwinlaw.com; gfox@goodwinlaw.com; bbazian@goodwinlaw.com),

Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, P.O. Box 1709,
Wilmington, DE 19899-1709
Attn: David M. Fournier (fournierd@pepperlaw.com).

The Sale Hearing

At the Sale Hearing, the Debtors will seek approval of the Successful Bid and the entry of an order approving the Sale of the Property, including all right, title and interest thereto, to the Successful Bidder at the Auction.

The Debtors, in consultation with the advisors to the Committee and the Ad Hoc Group of Secured Noteholders (together, the "Consultation Parties"), may adjourn or reschedule the Sale Hearing without notice or with limited and shortened notice to parties, including by (a) an announcement of such adjournment at the Sale Hearing or at the Auction or (b) the filing of a notice of adjournment with the Bankruptcy Court prior to the commencement of the Sale Hearing.

Determination by the Debtors

The Bidding Procedures as described herein are calculated to obtain the highest and best offer or group of offers for the Property. The Debtors will (a) receive bids from Potential Bidders, (b) in consultation with the Consultation Parties, evaluate and determine whether any such bid is a Qualified Bid, and (c) conduct the Auction (clauses (a) through (c), collectively, the ("Bidding Process")).

Participation Requirements

Unless otherwise ordered by the Bankruptcy Court, to participate in the Bidding Process, each interested person or entity (each, an "Interested Party") must deliver the following to the Notice Parties so as to be received no later than the Bid Deadline:

- a) a written disclosure of the identity of each entity that will be bidding for the Property or otherwise participating in connection with such bid;
- b) an executed confidentiality agreement (to be delivered prior to the distribution of any confidential information by the Sellers to an Interested Party) in form and substance satisfactory to the Debtors; and

- c) sufficient information, as determined by the Debtors, to allow the Debtors to determine that the Interested Party has (i) the financial wherewithal to consummate the Sale for the Property in cash or an equivalent with readily ascertainable, realizable and quantifiable economic value in an amount not less than \$11,000,000 (or, in the event there is a Stalking Horse Agreement, an amount not less than the cash component of the Purchase Price set forth in the Stalking Horse Agreement, plus the Bid Protections) (the "Proposed Purchase Price"), including financial statements of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their discretion) and (ii) any required internal corporate, legal or other authorizations, to complete a Sale for the Property in cash or an equivalent with readily ascertainable, realizable and quantifiable economic value in an amount not less than the Proposed Purchase Price.

If the Debtors determine, in consultation with the Consultation Parties, that an Interested Party has a *bona fide* interest in the Property, no later than two business days after the Debtors make that determination and has received the materials described in items (a)-(c) above, such Interested Party will be deemed a "Potential Bidder". The Debtors reserve the right, in consultation with the Consultation Parties, to determine in the exercise of their discretion whether an Interested Party has satisfied the above participation requirements such that it is eligible to be a Potential Bidder. The Debtors or their advisors will provide notice to the Interested Party in the event the Debtors determine (after receipt of the information identified in clauses (a)-(c) above) that any Interested Party does not qualify as a Potential Bidder.

Due Diligence

Neither the Debtors nor any of their advisors will be obligated to furnish any information of any kind whatsoever relating to the Property to any person or entity who is not a Potential Bidder and who does not comply with the requirements set forth herein.

Until the Bid Deadline, the Debtors or their advisors will provide any Potential Bidder such due diligence access or additional information as the Debtors determine to be reasonable in the circumstances, subject to the restrictions set forth in the succeeding paragraph. All additional due diligence requests must be directed to the Notice Parties. The Debtors or their advisors will coordinate all reasonable requests for additional information and due diligence access from Potential Bidders. In the event that any such due diligence material is in written form and has not previously been provided to any other Potential Bidder, subject to any confidentiality issues related to the material, the Debtors or their advisors will simultaneously provide access to such materials to all Potential Bidders.

Unless otherwise determined by the Debtors, the availability of additional due diligence to a Potential Bidder will cease if: (a) the Potential Bidder does not become a Qualified Bidder; or (b) the Bidding Process is terminated. Except as provided above, neither the Debtors nor their advisors will be obligated to furnish any information of any kind whatsoever relating to the Property to any party.

Bid Deadline

A Potential Bidder that desires to make a bid must deliver written and electronic copies of its bid in both Portable Document Format (.pdf) and Microsoft Word (.doc/.docx) format to the Notice Parties so as to be received no later than the Bid Deadline. Upon receipt, the Debtors will send copies of all bids to the following parties:

a) Counsel to the Ad Hoc Group of Secured Noteholders:

Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019-6064 Attn: Brian S. Hermann and Robert Britton (bhermann@paulweiss.com; rbritton@paulweiss.com);

Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 Attn: Pauline K. Morgan (pmorgan@ycst.com);

b) Counsel to the DIP Agent:

Arnold & Porter Kaye Scholer LLP, 70 W. Madison St., Suite 4200, Chicago, Illinois 60602 Attn: D. Tyler Nurnberg and Steven Fruchter (tyler.nurnberg@arnoldporter.com; steven.fruchter@arnoldporter.com);

c) Counsel to the Prepetition Trustee

Pryor Cashman LLP, 7 Times Square, New York, NY 10036, Attn: Seth H. Lieberman and Patrick Sibley (slieberman@pryorcashman.com; psibley@pryorcashman.com);

Morris James LLP, 500 Delaware Avenue, Suite 1500, P.O. Box 2306, Wilmington, DE 19899-2306, Attn: Eric J. Monzo (emonzo@morrisjames.com);

d) Counsel to the Committee:

Lowenstein Sandler LLP, 1251 Avenue of the Americas New York, NY 10020 Attn: Jeffrey L. Cohen and Bruce Buechler (jcohen@lowenstein.com; bbuechler@lowenstein.com);

Landis Rath & Cobb LLP, 919 Market Street, Suite 1800 Wilmington, DE 19801 (Attn: Adam G. Landis (landis@lrclaw.com); and

e) Counsel to the Prepetition ABL/Term Loan Agent:

Winston & Strawn LLP, 16th Floor, 300 South Tryon Street, Charlotte, NC 28202 Attn: Jason E. Bennett and Christina M. Wheaton (jbennett@winston.com; cwheaton@winston.com).

Provisions Governing Qualified Bids

A “Qualified Bid” for the purchase of the Property is a proposal from a Potential Bidder that, at a minimum:

- identifies the legal name of the Potential Bidder (including any equity holders or other financial backers, if the Potential Bidder is an entity formed for the purpose of consummating the Sale);
- provides that the Potential Bidder offers to purchase the Property for at least the Proposed Purchase Price, in cash or an equivalent with readily ascertainable, realizable and quantifiable economic value, and upon the terms and conditions set forth in the form of asset purchase agreement enclosed therewith, marked (the “Marked Agreement”) to show any proposed revisions and modifications to (a) if there is a Stalking Horse Agreement, such Stalking Horse Agreement; or (b) if there is not a Stalking Horse Agreement, the form of Real Estate Purchase Agreement (the “Form REPA”) attached to the Bidding Procedures Order as Exhibit D;
- includes a letter stating that the Potential Bidder (i) has not engaged in any collusion with respect to its bid, and (ii) acknowledges and represents that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its bid, that it has relied solely upon its own independent review and investigation in making its bid, that it did not rely on the completeness of any information provided in connection with the Auction or its bid, and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Property, except as expressly stated in such letter;
- includes a letter or other written materials, as applicable, providing: (a) written evidence of available cash or an equivalent with readily ascertainable, realizable and quantifiable economic value to consummate the Sale in an amount of not less than the Proposed Purchase Price as the Debtors or their advisors may reasonably request; (b) a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed; and (c) a covenant to cooperate with the Debtors and their advisors to provide pertinent factual information regarding the Potential Bidder’s operations reasonably required to analyze issues arising with respect to any applicable regulatory requirements;
- is formal, binding and unconditional (except for those conditions expressly set forth in the applicable bid documents), and includes a statement that it is not subject to any due diligence and, if such bid is deemed the Successful Bid at the Auction, is irrevocable until Closing, and if not deemed the Successful Bid at the Auction, such bid is irrevocable until 60 days following the Auction;

- does not entitle such Potential Bidder to a break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement;
- is accompanied by a cash deposit equal to 10% of the Proposed Purchase Price (the “Good Faith Deposit”); and
- is received by the Bid Deadline.

In addition, in determining whether the terms of the bid or bids for the Property are materially more burdensome or conditional than the terms of another Qualified Bid, the Debtors may take into consideration:

- a. the purported amount of the Qualified Bid;
- b. the value to be provided to the Debtors’ estates under the Qualified Bid;
- c. indemnification and other provisions;
- d. contingencies with respect to the Sale and the ability to close the proposed Sale on a basis acceptable to the Debtors; and
- e. any other factors the Debtors, in consultation with the Consultation Parties, may deem relevant.

The Good Faith Deposit will be held by the Debtors in a segregated bank account. The Good Faith Deposit must be made by wire transfer (to a bank account specified by the Debtors), certified check or such other form acceptable to the Debtors, payable to the order of the Debtors (or such other party as the Debtors may determine).

If a bid is received and, in the Debtors’ judgment, it is not clear whether the bid is a Qualified Bid, the Debtors and their advisors may consult with the Potential Bidder and seek additional information in an effort to establish whether or not a bid is a Qualified Bid.

The Debtors will, in their discretion in consultation with the Consultation Parties, determine whether a bid received from a Potential Bidder for the Property will constitute a “Qualified Bid” and whether a Potential Bidder that submits such a bid will be considered a “Qualified Bidder.” Further, the Debtors may, in their discretion in consultation with the Consultation Parties, withdraw the Property from the Auction or Sale at any time before entry of an order approving a Sale of the Property to a Qualified Bidder.

Any person or entity holding a valid, perfected security interest in the Property may seek to credit bid some or all of its claims pursuant to section 363(k) of the Bankruptcy Code; provided, however, that any such credit bid will be subject to the Intercreditor Agreement,² if applicable. Each person holding a valid, perfected security interest in the Property for which it submits a credit bid shall be deemed a Qualified Bidder.

² The “Intercreditor Agreement” means that certain Intercreditor Agreement, dated July 31, 2013.

The Debtors reserve the right, in consultation with the Consultation Parties, to impose additional terms and conditions with respect to Qualified Bidders not otherwise inconsistent with these Bidding Procedures.

Baseline Bid

Only Qualified Bidders are eligible to participate in the Auction. The Debtors, in consultation with the Consultation Parties, will select what they determine to be the highest and best Qualified Bid (the "Baseline Bid") to serve as the starting point at the Auction taking into account all relevant considerations, including the financial condition of the applicable bidder and certainty of closing.

Auction

If more than one Qualified Bid is received by the Bid Deadline for the Property, the Debtors will conduct the Auction for the Property. The Auction will take place at [] at **10:00 a.m. (Central Time) on September 25, 2018**, or such other time as the Debtors may notify Qualified Bidders who have submitted Qualified Bids. Only a Qualified Bidder will be eligible to attend or participate at the Auction, subject to such limitations as the Debtors may impose. Creditors will be able to attend the Auction if they notify the Debtors of their attendance five (5) business days before the Auction. A reasonable number of representatives (as determined by the Debtors in their sole and absolute discretion) of the Qualified Bidders will be permitted to attend and observe the Auction.

Each bidder participating in the Auction will be required to confirm, in writing, that (a) it has not engaged in any collusion with respect to the Bidding Process, and (b) its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

At the Auction, participants will be permitted to increase their bids and improve their terms; provided that any such increased or improved bid must be a Qualified Bid (except that the Bid Deadline will not apply). Bidding for the Property will start at the purchase price and terms proposed in the applicable Baseline Bid.

The Debtors, with the assistance of their advisors, shall conduct an open Auction on the record, recorded by a court reporter, and calling for minimum incremental bids (the "Minimum Overbid") from Qualified Bidders participating in the Auction, with Minimum Overbids being in an amount of not less than \$50,000; provided, however, that the Stalking Horse Bidder, if any, may include in its bid a credit bid in the amount of the Bid Protections. The Debtors reserve the right to announce reductions or reasonable increases in the Minimum Overbid amounts at any time during the Auction.

The Debtors may at any time amend the Bidding Procedures or adopt rules for the Auction in any manner that they determined in good faith will promote the goals of the Bidding Process and is not inconsistent with these Bidding Procedures, including extending or modifying any of the dates described herein and adjourning the Auction.

The Debtors reserve the right to, and may, in consultation with the Consultation Parties, reject at any time before entry of the final Sale Order any bid that, in the Debtors' judgment, is:

(a) inadequate or insufficient; (b) not in conformity with the requirements of the Bankruptcy Code, these Bidding Procedures or the terms and conditions of the Sale; or (c) contrary to the best interests of the Debtors' estates and creditors.

Prior to the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, will: (a) review and evaluate each bid made at the Auction on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale; (b) in the exercise of the Debtors' good faith business judgment and consistent with the Bidding Procedures, identify the highest or otherwise best offer in respect of the Property (the "Successful Bid"); and (c) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of the successful bidder or bidders (the "Successful Bidder") and the amount and other material terms of the Successful Bid. Absent irregularities in the conduct of the Auction or reasonable and material confusion during the bidding, each as determined by the Bankruptcy Court, the Debtors will not consider bids made after the Auction has been closed.

After determining the Successful Bid for the Property, the Debtors may determine, in their reasonable business judgment in consultation with the Consultation Parties, which Qualified Bid is the next best bid for the Property (the "Back-Up Bid").

At the Sale Hearing, the Debtors will present the Successful Bid to the Bankruptcy Court for approval.

Acceptance of Qualified Bids

The Debtors presently intend to consummate the Sale to the Successful Bidder; however, the Debtors' presentation of the Successful Bid to the Bankruptcy Court for approval does not constitute the Debtors' acceptance of such bid. The Debtors will be deemed to have accepted a Successful Bid only when a contract therefor has been executed and approved by order of the Bankruptcy Court.

If a failure to consummate the transaction is the result of a breach by a Successful Bidder of the applicable Sale Agreement, the Debtors may retain the Good Faith Deposit of such Successful Bidder and reserve the right to seek, in addition to the Good Faith Deposit, specific performance as well as any and all available additional damages from such Successful Bidder to the fullest extent provided for under applicable law.

If a Successful Bidder does not close the applicable Sale contemplated by the applicable Successful Bid by the date agreed to by the Debtors and such Successful Bidder as set forth in the applicable Sale Agreement, then the Debtors will be authorized, but not required, to move forward with the Sale to the party that submitted the Back-Up Bid.

Modification of Bidding Procedures

The Debtors may amend these Bidding Procedures or the Bidding Process at any time and from time to time in any manner that they determine in good faith, in consultation with the Consultation Parties, will best promote the goals of the Bidding Process and are not inconsistent

with the terms of these Bidding Procedures, including extending or modifying any of the dates described herein.

“As Is, Where Is”

Any Sale will be on an “as is, where is” basis and without representations or warranties of any kind by the Debtors or their agents, except and solely to the extent expressly set forth in the final Sale Agreement approved by the Bankruptcy Court. Except as otherwise provided in the Sale Agreement approved by the Bankruptcy Court, the sale of the Property shall include all right, title and interest thereto.

Return of Good Faith Deposit

The Good Faith Deposits of all Qualified Bidders will be held in escrow by the Debtors and while held in escrow will not become property of the Debtors’ estates unless released from escrow pursuant to further order of the Bankruptcy Court. The Debtors will retain the Good Faith Deposits of the Successful Bidder until the Closing of the Sale unless otherwise ordered by the Bankruptcy Court. The Good Faith Deposits of the other Qualified Bidders will be returned (a) if such Qualified Bidder is not the Successful Bidder or the Back-Up Bidder, within five (5) business days following the Auction; or (b) if the Qualified Bidder is the Back-Up Bidder, on the earlier of (i) the Closing of the Sale to the Successful Bidder, and (b) sixty (60) days following the Auction. At the Closing of the Sale contemplated by the Successful Bid or the Back-Up Bidder, as the case may be, the Successful Bidder or the Back-Up Bidder will be entitled to a credit for the amount of its Good Faith Deposit (not including interest accrued thereon).

EXHIBIT B

AUCTION AND HEARING NOTICE

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

	X	
	:	Chapter 11
In re:	:	
	:	Case No. 18-11025 (CSS)
GIBSON BRANDS, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors. ¹	:	
	X	

NOTICE OF AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that the above-captioned debtors (collectively, the “Debtors”) each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) on May 1, 2018 (the “Petition Date”).

PLEASE TAKE FURTHER NOTICE that the Debtors filed a motion (the “Motion”) seeking the entry of an order: (a) approving auction and bidding procedures (the “Bidding Procedures”) pursuant to which the Debtors will solicit and select the highest and otherwise best offer for the sale (the “Sale”) of real property known as 1117 Church Street, Nashville, Davidson County, Tennessee (the “Property”), (b) scheduling and conducting an auction (the “Auction”), if necessary, and (c) scheduling a hearing (the “Sale Hearing”) to approve the Sale.

PLEASE TAKE FURTHER NOTICE that on August __, 2018, the Bankruptcy Court entered an order (Docket No. [__]) (the “Bidding Procedures Order”)² approving the Bidding Procedures. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Gibson Brands, Inc. (4520); Cakewalk, Inc. (2455); Consolidated Musical Instruments, LLC (4695); Gibson Café & Gallery, LLC (0434); Gibson International Sales LLC (1754); Gibson Pro Audio Corp. (3042); Neat Audio Acquisition Corp. (3784); Gibson Innovations USA, Inc. (4620); Gibson Holdings, Inc. (8455); Baldwin Piano, Inc. (0371); Wurlitzer Corp. (0031); and Gibson Europe B.V. (Foreign). The Debtors’ corporate headquarters is located at 309 Plus Park Blvd., Nashville, TN 37217.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms of the Bidding Procedures shall control in all respects.

Contact Person for Parties Interested in Submitting a Bid

The Bidding Procedures set forth the requirements for becoming a Qualified Bidder and submitting a Qualified Bid, and any party interested in making an offer to purchase the Property must comply strictly with the Bidding Procedures. Only Qualified Bids will be considered by the Debtors, in accordance with the Bidding Procedures.

Any interested bidder should contact, as soon as possible:

- a. Real Estate Broker for the Debtors:
CBRE, Inc.
222 2nd Avenue S.
Suite 1800, Nashville, TN 37201
Attn: Steve Preston (Steve.Preston@cbre.com); or
- b. Counsel to the Debtors:
Goodwin Procter LLP
620 Eighth Avenue
New York, NY 10018-1405
Attn: Michael H. Goldstein, Gregory W. Fox, and Barry Z. Bazian (mgoldstein@goodwinlaw.com;
gfox@goodwinlaw.com; bbazian@goodwinlaw.com), and

Pepper Hamilton LLP
Hercules Plaza, Suite 5100,
1313 Market Street, P.O. Box 1709,
Wilmington, DE 19899-1709
Attn: David M. Fournier (fournierd@pepperlaw.com)

Obtaining Additional Information

Copies of the Motion, the Bidding Procedures and the Bidding Procedures Order, as well as all related exhibits, and all other documents filed with the Court, are available free of charge on the Debtors' case information website, <https://cases.primeclerk.com/gibson> or can be requested by e-mail at gibsoninfo@primeclerk.com

Important Dates and Deadlines

1. **Bid Deadline.** The deadline to submit a bid is **September 20, 2018 at 4:00 p.m. (prevailing Eastern Time)**. All bids must be submitted to the Notice Parties (as defined in the Bidding Procedures) and, to be a Qualified Bid, must meet the requirements set forth in the Bidding Procedures.

2. **Auction.** In the event that the Debtors timely receive two or more Qualified Bids, the Debtors intend to conduct an Auction for the Property. The Auction, if one is held, will commence on **September 25, 2018 at 10:00 a.m. (prevailing Central Time)** at

_____, or such other date, time, or location as shall be timely communicated to all parties entitled to attend the Auction.

3. **Auction Objection and Sale Objection Deadlines.** The deadline to file an objection with the Court to the Sale is **September 20, 2018 at 4:00 pm. (prevailing Eastern Time)** (the "Sale Objection Deadline"). If the Auction is held, parties may object to the conduct of the Auction, the Successful Bidder, or the Sale with the Successful Bidder, at the Sale Hearing (as defined below).

4. **Sale Hearing.** A hearing (the "Sale Hearing") to approve and authorize the Sale to the Successful Bidder will be held before the Bankruptcy Court on **September 27, 2018 at 9:00 a.m. (prevailing Eastern Time)** or such other date as determined by the Court.

Filing Objections

Sale Objections, if any, must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court by no later than **the Sale Objection Deadline**, as applicable, and (d) be served on the Debtors' counsel: (a) Goodwin Procter LLP, 620 Eighth Avenue, New York, NY 10018-1405, Attn: Michael H. Goldstein, Gregory W. Fox, and Barry Z. Bazian (mgoldstein@goodwinlaw.com; gfox@goodwinlaw.com; bbazian@goodwinlaw.com), and (b) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, P.O. Box 1709, Wilmington, DE 19899-1709, Attention: David M. Fournier (fournier@pepperlaw.com). **FAILURE TO TIMELY FILE AN OBJECTION IN ACCORDANCE WITH THE ORDER MAY FOREVER BAR THE ASSERTION OF ANY OBJECTION TO THE MOTION OR CONSUMMATION OF THE SALE, AND MAY BE DEEMED TO CONSTITUTE CONSENT TO CONSUMMATION OF THE SALE AND ALL TRANSACTIONS RELATED THERETO.**

This Notice of Auction and Sale Hearing is subject to more complete terms and conditions of the Bidding Procedures Order and the Bidding Procedures (the Bidding Procedures Order shall control in the event of any conflict). The Debtors encourage parties in interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Property and/or copies of any related document, including the Bidding Procedures Motion, may request such information from the Debtors' counsel. In addition, as described above, copies of the Motion, the Bidding Procedures and the Bidding Procedures Order, as well as all related exhibits, and all other documents filed with the Court, are available free of charge on the Debtors' case information website, <https://cases.primeclerk.com/gibson> or can be requested by e-mail at gibsoninfo@primeclerk.com

Dated: August __, 2018
Wilmington, Delaware

PEPPER HAMILTON LLP

David M. Fournier (DE 2812)
Marcy J. McLaughlin (DE 6184)
Hercules Plaza, Suite 5100
1313 Market Street
P.O. Box 1709
Wilmington, Delaware 19899-1709

Telephone: (302) 777-6500
Email: fournierd@pepperlaw.com
mclaughlinm@pepperlaw.com

- and -

GOODWIN PROCTER LLP
Michael H. Goldstein (admitted *pro hac vice*)
Gregory W. Fox (admitted *pro hac vice*)
Barry Z. Bazian (admitted *pro hac vice*)
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
Tel: (212) 833-8800
Email: mgoldstein@goodwinlaw.com
gfox@goodwinlaw.com
bbazian@goodwinlaw.com

Counsel for Debtors and Debtors in Possession

EXHIBIT C

ASSUMPTION AND ASSIGNMENT NOTICE

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

	X	
	:	Chapter 11
In re:	:	
	:	Case No. 18-11025 (CSS)
GIBSON BRANDS, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors. ¹	:	
	X	

**NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS OR UNEXPIRED LEASES AND CURE AMOUNTS**

PLEASE TAKE NOTICE THAT:

1. The above-captioned debtors (collectively, the “Debtors”) each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) on May 1, 2018 (the “Petition Date”).

2. The Debtors filed a motion (the “Bidding Procedures Motion”) seeking the entry of an order: (a) approving auction and bidding procedures (the “Bidding Procedures”) pursuant to which the Debtors will solicit and select the highest and otherwise best offer for the sale (the “Sale”) of real property known as 1117 Church Street, Nashville, Davidson County, Tennessee (the “Property”), (b) scheduling and conducting an auction (the “Auction”), if necessary, (c) approving the procedures for the assumption and assignment of executory contracts and unexpired leases in connection with the Sale, including notice of proposed Cure Amounts (the “Assumption and Assignment Procedures”) and (d) scheduling a hearing (the “Sale Hearing”) to approve the Sale.

3. On August __, 2018, the Bankruptcy Court entered an order (Docket No. [__]) (the “Bidding Procedures Order”)² approving the Bidding Procedures and the Assumption and Assignment Procedures. Pursuant to the Assumption and Assignment Procedures, upon the closing of the Sale, the Debtors may assume and assign to the Successful Bidder certain executory contracts (“Contracts”) and unexpired leases (“Leases”).

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Gibson Brands, Inc. (4520); Cakewalk, Inc. (2455); Consolidated Musical Instruments, LLC (4695); Gibson Café & Gallery, LLC (0434); Gibson International Sales LLC (1754); Gibson Pro Audio Corp. (3042); Neat Audio Acquisition Corp. (3784); Gibson Innovations USA, Inc. (4620); Gibson Holdings, Inc. (8455); Baldwin Piano, Inc. (0371); Wurlitzer Corp. (0031); and Gibson Europe B.V. (Foreign). The Debtors’ corporate headquarters is located at 309 Plus Park Blvd., Nashville, TN 37217.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order. To the extent of any inconsistencies between the summary descriptions of the Assumption and Assignment Procedures in this notice, the terms of the Bidding Procedures Order shall control.

4. A schedule listing the Contracts and Leases that may potentially be assumed and assigned to the Successful Bidder as part of the Sale is attached hereto as Schedule 1 (the "Contracts List"). In addition, the Cure Amounts, if any, necessary for the assumption and assignment of such Contracts and Leases are also set forth on the Contracts List. *Each Cure Amount listed on the Contracts List represents the amount necessary to cure any default or unpaid obligations under each such Contract or Lease pursuant to section 365 of the Bankruptcy Code, based upon the Debtors' books and records.*

5. **YOU ARE RECEIVING THIS NOTICE BECAUSE YOU HAVE BEEN IDENTIFIED AS A COUNTERPARTY TO A CONTRACT OR LEASE THAT MAY BE ASSUMED AND ASSIGNED AS PART OF THE SALE.** Under the terms of the Assumption and Assignment Procedures, unless otherwise provided in the Successful Bidder's Real Estate Purchase Agreement ("REPA"), at any time until one (1) day prior to Sale Hearing, the Successful Bidder may add or remove from the schedule of "Assigned Contracts" annexed to its REPA (the "Assigned Contracts Schedule") a Contract or Lease identified on the Contracts List attached to this notice; provided that to the extent an Assumption and Assignment Objection (defined below) is pending as of the Sale Hearing, the Successful Bidder may elect to remove such Contract or Lease from the Assigned Contracts Schedule within three (3) business days following the Court's determination of such Assumption and Assignment Objection. *The presence of a Contract or Lease listed on the Contracts List attached hereto as Exhibit 1 does not constitute an admission that such Contract or Lease is an executory contract or unexpired lease or that such Contract or Lease will be assumed and assigned as part of the Sale. The Debtors reserve all of their rights, claims and causes of action with respect to the Contracts and Leases listed on the Contracts List attached hereto as Exhibit 1.*

6. Pursuant to the Assumption and Assignment Procedures, unless otherwise ordered by the Bankruptcy Court, counterparties to Contracts and Leases that are identified on the Contracts List attached hereto as Exhibit 1 shall have **until 14 calendar days after the date on which this notice was mailed to the counterparty** to file with the Court and serve on the Debtors' counsel an objection to the Debtors' proposed assumption and assignment of such Contract or Lease or to the proposed Cure Amount (each an "Assumption and Assignment Objection"); provided, however, that objections with respect to adequate assurance of future performance of a Successful Bidder other than the Stalking Horse Bidder may be filed and served at any time prior to the Sale Hearing. Any objections with respect to the assumption or assignment or Cure Amounts of Contracts and Leases will be heard and determined at the Sale Hearing.

CONSEQUENCES OF FAILING TO TIMELY ASSERT AN OBJECTION

UNLESS YOU FILE AN ASSUMPTION AND ASSIGNMENT OBJECTION IN ACCORDANCE WITH THE INSTRUCTIONS AND DEADLINES SET FORTH ABOVE, YOU SHALL BE (A) BARRED FROM OBJECTING TO THE CURE AMOUNT SET FORTH ON SCHEDULE 1, (B) ESTOPPED FROM ASSERTING OR CLAIMING ANY CURE AMOUNTS AGAINST THE DEBTORS, REORGANIZED DEBTORS OR SUCCESSFUL BIDDER THAT IS GREATER THAN THE CURE AMOUNT SET FORTH ON SCHEDULE 1 AND (C) DEEMED TO HAVE CONSENTED TO THE ASSUMPTION AND/OR ASSIGNMENT OF YOUR CONTRACT OR LEASE.

OBTAINING ADDITIONAL INFORMATION

Copies of the Bidding Procedures Motion, the Bidding Procedures and the Bidding Procedures Order, as well as all related exhibits, and all other documents filed with the Court, are available free of charge at <https://cases.primeclerk.com/gibson> or can be requested by e-mail at gibsoninfo@primeclerk.com or by contacting the Debtors' counsel.

Dated: August __, 2018
Wilmington, Delaware

PEPPER HAMILTON LLP

David M. Fournier (DE 2812)
Marcy J. McLaughlin (DE 6184)
Hercules Plaza, Suite 5100
1313 Market Street
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- and -

GOODWIN PROCTER LLP
Michael H. Goldstein (admitted *pro hac vice*)
Gregory W. Fox (admitted *pro hac vice*)
Barry Z. Bazian (admitted *pro hac vice*)
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Email: mgoldstein@goodwinlaw.com
gfox@goodwinlaw.com
bbazian@goodwinlaw.com

Counsel for Debtors and Debtors in Possession

SCHEDULE 1

Contracts and Leases that Potentially May be Assumed and Assigned

Contract/Lease Counterparty	Description of Contract/Lease	Cure Amount

EXHIBIT D

FORM REPA

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of the latest date of execution shown on the signature page hereto (the “**Effective Date**”), by and between Gibson Brands, Inc., a Delaware corporation, formerly known as Gibson Guitar Corp (the “**Seller**”), and _____, and/or its assigns (the “**Purchaser**”).

RECITALS:

WHEREAS, Seller is the owner of improved real property known as 1117 Church Street, Nashville, Davidson County, Tennessee, the legal description of which is set forth on Exhibit A to this Agreement, together with all improvements, appurtenances, easements and privileges belonging to the said real property (collectively, the “**Property**” or the “**Premises**”); and

WHEREAS, Purchaser has agreed to purchase the Property from Seller, and Seller has agreed to sell the Property to Purchaser as provided in this Agreement; and

WHEREAS, Seller and certain of its affiliates commenced on May 1, 2018 voluntary chapter 11 cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) styled *In re Gibson Brands, Inc.* (Case No. 18-11025 (CSS)); and

WHEREAS, subject to approval by the Bankruptcy Court and the consideration by the Seller of higher or better competing bids, the Property will be sold pursuant to the Bankruptcy Court Order approving, among other things, the sale of the Property under Section 363 of the Bankruptcy Code and the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals (which are incorporated herein by this reference), the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

ARTICLE I

Definitions

1.1 **Defined Terms.** As used herein, the following terms shall have the meanings indicated:

“Applicable Law” shall mean and include the following, as the same may be in effect from time to time:

- (i) any and all judicial decisions, statutes, rulings, rules, regulations, permits, or ordinances of any governmental or quasi-governmental authority that relate in any way or are applicable to the Property or the ownership or current use of the Property; and
- (ii) any and all covenants, conditions, and restrictions contained in any deed or other form of conveyance or in any other instrument of any nature that relate in any way or are applicable to the Property or the ownership, use, or occupancy thereof.

“Assigned Contracts” shall mean the contracts, agreements, Warranties, Permits and other intangibles set forth on **Schedule A** hereto.

“Bankruptcy Code” shall mean Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.*

“Bankruptcy Court Order” shall mean an order of the Bankruptcy Court, in form and substance satisfactory to Seller and the Required Supporting Noteholders, entered in the Chapter 11 Cases that, among other things, approves this Agreement, the sale of the Property free and clear under Section 363 of the Bankruptcy Code, and the assumption and assignment of the Assigned Contracts under Section 365 of the Bankruptcy Code.

“Bidding Procedures” shall have the meaning set forth in the Bidding Procedures Order.

“Bidding Procedures Order” shall mean that certain *Order (A) Approving Bidding and Sale Procedures for the Sale of the Church Street Property, (B) Authorizing the Debtors to Enter Into a Stalking Horse Agreement and to Provide Bid Protections Thereunder, (C) Scheduling the*

Hearing to Approve the Sale and (D) Approving the Form and Manner of Notice Thereof

[Docket No. ____], entered in the Chapter 11 Cases.

["**Bid Protections**" shall mean, collectively, the Break-Up Fee and the Expense Reimbursement.]¹¹

["**Break-Up Fee**" shall mean cash in the amount of \$_____ (which is 2% of the Purchase Price).]¹²

"**Business Day**" shall mean any day other than a Saturday, Sunday, or legal holiday on which national banks or banks in Tennessee are authorized or required by federal or state law to close.

"**Casualty**" shall have the meaning set forth in Section 7.2 hereof.

"**Chapter 11 Plan**" shall mean the *Debtors' Third Amended Joint Plan Chapter 11 Plan of Reorganization* [Bankruptcy Court Docket No. 565] (as such plan may be further amended).

"**Closing**" shall have the meaning set forth in Section 5.1 hereof.

"**Closing Date**" shall have the meaning set forth in Section 5.1 hereof.

"**Condemnation**" shall have the meaning set forth in Section 7.1 hereof.

"**Deposit**" shall have the meaning set forth in Section 2.3 hereof.

¹¹ NTD: To be included if this is a Stalking Horse Agreement.

¹² NTD: To be included if this is a Stalking Horse Agreement.

“Environmental Law” shall mean any federal, state or local law, statute, ordinance, rule or regulation pertaining to health, industrial hygiene, or the environmental conditions on or under the Property, or relating to releases, discharges, emissions, or disposals to air, water, soil, or ground water, or relating to the withdrawal or use of ground water, or relating to the use, handling, or disposal or polychlorinated biphenyls, asbestos, or urea formaldehyde, or relating to the treatment, transportation, disposal, storage, or management of Hazardous Materials (defined hereinafter), including, without limitation, the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended, and the Resource Conservation and Recovery Act of 1976, as amended, and all rules, and regulations, published pursuant thereto or promulgated thereunder.

“Escrow Agent” shall mean _____ in its capacity as escrow agent.

“Expense Reimbursement” shall mean an amount up to \$50,000 of the reasonable out-of-pocket costs, fees and expenses of Purchaser (including reasonable expenses of legal, financial advisory, accounting and other similar costs, fees and expenses) related to the transactions contemplated by this Agreement.]¹³

“FIRPTA” shall have the meaning set forth in Section 5.1 hereof.

“Hazardous Material” shall mean and include, without limitation:

- (i) those substances included within the definitions or “hazardous substances”, “hazardous waste”, “hazardous material”, “toxic substances”, “contaminants”, and/or “pollutants” in any Environmental Law; and

¹³ NTD: To be included if this is a Stalking Horse Agreement.

(ii) any material, waste, or substance, which is or contains asbestos, polychlorinated biphenyls, petroleum and its derivative by-products, and/or any other explosive or radioactive materials or is regulated by any local governmental authority, the State of Tennessee, or the United States Government.

“Internal Revenue Code” shall mean the Internal Revenue Code of 1986, as amended.

“Liability” shall mean any debts, adverse claims, commitments, responsibilities, liability or obligation of any kind or nature whatsoever including exemplary, special and punitive damages (whether direct or indirect, known or unknown, absolute or contingent, vested or unvested, accrued or unaccrued, liquidated or unliquidated, or due or to become due and whether or not reflected, or required to be reflected, in such Person's balance sheet or other books and records), and including all costs and expenses relating thereto.

“Owner’s Policy” shall have the meaning set forth in Section 3.1 hereof.

“Permits” shall mean all permits, licenses, and approvals necessary to construct, operate, and use the Property in accordance with Applicable Law, including zoning approvals and variances, building, curb, sewer, and other construction-related permits.

“Person” shall mean any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, governmental body or other entity.

“Purchase Price” shall have the meaning set forth in Section 2.2 hereof.

“Required Supporting Noteholders” shall have the meaning set forth in the Chapter 11 Plan.

“**Sale Hearing**” shall mean the hearing at which the Bankruptcy Court will consider approval of this Agreement and the sale of the Property.

“**Seller’s Knowledge**” shall mean the actual knowledge of Seller without inquiry or diligence.

“**State**” shall mean the State of Tennessee.

“**State Court Cases**” shall mean Chancery Court for Davidson County, Tennessee, Docket No. 18-44-I and Chancery Court for Davidson County, Tennessee, Docket No. 17-1374-II;

“**Successful Bidder**” shall have the meaning set forth in the Bidding Procedures Order.

“**Title Company**” shall mean _____.

ARTICLE II

Agreement to Convey; Purchase Price; Earnest Money

2.1 **Purchase and Sale.** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all of Seller’s right, title, and interest in, to, and under the Property.

2.2 **Purchase Price.** The purchase price for the Property payable by Purchaser to Seller (the “**Purchase Price**”) shall be (\$_____) payable as hereinafter provided. The Purchaser shall be solely responsible to make any payments to cure defaults or arrears under any Assigned Contracts as required under Bankruptcy Code section 365(b) or otherwise.

2.3 **Earnest Money.** To secure the obligations of Purchaser hereunder, Purchaser shall deposit with Title Company funds in the amount of ten percent (10%) of the Purchase Price as earnest money (together with any and all interest earned thereon, the “**Deposit**”). At Closing, the Deposit shall be delivered to the Seller and Purchaser shall receive a credit against the Purchase Price for the same.

2.4 **Payment of Purchase Price.** At the Closing, Purchaser shall pay to Seller the Purchase Price, less the Deposit which shall be credited towards the Purchase Price, plus or minus prorations and adjustments provided for herein, in immediately available funds.

2.5 **[Qualified Bid.** This Agreement is a Stalking Horse Agreement (as defined in the Bidding Procedures Order). Attached hereto as Exhibit ___ is a letter and other written materials setting forth Purchaser's representations and information required by the "Provisions Governing Qualified Bids" set forth in the Bidding Procedures.]¹⁴

ARTICLE III

Title

3.1 **Owner's Policy.** At Purchaser's sole cost and expense, Title Company shall deliver to Purchaser within ten (10) days of Closing an ALTA 2006 Owner's Policy of Title Insurance (the "**Owner's Policy**") in such form, as is currently submitted to and approved by the Department of Commerce and Insurance, Insurance Division for the State, in the amount of the Purchase Price, dated as of the Closing Date, insuring title to the Property in Purchaser. Purchaser may obtain, such endorsements to the Owner's Policy as it desires, at Purchaser's sole cost and expense, including but not limited to (i) full extended coverage over all general exceptions, and containing, if available, (ii) an ALTA Form 3.0 Zoning Endorsement; (iii) an access endorsement; (iv) a survey endorsement; (v) comprehensive restrictions and covenants endorsement (if applicable), (vi) an endorsement insuring against violations of state or local subdivision laws or ordinances, (vii) a tax parcel endorsement, and (viii) such other endorsements as Purchaser may reasonably require. The costs and expenses related to the Owner's Policy shall be paid as stated in Section 5.5 hereof.

ARTICLE IV

Representations, Warranties, and Conditions

4.1 **Seller's Representations.** Seller hereby represents and warrants to, and covenants with, Purchaser as of the date hereof and as of the Closing as follows:

(a) Other than the Seller Lease to be executed and delivered at the Closing, there are no leases, rental agreements, license agreements or other occupancy agreements currently in effect or that will affect the Property after Closing.

(b) The Seller is duly formed and validly existing under the laws of the jurisdiction of its organization and is qualified to transact business in the jurisdiction where the Property is located.

(c) Seller possesses all requisite power and authority, and has taken all actions required by its organizational documents and applicable law, to execute and deliver this Agreement and will, by Closing, have taken all actions required by its organizational documents

¹⁴ NTD: To be included if this is a Stalking Horse Agreement.

and applicable law to consummate the transactions contemplated by this Agreement; provided, however, Seller requires the entry of the Bankruptcy Court Order in the Chapter 11 Cases to effectuate the Closing.

(d) Seller has received no written notice from any governmental authority, and has no knowledge, of any violation of Applicable Law which has not been heretofore corrected and fully satisfied, or any special tax or assessment to be levied against the Property, or any change in the tax assessment of the Property.

(e) Other than the pendency of the Chapter 11 Cases, and the State Court Cases, there are no pending or, to Seller's knowledge, threatened action, suit, claim, litigation, governmental investigation, or like proceeding before any court, tribunal, or other governmental or quasi-governmental agency respecting the Property or the operation thereof by Seller, or which would be reasonably likely to materially affect the Property or Seller's ability to perform its obligations hereunder.

(f) There are no pending or, to Seller's knowledge, threatened condemnation or eminent domain proceedings against the Property or any part thereof.

(g) Seller is not bound by nor a party to any collective bargaining or other union agreement.

(h) The information to be furnished by Seller, on which the compilation of prorrations, to Seller's knowledge, will be based, shall be true, correct, and complete in all material respects.

(i) No portion of the Property comprises part of a tax parcel, which includes property other than the Property.

(j) To Seller's knowledge, there does not exist (1) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Material by Seller or, to Seller's knowledge any prior owners or occupants of the Property, (2) any underground tanks, drums and other containers; (3) any electrical transformers or other equipment of any type or nature located on the Property containing polychlorinated biphenyls; or (4) to Seller's knowledge any other environmental conditions with respect to the Property which now or in the future may require remediation.

(k) The Property has never been used (whether by Seller or, to Seller's knowledge, any other person) as a landfill (whether permanent or temporary) for any Hazardous Material.

(l) To Seller's knowledge, neither the Property, nor the use, maintenance, or operation thereof is in violation of any Environmental law. Seller does not have in its possession and/or control and in the last ten (10) years has not received any environmental/hazardous waste studies and/or reports relating to the Property (collectively, the "**Environmental Reports**").

(m) Seller is not a "foreign person," "foreign trust" or "foreign corporation" (as those terms are defined in the Internal Revenue Code of 1986, as amended, and related Income Tax Regulations).

(n) Subject to the entry of the Bankruptcy Court Order in the Chapter 11 Cases, Seller's execution and delivery of, and performance under, this Agreement is pursuant to valid authority duly conferred upon Seller and the signatories hereto. To the Seller's knowledge, the consummation of the transactions contemplated hereby and the compliance by Seller with the terms of this Agreement do not and will not conflict with or result in a breach of any of the terms or provisions of any agreement, arrangement, undertaking, accord, document, or instrument to which Seller is a party or by which the Property is bound, or constitute a violation of any Applicable Law to which Seller or the Property is bound or subject, except that the consummation of the transactions is subject to the entry of the Bankruptcy Court Order approving this Agreement.

(o) Seller has good and marketable fee simple title to the Property.

(p) To Seller's knowledge, the condition of the Property does not violate any Applicable Law. Seller has not received written notice from any governmental authority of any violation of any federal, state, or local laws, ordinances, orders, regulations, and requirements affecting the Property or any portion thereof (including the conduct of business operations thereon) (collectively, "**Violations**") which violation remains unresolved.

(q) Neither Seller nor, to Seller's knowledge, any of its equity owners nor any of their respective employees, officers, or directors, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Assets Control of the Department of the Treasury ("**OFAC**") (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) or under any similar statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other similar governmental action.

(r) Seller has not granted any option or right of first refusal or right of first offer to purchase the Property or any interest therein or portion thereof.

(s) Seller has not initiated any proceedings for refunds or adjustments of real estate taxes and assessments levied, assessed or pending against the Property or to reduce the assessed valuation of the Property.

(t) The Property Information delivered and to be delivered by Seller to Purchaser pursuant to this Agreement are true, correct and complete copies of all such materials in Seller's possession or accessible by Seller.

(u) Seller has delivered to Purchaser all applicable manufacturers' and contractors' warranties (the "**Warranties**") as part of the Property Information. Seller has not received notice that any applicable Warranties have been voided by the manufacturer or contractor (except with respect to any warranty that has expired in accordance with its terms) or otherwise threatening to void or limit such Warranties.

(v) To Seller's knowledge there are no outstanding unrecorded public works or other off-site improvement agreements, recapture or latecomer agreements imposing on the Property or the owner of the Property costs of prior utility or other infrastructure installations. There are no outstanding bonds or letters of credit posted with any governmental authority, utility or other entity or person relating to the Property that Purchaser will be obligated to assume or replace at Closing.

(w) Between the date hereof and the Closing Date,

(1) Seller will not voluntarily sell, lease, license, transfer, convey, or encumber, or cause or permit to be sold, leased, licensed, transferred, conveyed, or encumbered, the Property or any part thereof or interest therein, or alter or amend the zoning classification or the Property, or otherwise perform or permit any act or deed which shall diminish, encumber, or affect the value of the Property, Seller's rights in and to the Property or prevent it from fully performing its obligations hereunder; and

(2) Seller will permit Purchaser, its agents, representatives, and consultants to perform such studies and conduct such physical inspections and tests on the Property as Purchaser may deem necessary or desirable, in Purchaser's sole discretion, at all reasonable times and to inspect and make copies of all records, documents and other paperwork and information, if any, in possession or under the control of Seller which relate to the Property (the "**Property Information**").

(x) Seller shall give Purchaser prompt notice of the occurrence of any event or the receipt of any notice or knowledge the effect of which would be to make any representation, warranty, or covenant of Seller untrue or misleading in any material respect.

(y) There are no donations of monies of lands or payments (other than general real estate taxes) for schools, parks, fire departments, infrastructure, or any other public facilities or for any other purpose which are or will be required to be made by an owner of the Property. There are no obligations burdening the Property under any so-called "recapture agreement" involving refunds for sewer or water extension or other improvements to any sewer or water systems, oversizing utility, lighting, or similar expense or charge for work or services done upon or relating to the Property.

(z) **Schedule B** sets forth a true and complete list of all Permits affecting the Property.

All representations and warranties in this Agreement, and the covenants, agreements and obligations in this Agreement that are to be performed at or before the Closing, shall not survive the Closing and, other than in the case of fraud, none of the Parties shall have any Liability to

each other after the Closing for any breach thereof. Prior to the Closing, Seller shall give Purchaser prompt notice of the occurrence of any event or the receipt of any notice or knowledge the effect of which would be to make any representation, warranty, or covenant of Seller untrue or misleading in any material respect.

4.2 **Purchaser's Representations.** Purchaser hereby represents and warrants to, and covenants with, Seller that Purchaser's execution and delivery of, and performance under, this Agreement is pursuant to valid authority duly conferred upon Purchaser and the signatories hereto. To Purchaser's knowledge, the consummation of the transactions contemplated hereby and the compliance by Purchaser with the terms of this Agreement do not and will not conflict with or result in a breach of any of the terms or provisions of any agreement, arrangement, understanding, accord, document, or instrument to which Purchaser is a party or by which Purchaser is bound, or constitute a violation of any Applicable Law to which Purchaser is bound or subject, except that the consummation of the transactions is subject to the approval of the Bankruptcy Court in the Chapter 11 Cases. Purchaser shall give Seller prompt notice of the occurrence of any event or the receipt of any notice or knowledge the effect of which would be to make any representation, warranty, or covenant of Purchaser untrue or misleading in any material respect.

4.3 **Property Condition.** Purchaser acknowledges that it accepts the Property in the present condition, "as is", "where is" and "with all faults". Seller makes no representations as the condition of the Property or its suitability for Purchaser's intended use.

ARTICLE V

Closing; Contingencies

5.1 **Closing.** The closing of the transaction contemplated hereby (the "**Closing**") shall occur on or before a date no more than seven (7) days following the entry of the Bankruptcy Court Order or on such other date as may be mutually acceptable to Seller, Purchaser and the Required Supporting Noteholders (the "**Closing Date**"). On or before the date of the Sale Hearing, Seller and Purchaser shall deposit with the Escrow Agent any and all documents necessary to consummate the transfer of title from Seller to Purchaser pursuant to this Agreement (the "**Escrow**"). Counsel for Seller and Purchaser are hereby authorized to execute the escrow trust instructions, as well as any amendments thereto, on behalf of their respective clients. **FIRPTA Compliance.** Notwithstanding anything contained herein to the contrary, Seller acknowledges that the transaction contemplated hereunder may be subject to the provisions of the Foreign Investment in Real Property Tax Act of 1980, as amended ("**FIRPTA**"). Unless Seller can establish, by affidavit or otherwise, that the transaction contemplated hereunder is not subject to the withholding requirements of Section 1445(a) of the Internal Revenue Code, Purchaser shall be entitled to withhold from the Purchase Price an amount equal to ten percent (10%) of the amount realized by Seller on the sale of the Property to Purchaser (the "**FIRPTA**").

Withholding”) and pay the FIRPTA Withholding to the Internal Revenue Service in accordance with the provisions of the Internal Revenue Code. Upon payment to Seller of the Purchase Price, less the FIRPTA Withholding, together with payment (or written direction to Title Company to make payment) of the FIRPTA Withholding to the Internal Revenue Service, Purchaser shall have fully discharged its obligation to pay the Purchase Price to Seller.

5.2 **Documents to be Delivered by Seller at Closing.** At Closing, Seller shall deliver or cause to be delivered to Title Company, through the Escrow, the following:

(a) a special warranty deed (the “**Deed**”), conveying the Property to Purchaser or its permitted assignee, and a Quitclaim Deed, if so desired by Purchaser, conveying the Property to Purchaser and utilizing a survey description in the event Purchaser provides an updated survey to Title Company;

(b) a Seller’s certificate, in the form attached hereto as **Exhibit B** (the “**Seller’s Certificate**”), stating that all of the representations and warranties set forth in this Agreement are true and accurate as of the Closing Date;

(c) an affidavit, in the form attached hereto as **Exhibit C** (the “**Certification of Non-Foreign Status**”), stating Seller’s U.S. taxpayer identification number and that Seller is a “United States Person”, as defined by Sections 1445(f)(3) and 7701(b) of the Internal Revenue Code;

(d) such Seller’s affidavits or undertakings reasonably acceptable to Title Company as it may require to issue the Owner’s Policy;

(e) a fully executed counterparts of an agreed upon closing and proration statement (the “**Closing Statement**”);

(f) a fully executed counterparts of the Seller’s Lease in the form of **Exhibit F**;

(g) a Bill of Sale, substantially in the form of **Exhibit D**;

(h) subject to entry of the Bankruptcy Court Order authorizing the assumption and assignment of the Assigned Contracts, an Assignment and Assumption Agreement substantially in the form of **Exhibit E**, with respect to the Assigned Contracts;

(i) the Bankruptcy Court Order; and

(j) such other documents and instruments as may be reasonably required by any other provision of this Agreement, or as may be reasonably necessary to consummate the transactions contemplated hereby.

5.3 **Documents to be Delivered by Purchaser at Closing.** At Closing, Purchaser shall deliver or cause to be delivered to Title Company, through the Escrow or otherwise, the following:

- (a) the balance of the Purchase Price (less the Deposit), plus or minus apportionments, prorations and adjustments as provided in this Agreement;
- (b) fully executed counterparts of the Closing Statement;
- (c) fully executed counterparts of the Seller Lease;
- (d) Bill of Sale, substantially in the form of **Exhibit D**;
- (e) Assignment and Assumption Agreement, substantially in the form of **Exhibit E**;
- (f) such other documents and instruments as may be reasonably required by any other provision of this Agreement, or as may be reasonably necessary to consummate the transactions contemplated hereby.

5.4 **Prorations.** At the Closing, Seller and Purchaser shall apportion the following:

(a) real estate, personal property, payments due under any local improvement district or ad valorem taxes for the year in which the Closing occurs will be prorated between Seller and Purchaser as of the Apportionment Time (as defined below) on the basis of actual bills therefor, if available, with such proration to be based on the applicable tax year (i.e. not the year of assessment) rather than on the calendar year. If such bills are not available, then such taxes and other charges shall be prorated on the basis of the most currently available tax bills and, thereafter, promptly re-prorated upon the availability of actual bills for the applicable period. Any and all rebates or reductions in taxes received after Closing for the tax year in which Closing occurs, net of costs of obtaining the same (including without limitation reasonable attorneys' fees) and net of any amounts due to tenants, shall be prorated as of the Apportionment Time, when received by Seller or Purchaser.

(b) water, sewer, electric, fuel (if any) and other utility charges. If consumption of any of the foregoing is measured by meter, Seller shall, prior to the Closing Date, endeavor to obtain a reading of each such meter and a final bill as of the Closing Date. If there is no such meter or if the bill for any of the foregoing will not have been issued as of the Closing Date, the charges therefor shall be adjusted as of the Apportionment Time on the basis of the charges of the prior period for which such bills were issued and shall be further adjusted between the parties when the bills for the correct period are issued. Seller and Purchaser shall cooperate to cause the transfer of utility accounts from Seller to Purchaser.

Premiums on insurance policies will not be subject to proration; instead, as of the Closing Date, Seller will terminate its insurance coverage for the Property and Purchaser will effect its own insurance coverage.

The term "**Apportionment Time**" shall mean 11:59 p.m. Eastern Standard Time on the date immediately prior to the Closing Date.

The provisions of this Section 5.4 shall survive Closing.

5.5 **Expenses.** Except as otherwise provided in this Agreement, the costs and expenses related to the transactions contemplated hereby shall be paid by Seller and Purchaser, as follows:

5.5.1 The following expenses shall be paid by Seller at Closing:

- (a) The cost for preparation of the Deed.
- (b) Any attorneys' fees incurred by the Seller in connection with the negotiation of this Agreement.

5.5.2 The following expenses shall be paid by Purchaser at Closing:

- (a) Recording fees.
- (b) Costs associated with any loan obtained by the Purchaser to fund all or any portion of the Purchase Price.
- (c) Costs associated with a survey, Phase 1 Environmental Report and/or any inspections or examinations of the Property not paid by Seller.
- (d) Escrow Agent's fees for its services as Escrow Agent.
- (e) Any attorneys' fees incurred by the Purchaser in connection with the negotiation of this Agreement.
- (f) Transfer taxes and other costs associated with the transfer of title to the Property to the Purchaser.
- (g) Costs related to the issuance of an owner's policy of title insurance.
- (h) Any other costs, charges, expenses or fees related to this Agreement not specifically identified in Section 5.5.1 to be paid by Seller.

Each party shall pay its own legal fees. All other costs, charges, and expenses shall be paid as provided in this Agreement.

5.6 **Conditions Precedent to Purchaser's Obligation to Close.** Purchaser's obligation to purchase the Property is subject to satisfaction on or before the Closing Date of the following conditions, any of which may be waived in writing by Purchaser in Purchaser's sole and absolute discretion:

(a) **Bankruptcy Court Order.** The Bankruptcy Court Order shall have been entered.

(b) **Delivery of Closing Documents.** Seller shall have delivered each of the documents required to be delivered under Section 5.2 of this Agreement.

(c) **Covenants.** Seller shall have performed and observed, in all material respects, all covenants of Seller under this Agreement.

(d) **Representations and Warranties.** All representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects as if made on the Closing Date; provided, however, that all representations and warranties in this Agreement, and the covenants, agreements and obligations in this Agreement that are to be performed at or before the Closing, shall not survive the Closing and, other than in the case of fraud, none of the Parties shall have any Liability to each other after the Closing for any breach thereof.

5.7 **Conditions Precedent to Seller's Obligation to Close.** Seller's obligation to sell the Property is subject to satisfaction, on or before the Closing Date of the following conditions, any of which may be waived in writing by Seller, in Seller's sole and absolute discretion:

(a) **Covenants.** Purchaser shall have performed and observed, in all material respects, all covenants of Purchaser under this Agreement.

(b) **Representations and Warranties.** All representations and warranties of Purchaser set forth in this Agreement shall be true and correct in all material respects as if made on the Closing Date.

(c) **Delivery of Closing Documents and Payment of Purchase Price.** Purchaser shall have delivered each of the documents required to be delivered under Section 5.2 of this Agreement and shall have paid into escrow the balance due of the Purchase Price as adjusted by apportionments, credits and prorations pursuant to the terms of this Agreement.

(d) **Bankruptcy Court Order.** Seller's obligation to close is expressly contingent upon the entry of the Bankruptcy Court Order.

5.8 **Possession of the Property and Seller Leaseback.** Following the Closing, and for a period of six (6) months thereafter, Seller shall lease the Property from Purchaser subject to the terms and conditions of the lease set forth as **Exhibit F** hereto, executed counterparts of which shall be delivered by Seller and Purchaser at Closing (the "**Seller Lease**").

ARTICLE VI

Defaults

6.1 **Notice and Cure.** No party shall be deemed to be in default hereunder unless such party fails to cure the alleged default within ten (10) days after receipt of written notice thereof; provided, however, that no notice shall be required, or cure period permitted in the event the alleged default is a failure to close the transaction contemplated hereby on or before the

Closing Date. For the avoidance of doubt, it shall not be an event of default if Seller fails to close the transaction contemplated hereby solely because (a) Purchaser is not the Successful Bidder; or (b) Seller is unable through commercially reasonable efforts to obtain entry of the Bankruptcy Court Order.

6.2 **Default by Seller.** In the event of an uncured default by Seller hereunder, Purchaser shall be entitled to terminate this Agreement by written notice to Seller in which event the Deposit shall be returned to Purchaser and neither party shall have any further rights, obligations or Liabilities hereunder. [In the event the Bankruptcy Court approves the sale of the Property to a Successful Bidder that is not Purchaser or an affiliate of Purchaser, then Purchaser shall be entitled to payment of the Bid Protections upon and at the Closing of the sale of the Property to such Successful Bidder, from the proceeds of such sale; provided, however, that Purchaser shall not be entitled to payment of the Bid Protections if the Closing of the sale to Purchaser does not occur due to a default of, or termination of this Agreement by, Purchaser.]¹⁵

6.3 **Default by Purchaser.** In the event of a failure to close by Purchaser, where Purchaser has not otherwise terminated this Agreement pursuant to the terms hereof, Seller and Purchaser agree that it would be impractical and extremely difficult to establish Seller's damage by reason of Purchaser's default, that the Deposit is a reasonable estimate of such damages, and that Seller shall retain, as its sole and exclusive remedy, the Deposit as liquidated damages.

BY PLACING THEIR INITIALS IMMEDIATELY BELOW, PURCHASER AND
SELLER EACH CONFIRM THAT THEY HAVE READ AND UNDERSTAND AND
ACCEPT THE DEFAULT AND DAMAGES PROVISIONS STATED ABOVE IN SECTIONS
6.2 AND 6.3.

_____(Purchaser)

_____(Seller)

ARTICLE VII

Condemnation

7.1 **Condemnation.** If, prior to Closing, any condemnation proceedings are threatened or commenced against all or any material (as determined by Purchaser in its sole discretion) part of the Property (a "**Condemnation**"), Seller shall so notify Purchaser in writing and Purchaser shall elect, by written notice to Seller within ten (10) Business Days after receipt of Seller's notice, to either:

(a) terminate this Agreement, in which event the Deposit shall be returned to Purchaser and neither party shall have any further rights, obligations, or Liabilities hereunder; or

¹⁵ NTD: To be included if this is a Stalking Horse Agreement.

(b) close the transaction contemplated hereby without a reduction in the Purchase Price, in which case Seller shall assign to Purchaser all of Seller's right, title, and interest in, to, and under any Condemnation award to be paid to Seller in connection with such Condemnation; provided, however, that if Purchaser fails to make an election within the aforesaid ten (10) day period, Purchaser shall be deemed to have elected to proceed in accordance with the provisions of subsection (a) above.

7.2 **Casualty.** Risk of loss for damage to all or any part of the Property by fire or other casualty (a "Casualty") from the date hereof through the Closing Date will be on Seller. Seller shall promptly notify Purchaser of any Casualty. If, prior to Closing, one or more Casualties shall affect, in the aggregate, all or any material portion (which for purposes of this Agreement shall mean one or more Casualties affecting no less than five percent (5%) of the improvements on the Property (the "Casualty Threshold") as reasonably determined by Purchaser) of the Property, Purchaser shall elect, by written notice to Seller within ten (10) Business Days after receipt of Seller's notice, to either:

(a) terminate this Agreement, in which event the Deposit shall be returned to Purchaser and neither party shall have any further rights, obligations, or Liabilities hereunder; or

(b) close the transaction contemplated hereby without a reduction in the Purchase Price, in which case Purchaser shall have the right at Closing to receive a credit for the amount of the deductible and Seller shall assign to Purchaser all of Seller's right, title, and interest in, to, and under any insurance proceeds to be paid to Seller in connection with such Casualty; provided, however, that if Purchaser fails to make an election within the aforesaid ten (10) day period, Purchaser shall be deemed to have elected to proceed in accordance with the provisions of subsection (a) above.

If, prior to Closing, one or more Casualties shall affect, in the aggregate, improvements on the Property equal to or less than the Casualty Threshold (as reasonably determined by Purchaser), then Purchaser shall have the right at Closing to receive a credit for the amount of the deductible plus all insurance proceeds received by Seller as a result of such loss, and an assignment of Seller's rights to such insurance proceeds, and this Agreement shall continue in full force and effect with no reduction in the Purchase Price.

ARTICLE VIII

General Provisions

8.1 **Intermediaries.** Seller represents that it is represented by CBRE, Inc. and, subject to the entry of the Bankruptcy Court Order, Seller is solely responsible for all commissions related to said representation. Seller further covenants that there are no other

brokers, finders, or other intermediaries of any kind with whom Seller has dealt in connection with the transactions contemplated hereby. Purchaser covenants that Purchaser is solely responsible for any and all commissions due to its brokers, finders, or other intermediaries of any kind, if any, representing Purchaser in connection with the transactions contemplated hereby. Purchaser agrees to indemnify and hold Seller harmless against any claims (including court costs and attorneys' fees) for commissions by any broker, finder or other intermediary of any kind alleging it represented Purchaser in connection with the transactions contemplated hereby.

8.2 **Notices.** All notices or other communications required or permitted hereunder shall be in writing and shall be deemed received (a) upon receipted delivery if sent by personal messenger before 5 p.m. local time on a Business Day, otherwise, upon the following Business Day, (b) three (3) Business Days after being deposited in the U.S. Mail, registered or certified, return receipt requested, (c) one (1) Business Day after being deposited with a nationally recognized overnight courier service, or (d) upon confirmation of receipt if sent by email, in each case with postage/delivery prepaid or billed to the sender and addressed as follows:

If to Seller:

Gibson Brands, Inc.
309 Plus Park Blvd.
Nashville, TN 37217
Attn: Tommy Gaffney

with copies to:

SoBro Law Group, PLLC
513 3rd Avenue South
Nashville, TN 37210
Attn: Adam G. LaFevor

-and-

Goodwin Procter LLP

The New York Times Building

620 Eighth Avenue

New York, NY 10018

Attn: Michael H. Goldstein, Gregory W. Fox and Barry Z. Bazian

If to Purchaser: []

Either party may change its address for purposes of notice hereunder by giving written notice thereof as aforesaid.

8.3 **Entire Agreement.** This Agreement, including all exhibits attached hereto and documents to be delivered pursuant hereto, shall constitute the entire agreement and understanding of the parties, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants not contained herein. In the event of a conflict between this Agreement and the Bankruptcy Court Order, the terms of the Bankruptcy Court Order shall prevail.

8.4 **Amendment.** This Agreement may be amended only by a written instrument executed by all of the parties hereto.

8.5 **Waivers.** No waiver of any condition or provision of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be deemed or construed as a waiver of any other or similar provision or of any future event, act, or default.

8.6 **Time.** In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which such period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until the end of the next Business Day.

8.7 **Severability.** If any provision of this Agreement is deemed unenforceable in whole or part, such provision shall be limited to the extent necessary to render the same valid or shall be exercised from this Agreement, as circumstances require, and this Agreement shall be construed as if said provision had been incorporated herein as so limited or as if such provision had not been included herein, as the case may be.

8.8 **Headings.** Headings of sections are for convenience of reference only and shall not be construed as part of this Agreement.

8.9 **Assignment; Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns. Notwithstanding the foregoing, this Agreement may not be assigned by Purchaser without the prior written consent of Seller; provided that Purchaser, upon prior notice to Seller, may assign this Agreement to an entity owned and/or controlled by Purchaser.

8.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

8.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute a single instrument.

8.12 **Litigation.** In the event any dispute arises hereunder, including but not limited to, with respect to the disposition of the Deposit pursuant to this Agreement, and litigation or arbitration proceedings are commenced, the prevailing party shall be entitled to recover from the other party all reasonable costs and expenses incurred in connection with such proceedings, including but not limited to reasonable attorneys' fees and costs.

8.13 **Construction of Agreement.** In no event shall this Agreement be construed more strongly against any one person solely because such person acted as draftsman hereof, it being acknowledged by the parties hereto that both have been represented by competent legal counsel, that this Agreement has been subject to substantial negotiation, and that all parties have contributed substantially to the preparation of this Agreement.

8.14 **Section 1031 Like-Kind Exchange.** Purchaser and Seller acknowledge that the other party may engage in a like-kind exchange with respect to the Property under Section 1031 of the Internal Revenue Code (the "1031 Exchange"). Purchaser and Seller agree to cooperate with each other, at no expense to the cooperating party, in connection with a 1031 Exchange relating to the Property and consent to the assignment of this Agreement by Seller to a "qualified intermediary" (within the meaning of Section 1.1031(k)-1 of the Treasury Regulations) for purposes of effecting a 1031 Exchange.

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed as of the dates written below.

SELLER:

PURCHASER:

Gibson Brands, Inc.
formerly known as Gibson Guitar Corp.

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A

Legal Description of Property

EXHIBIT A

Property Description

TRACT ONE:

Being a parcel of land in Nashville, First Civil District, Nineteenth Councilmanic District Davidson County, Tennessee, located in the southeasterly quadrant of the intersection of Twelfth Avenue North and Church Street, being lot nos. 130, 131, 132 and a part of lot no. 133 as shown on the plan of Hynes Addition to Nashville, as of record in Minute Book "B" page 85 and Plan Book 1, page 21, Chancery Court of Nashville, Tennessee and being more particularly described as follows:

BEGINNING at the point of intersection of the easterly right-of-way line of Twelfth Avenue North and the southerly right-of-way line of Church Street;

THENCE, with said southerly right-of-way line the following calls:

N59° 07' 02"E, 79.39 feet to an iron pin;

S28° 56' 58"E, 3.31 feet to an iron pin;

N59° 07' 02"E, 78.72 feet to an iron pin at the point of intersection with the westerly right-of-way line of Alley No. 225;

THENCE, with said right-of-way line S34° 15' 30"E, 304.13 feet to an iron pin;

THENCE, leaving said right-of-way line with the northerly line of property conveyed to Julia Locke Stringfellow, by deeds of record in Book 5033, Page 824, and Book 8362, Page 258, R.O.D.C., S53° 33'33"W. 157.85 feet to an iron pin in the easterly right-of-way line of Twelfth Avenue North;

THENCE, with said right-of-way line N34° 13' 21"W, 322.75 feet to the point of beginning.

Containing 49,409 square feet or 1.13 acres more or less.

TRACT TWO - Air Rights Easement

Being a parcel of land in Nashville, First Civil District, Nineteenth Councilmanic District, Davidson County, Tennessee, located south of Church Street and above Twelfth Avenue North, being more particularly described as follows:

BEGINNING at the point of intersection of the easterly right-of-way line of Twelfth Avenue North and the southerly right-of-way line of Church Street;

THENCE, with said easterly right-of-way line of Twelfth Avenue North, S34° 13' 21"E, 132.68 feet to a point;

THENCE, crossing said Twelfth Avenue North, S55°, 46' 39"W, 41.43 feet to a severance line, said line being the easterly side of a concrete wall with railing;

THENCE, along said concrete wall, N34° 13' 21"W, 135.10 feet to a point in the southerly right-of-way line of Church Street;

THENCE, along said southerly right-of-way line of Church Street, N59° 07' 02"E, 41.50 feet to the point of beginning.

Containing 5,547 square feet of 0.13 acres more or less.

Being the same property conveyed to Joseph N. Barker, Trustee by deed record in Book 10375, Page 138 Register's Office Davidson County, Tennessee.

The above tracts being the same property described in a survey prepared by Wendell H. Talley, Sr. (R.L.S. No. 785) Barge, Waggoner, Sumner & Cannon, Inc., dated March 5, 1997, File No. 15996-01.

Ex. A - 2

ACTIVE/95333206.2

EXHIBIT B

Seller's Certificate

Gibson Brands, Inc., formerly known as Gibson Guitar Corp., "Seller"), hereby certifies to _____, a _____ company that all of the representations and warranties set forth in that certain Real Estate Purchase Agreement dated _____, 2018, are true and accurate in all material respects, as of the date hereof.

Dated: _____, 2018.

SELLER:

Gibson Brands, Inc.

By: _____

Date: _____

EXHIBIT C

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform _____, a _____ ("Transferee"), that withholding of tax is not required upon the disposition of a U.S. real property interest by Gibson Brands, Inc. ("Seller"), the undersigned hereby certifies the following:

1. Seller is a "United States Person" and is not a "foreign person" in accordance with and for the purposes of the provisions of sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
2. Seller's U.S. Employer Identification Number is: _____.
3. [Seller is not a pass through entity]
4. Seller's office address is:

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Dated: _____, 2018.

SELLER:

Gibson Brands, Inc.

By: _____

Date: _____

ACKNOWLEDGMENT

THE STATE OF _____)
)
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2018, by _____,
_____ of Gibson Brands, Inc., a Delaware Corporation.

Notary Public

My Commission Expires: _____

EXHIBIT D

FORM OF BILL OF SALE

THIS BILL OF SALE (this "Bill of Sale") is executed as of the __ day of _____, 2018, by Gibson Brands, Inc., a Delaware corporation ("Seller"), in favor of _____ ("Purchaser").

A. Pursuant to an Real Estate Purchase Agreement dated _____ (the "Purchase Agreement"), Purchaser is acquiring from Seller certain Property (as defined in the Purchase Agreement), described in Exhibit 1 hereto.

B. In connection with the transfer of the Property to Purchaser, Seller, has agreed to sell, assign and transfer to Purchaser and Purchaser has agreed to purchase and assume, all right, title and interest of Seller in and to the "Personal Property" as defined below;

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Personal Property. The "Personal Property" shall have the meaning described in the Purchase Agreement.

2. Sale. For good and valuable consideration received by Seller, the receipt and sufficiency of which are hereby acknowledged, Seller hereby sells, assigns and transfers the Personal Property to Purchaser and Purchaser hereby purchases, acquires and assumes all of Seller's right title and interest in such Personal Property.

3. Power and Authority. Seller represents and warrants to Purchaser that it is fully empowered and authorized to execute and deliver this Bill of Sale, and the individuals signing this Bill of Sale on behalf of Seller each represents and warrants to Purchaser that he or she is fully empowered and authorized to do so.

[Signatures appear on the following page]

IN WITNESS WHEREOF, Seller has executed this Bill of Sale the day and year first above written.

SELLER:

Gibson Brands, Inc.,
a Delaware corporation

By: _____
Name: _____
Its: _____

PURCHASER:

_____,
a _____ company

By: _____
Name: _____
Its: _____

Ex. D - 2

EXHIBIT E

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is entered into as of the _____ of _____, 2018, by GIBSON BRANDS, INC., a Delaware corporation ("Assignor"), and _____ ("Assignee").

RECITALS

A. Pursuant to a Real Estate Purchase Agreement dated _____ (the "Purchase Agreement"), Assignee is acquiring from Assignor certain Property (as defined in the Purchase Agreement), which Property includes, without limitation, property legally described in Exhibit 1 hereto, as more particularly described in the Purchase Agreement (the "Property"). Capitalized terms used but not defined herein shall have the meanings given to them in the Purchase Agreement.

B. In connection with the transfer of the Property to Assignee, Assignor, has agreed to assign to Assignee and Assignee has agreed to assume, all right, title and interest of Assignor in and to the Assigned Contracts set forth on Exhibit 2 hereto;

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Assignment. For good and valuable consideration received by Assignor the receipt and sufficiency of which is hereby acknowledged, Assignor hereby grants, transfers and assigns to Assignee the entire right, title and interest of Assignor in and to the Assigned Contracts listed on Exhibit 2 attached hereto. Assignor agrees to indemnify, protect, defend and hold Assignee harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses including reasonable attorneys' fees and costs (collectively, "Claims") arising out of or resulting in connection with the Assigned Contracts prior to the date hereof.

2. Assumption. Assignee hereby assumes the covenants, agreements and obligations of Assignor under the Assigned Contracts which are applicable to the period and required to be performed from and after the date of this Assignment, but not otherwise. Assignee agrees to indemnify, protect, defend and hold Assignor harmless from and against any and all Claims arising out of or resulting from any breach or default by Assignee in its obligations under the terms of the Assigned Contracts first accruing from and after the date hereof.

3. Power and Authority. Assignor and Assignee each represent and warrant to the other that it is fully empowered and authorized to execute and deliver this Assignment, and the individual signing this Assignment on behalf of it is fully empowered and authorized to do so.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

5. Counterparts. This Assignment may be signed in any number of counterparts each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment and Assumption Agreement the day and year first above written.

ASSIGNOR:

Gibson Brands, Inc.,
a Delaware corporation

By: _____
Name: _____
Its: _____

ASSIGNEE:

By: _____
Name: _____
Its: _____

EXHIBIT F

SELLER LEASE

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "**Lease**" or "**Agreement**") is made as of this _____ day of _____, 2018 by and between _____, together with its successors and/or assigns ("**Landlord**") and GIBSON BRANDS, INC., a Delaware corporation (the "**Tenant**").

1. **Demise of Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord for the term, at the rent, and upon all of the conditions contained herein, certain building estimated to contain approximately _____ gross square feet located at 1117 Church Street, Nashville, Davidson County, Tennessee, as more particularly described on Exhibit A (the "**Premises**" or the "**Property**").

2. **Condition of Premises.** Landlord and Tenant acknowledge and agree that Tenant is the immediate prior owner of the Property. Prior to the date of this Lease Tenant has had full possession occupancy and use of the entire Premises. Tenant is thus fully informed about the condition of the Property and all other aspects of the Premises. Tenant therefore accepts the Premises in its "as is" condition as of the execution of this Lease, subject to all recorded matters, laws, ordinances, and governmental regulations and orders and affirmatively waives any and all claims against Landlord concerning the Property. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant's intended use.

3. **Term.** Tenant shall occupy the Premises for a period of six (6) months, commencing on the date of the deed from Tenant to Landlord (the "**Commencement Date**") and expiring six (6) months thereafter (the "**Lease Term**").

4. **Rent.**

4.1 **Rent.** Tenant shall pay to Landlord rent in the amount of \$_____ per annum ("Base Rent") Any and all other sums due or to become due from Tenant hereunder shall constitute additional rent ("Additional Rent") which shall be due and payable to Landlord as set forth in this Agreement and otherwise upon demand (Base Rent, together with Additional Rent collectively "Rent").

4.2 **Time and Manner of Payment.** Payments of Rent are to be made to the Landlord, or as Landlord shall hereafter designate. Base Rent for the entire Lease Term shall be due and payable upon execution and delivery hereof. The burden of proof of full payment shall be upon Tenant. Upon any termination of this Lease not resulting from Tenant's default, and after Tenant has vacated the Premises as required herein, an equitable adjustment shall be made as to all payments made by or due from Tenant.

4.3 Late Charges. Tenant's failure to pay rent (or any other payment due hereunder) promptly may cause Landlord to incur unanticipated costs. The amount of such costs is difficult to ascertain, and therefore on any rent payment (or any other payment due hereunder) not made within five (5) days after it is due Tenant shall pay Landlord a late charge equal to five percent (5%) of the overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment.

4.4 Proportionate Share. Tenant's "**Proportionate Share**" as used in this Lease shall be one hundred percent (100%).

4.5 Real Property Taxes. Tenant shall pay as Additional Rent all Real Property Taxes assessed against the Property as set forth herein. Such payment shall be made directly to the applicable taxing authority at least ten (10) days prior to the respective due date or, at the election of the Landlord paid directly to the Landlord or its lender. "**Real Property Taxes**" shall mean (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, government charge or real or personal property tax imposed by any taxing authority against the Premises or land upon which the Premises is located; (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Premises or against Landlord's business of leasing the Premises; (iii) any tax, or charge, or assessment, or any assessment for repayment of bonds for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Premises by any governmental agency; (iv) any charge or fee replacing any tax previously included within the definition of real property tax; and (v) any costs incurred by Landlord in contesting such Real Property Taxes, whether successful or not. Tenant shall also pay all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant.

5. Common Areas.

5.1 Maintenance. Tenant shall be responsible for maintaining the Property in good order, condition and repair. In no event shall Tenant be obligated to improve the Property or make repairs which would render the Property in better condition than the Closing Date. Each month Tenant shall pay Tenant's Proportionate Share of all costs and expenses incurred by Landlord for the operation and maintenance of the Common Areas (the "**Common Area Expenses**"), promptly upon invoice from Landlord. Common Area Expenses shall include, but are not limited to, the following: gardening and landscaping; utilities, water and sewage charge; maintenance of signs; premiums for liability, property damage, fire and other types of casualty insurance and worker's compensation insurance; all real property taxes and assessments levied on or attributable to the Common Areas and all improvements thereon; all personal property taxes and assessments levied on or attributable to the Common Areas and all improvements thereon; all personal property taxes levied on or attributable to personal property used in connection with the Common Areas; straight-line depreciation on personal property owned by Landlord which is consumed in the operation or maintenance of the Common Areas; rental or lease payments paid by Landlord for rented or leased personal property used in the operation or maintenance of the Common Areas; management fees; fees for required licenses and permits; repairing, resurfacing, repaving, maintaining, painting, lighting, cleaning, refuse removal, security and similar items; reserves for roof replacement and exterior painting and other

appropriate reserves; and wages and employee benefits for the property manager and administrative assistant directly and actually performing services in connection with the Premises on a pro-rata basis based upon the portion of such employee's time actually spent managing the Premises; commercially reasonable costs and expenses related to the property manager's operation, maintenance, management, and repair of Property; and all other similar direct costs and expenses property chargeable to ownership, operation, maintenance or repair of the Premises.

6. **Use of Premises.** Tenant shall continuously use and occupy the Premises throughout the full Lease Term, for the purpose of storing, selling and/or repairing musical equipment and for any other purpose or trade for which the Premises are presently used by Tenant.

7. **Compliance with Laws.** Tenant covenants and agrees that it will observe and comply with all laws, orders, rules and regulations of any governmental authority relating to Tenant's use and occupancy of the Premises, and will not permit the Premises to be used for illegal purposes nor permit any nuisance to be created or maintained thereon.

8. **Hazardous Materials.** Tenant shall not store, use, generate, maintain or remove asbestos, PCB transformers, other toxic, hazardous or contaminated substances and underground storage tanks (collectively, "**Hazardous Materials**") in, on, about or from the Premises. In any event, during the term of this Lease, Tenant shall comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State, County and City Governments and all departments thereof having jurisdiction over the Premises which are applicable to the presence, storage, use, generation, maintenance and removal of Hazardous Materials in, on or about the Premises.

9. **Alterations.** Tenant shall make no alterations, additions, replacements or improvements to the Premises without the express written consent of Landlord. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount satisfactory to Landlord. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Section upon Landlord's written request. All alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, by a contractor approved by Landlord. Tenant agrees that should it make any alterations, additions, replacements or improvements to the Premises, it will not be acting as agent or servant of Landlord in making any alterations and shall pay when due all claims for labor and material furnished to the Premises. Tenant shall hold harmless and indemnify Landlord from and against any and all liabilities, costs, loss, expense or other matter arising from any such work, expressly including such claims for labor or materials furnished to the Premises. Tenant shall give Landlord at least ten (10) days' prior written notice of the commencement of any work on the Premises. Landlord may elect to record and post notices of non-responsibility on the Premises.

10. **Maintenance and Repairs.**

(a) Tenant's Responsibilities. During the Lease Term, Tenant shall maintain in good repair the entire Property and all areas serving the Premises, including, but not limited to, the Building. In this regard, Tenant shall:

(1) Structural Elements. Tenant shall repair, maintain and replace, if necessary, the structural elements of the Premises including the structural steel members, roof and exterior walls. In the event such repair, maintenance or replacement is caused by normal wear and tear, the Tenant shall cause the same to be effected at Tenant's expense.

(2) Building Exterior. Tenant shall maintain the lighting and signage on the exterior of the Building and the Premises.

(3) Tenant's Additional Responsibilities. During the Lease Term, Tenant will provide, repair, maintain, and replace, if necessary, all the following at Tenant's sole expense:

- a. The interior portion of the demising walls of the Premises.
- b. If applicable, (a) security systems for the Premises, (b) telephone system for the Premises; (c) fire sprinkler alterations made exclusively for the Premises and under the Tenant's control; and (d) all fire extinguishers, including inspection of same.
- c. The floor covering of the Premises, including carpeting, vinyl tile flooring, ceramic tile flooring, and other flooring materials or systems.
- d. All cabinets and millwork (regardless of ownership) so long as said cabinets and millwork are for the exclusive use and benefit of Tenant.
- e. Other property, improvements or fixtures that are to be repaired and maintained by Tenant including but are not limited to, the following: (a) ceiling tiles and ceiling grid, (b) molding or other woodwork and paneling, (c) light fixtures and bulbs, (d) draperies, blinds or wall hangings, (e) doors and lock sets, and (f) vaults, safes, or secured areas.
- f. janitorial services as reasonably necessary to keep the Premises in clean and sanitary condition consistent with similar properties used for storing, selling and/or repairing musical instruments.
- g. Tenant shall not be obligated to surrender the Property in better condition than on the Closing Date.
- h. Tenant shall be obligated to maintain the roof of the Premises, but in no event shall Tenant be obligated to replace the same.

11. Right of Entry. Landlord, and its agents or other representatives, shall have the right to enter into and upon the Premises or any part thereof at all reasonable times for the purpose of examining the same, making repairs or alterations, or showing the Premises to prospective purchasers or tenants of the Premises. Tenant agrees at any time, to allow Landlord to enter upon the Premises and to affix upon any suitable part thereof notice for reletting or for the sale of the Premises, and that Tenant will not remove same and will permit all persons authorized by Landlord to view the Premises at reasonable times.

12. Utilities. All heat, electric current, gas, garbage, or special fees, metering charges, sprinkler fees or bonds, or utility charges of any nature used on the Premises shall be paid for by Tenant. Landlord shall not be liable to Tenant for interruption in or curtailment of any utility service, nor shall any such interruption or curtailment constitute a constructive eviction or grounds for rental abatement in whole or in part.

13. Assignment and Subletting. No portion of the Premises or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by assignment, mortgage, sublease, transfer, operation of law, or act of Tenant or any change in controlling interest of Tenant, without Landlord's prior written consent. Any attempted transfer without consent shall be void and shall constitute a breach of this Lease. No transfer permitted hereunder shall release Tenant or change Tenant's primary liability to pay the Rent. Landlord's acceptance of rent from any other person is not a waiver of any provision of this Lease. Consent to one transfer is not a consent to any subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee.

14. Insurance. Tenant agrees to maintain any and all property and liability insurance in amounts not less than the coverage required by the Landlord or its lender. Such policies shall be provided by an insurance company satisfactory to Landlord, naming Landlord as an additional insured. Tenant shall deliver to Landlord a copy of such policy of insurance prior to the Commencement Date and a copy of any renewal policy at least ten (10) days prior to the expiration date of any existing policy. Such policies shall specifically provide that they shall not be cancelable or subject to reduction of coverage except after thirty (30) days' prior written notice to Landlord. Tenant agrees that all fixtures (including trade fixtures) and personal property in the Premises shall be kept therein at Tenant's sole risk, and Landlord shall not be liable for any damages to, or loss of such fixtures or personal property arising from any acts of negligence of any persons other than Landlord's employees (who shall be responsible only if found by a court of competent jurisdiction to be grossly negligent or to be guilty of willful misconduct), or from fire, or from the leading of the roof, or from the bursting, leaking, or overflowing of water, sewer, or steam pipes, or from malfunctions of the heating, plumbing, or electrical systems, or from any other cause whatsoever. Tenant expressly agrees to indemnify and save Landlord harmless in all such cases.

15. Indemnification. Tenant shall indemnify Landlord against and hold Landlord harmless from any and all costs, claims or liability arising from: (a) Tenant's use of the Premises; (b) the conduct of Tenant's business or anything else done or permitted by Tenant to

be done in or about the Premises; (c) any breach or default in the performance of Tenant's obligations under this Lease; (d) any misrepresentation or breach of warranty by Tenant under this Lease; or (e) other acts or omissions of Tenant, its agents, employees, visitors, and business invitees. Tenant shall defend Landlord against any such costs, claims or liabilities at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election; Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in connection with any such claim. As a material part of the consideration to Landlord, Tenant hereby assumes all risk of damage to property or injury to persons in or about the Premises arising from any cause, and Tenant hereby waives all claims in respect thereof against Landlord, except for any claim arising out of Landlord's gross negligence or willful misconduct.

16. Waiver of Subrogation. Landlord and Tenant agree, provided that such agreement does not invalidate or prejudice any policy of insurance, that, in the event the Premises or the fixtures, leasehold improvements, furniture, equipment, or merchandise therein, are damaged or destroyed by fire or other casualty which is covered by insurance of either the Landlord or the Tenant, the rights of either party, if any, against the other, or against the employees, agents, or licensees of any party with respect to such damage or destruction and with respect to any loss resulting there from, including the interruption of the business of any party, are hereby waived to the extent of the coverage of said insurance. Landlord and Tenant agree further that all policies of fire, extended coverage, business interruption, all risk or other insurance covering the Premises, or the contents, fixtures, equipment and improvements thereon, shall, if obtainable, contain a clause or endorsement providing in substance that the insurance shall not be prejudiced by virtue of this waiver. Any additional premiums on account thereof shall be paid by the party benefited

17. Damage or Destruction.

17.1 Partial Damage to Premises. Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Premises. If the damage can be completely repaired within thirty (30) days from the date of such damage and the cost of such repairs do not exceed fifty percent of the value of the Premises, Tenant shall repair the damage as soon as reasonably possible. Otherwise, Landlord may elect either to terminate this Lease as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice of the occurrence of the damage, whether Landlord elects to terminate the Lease.

17.2 Total or Substantial Destruction. If the Premises is totally or substantially destroyed by any cause whatsoever, or if the Premises is in a building which is substantially destroyed (even though the Premises is not totally or substantially destroyed), this Lease shall terminate as of the date the destruction occurred.

17.3 Temporary Reduction of Rent. If the Premises is totally or substantially destroyed, or if the Premises is damaged through no fault of Tenant's, and the Premises is repaired pursuant to the provisions of this Article, Rent payable during the period of such damage, repair and/or restoration shall be reduced according to the degree, if any, to which Tenant's use of the Premises is impaired. Tenant shall not be entitled to any other compensation,

reduction, or reimbursement from Landlord as a result of any damage, destruction, repair, or restoration of or to the Premises.

18. **Condemnation.** If all or any portion of the Premises is taken through eminent domain or sold under threat of such taking (all of which are called "**Condemnation**"), this Lease shall terminate as to the part taken or sold on the date the condemning authority takes title or possession, whichever occurs first. Any Condemnation award or payment shall be distributed in the following order: (a) first, to any mortgagee or beneficiary under a deed of trust encumbering the Premises for the amount of its interest in the Premises; (b) second, to Tenant, only the amount of any award specifically designated for loss of or damage to Tenant's trade fixtures or removable personal property; and (c) third, to Landlord the remainder of such award, whether as compensation for reduction in the value of the leasehold, the taking of the fee, or otherwise.

19. **Defaults.** Tenant shall be in default under this Lease:

- (i) If Tenant abandons or vacates the Premises;
- (ii) If Tenant fails to pay Rent or any other charge owed to Landlord or otherwise required to be paid by Tenant as and when due;
- (iii) If Tenant fails to perform any of Tenant's other obligations under this Lease for a period of ten (10) days after written notice from Landlord; provided that if more than thirty (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion. The thirty (30) day period shall commence on the date stated within the notice letter from Landlord.

20. **Remedies.** On the occurrence of any uncured default by Tenant, Landlord may, at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

- (i) Terminate Tenant's right to Possession of the Premises, in which case Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (a) the worth at the time of the court award of the unpaid Rent, Additional Rent and other charges which had been earned at the time of the termination; (b) the worth at the time of the court award of the amount by which the unpaid Base Rent, Additional Rent and other charges which would have been earned after termination until expiration of the Lease Term;
- (ii) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder;

(iii) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Premises is located. Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

21. **Credit for Rent.** Not applicable.

22. **Security Deposit.** Tenant is not obligated to tender a security deposit.

23. **Default by Landlord.** In the event of an uncured default by Landlord, Tenant maintains all rights and remedies afforded under law and equity.

24. **Legal Proceedings.** Should this Lease, or the parties' obligations hereunder be the subject of litigation between Landlord and Tenant, it is expressly agreed that the prevailing party will have its reasonable legal fees, costs and expenses reimbursed by the other party.

25. **Notices.** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified or registered mail, return receipt requested, or sent by Federal Express or other recognized delivery service. Notices shall be effective upon delivery or attempted delivery in accordance with this Section. Notices to Landlord and Tenant shall be addressed as follows:

Tenant:

[]

With a copy to:

SoBro Law Group, PLLC

Attn: Adam LaFevor

alafevor@sobrolaw.com

Landlord:

[]

Either party may change its notice address upon written notice to the other party.

26. **Quiet Possession.** Upon paying the Rent and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Term, subject to all of the provisions of this Lease.

27. Subordination and Attornment.

27.1 Subordination. This Lease is subject and subordinate to any ground lease, deed of trust or mortgage now or hereafter encumbering the Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. If any ground Landlord, beneficiary or mortgagee elects to have this Lease prior to the lien of its ground lease, deed of trust or mortgage, and gives written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said ground lease, deed of trust or mortgage or date of recording thereof.

27.2 Attornment. If Landlord's interest in the Premises is acquired by any ground Landlord, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Premises and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Premises upon the transfer of Landlord's interest.

27.3 Signing of Documents. Tenant shall sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination or agreement to do so. Such subordination and attornment documents may contain such provisions as are customarily required by any ground Landlord, beneficiary under a deed of trust or mortgagee. If Tenant fails to do so within ten (10) days after written request, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

27.4 Mortgagee Protection. Tenant agrees to give any mortgagees and/or trust deed holders, by registered mail, a copy of any notice of default served upon Landlord, provided that prior to such notice Tenant has been notified, in writing (by way of Notice of Assignment of Rents and Leases, or otherwise), of the address of such mortgagees and/or trust deed holders. Tenant further agrees that if Landlord shall have failed to cure such default within the term provided for in this Lease, then the mortgagees and/or trust deed holders shall have an additional thirty (30) days within which to cure such default or, if such default cannot be cured within that time, then such additional time as may be necessary, if within such thirty (30) days any mortgagee and/or trust deed holder has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

28. Estoppel Certificates. Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement in substantially the form attached hereto as Exhibit B. Tenant shall deliver such statement to Landlord within ten (10) days after Landlord's request. Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrance of the Premises. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

29. **Access to Premises.** Prior to the Commencement Date, Tenant shall deliver to Landlord, and Landlord shall approve, in Landlord's sole discretion, a list of all known persons who will be given access to the Premises, other than Tenant's employees and personnel.

30. **Brokerage.** Tenant warrants and represents to Landlord that no broker was involved with the leasing of the Premises or the negotiation of this Lease or is entitled to any commission in connection herewith. Tenant agrees to indemnify and hold Landlord harmless against any other claims (including court costs and attorneys' fees) for commissions by any broker.

31. **Surrender of Premises.** Upon termination of the Lease, by expiration of term, or otherwise, Tenant shall redeliver to Landlord the Premises broom clean and in good order and condition, ordinary wear and tear excepted, and in the same or better condition as the Property existed on the Closing Date. In addition, Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) prior to the termination of the Lease and to restore the Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements, which Landlord has not required, Tenant to remove and which Tenant has not removed shall become Landlord's property and shall be surrendered to Landlord upon the termination of the Lease. Tenant shall remain liable for holdover rent until the Premises shall be returned in such order to Landlord.

32. **Holdover.** Premises If Tenant does not vacate the Premises upon the expiration of the Lease Term and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Premises shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy.

33. **Severability.** A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

34. **Interpretation.** The captions of the Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises with Tenant's expressed or implied permission.

35. **Incorporation of Prior Agreements; Modifications.** This Lease is the only agreement between the parties pertaining to the lease of the Premises and no other agreements are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

36. **Waivers.** It is understood and agreed that waiver by Landlord of any Default or breach of any covenant, condition, or agreement herein shall not be construed to be a waiver of that covenant, condition or agreement, or of any subsequent breach thereof. The acceptance of Rent by Landlord with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No delay or omission of Landlord to exercise any right or power arising from any Default on the part of Tenant shall impair any such right or power, or be construed to be a waiver of any such Default or acquiescence thereto.

37. **No Recordation.** Tenant shall not record this Lease without prior written consent from Landlord.

38. **Binding Effect; Choice of Law.** This Lease shall be binding upon any permitted successors and assigns of this Lease from Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the State of Tennessee shall govern the validity, performance and enforcement of this Lease.

39. **Joint and Several Liability.** All parties signing this Lease as Tenant shall be jointly and severally liable for all obligations of Tenant.

40. **Force Majeure.** If Landlord cannot perform any of its obligations due to events beyond Landlord's control, the time provided for performing such obligations shall be extended by a period equal to the duration of such events. Events beyond Landlord's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

41. **Eminent Domain.** If twenty percent (20%) or more of the floor area of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, then Landlord shall have the right to terminate this Lease, effective on the date physical possession is taken by the condemning authority. If less than (20%) of the floor area of the Premises is taken for any public or quasi-public use in said manner, this Lease shall not terminate. However, in the event any portion of the Premises is taken, and the Lease does not terminate, the rent and other charges specified in this Lease shall be reduced during the unexpired Lease Term in proportion to the area of the Premises so taken. Any such reduction shall be effective on the date physical possession is taken by the condemning authority. If any portion of the Common Area of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, this Lease shall continue in full force and effect, without reduction in Rent or other charges in the terms of this Lease, unless the area so taken shall exceed twenty-five (25%) of the total number of square feet in the Common Area of the Premises, in which event Landlord may terminate this Lease. Any election to terminate this Lease following condemnation shall be evidenced by written notice of termination delivered not later than fifteen (15) days after the date on which physical possession is taken by the condemning authority, and shall be deemed effective as of the date of said taking. If, however, the Lease is not terminated following a partial condemnation, Landlord shall

promptly make all necessary repairs or alterations to the Premises which are required by the taking, but this covenant shall only become effective upon the payment of the condemnation award to Landlord, and the amount which Landlord is required to expend therefore shall not exceed the amount of such condemnation award which any lender of Landlord, if any, shall permit Landlord to devote to such purposes. All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) whether for the whole or a part of the Premises, shall be the property of the Landlord, whether such award is compensation for damages to Landlord's or Tenants' interest in the Premises, and Tenant hereby assigns all of its interest in any such award to Landlord, provided, Landlord shall have no interest in any award made to Tenant for loss of business or for the taking of Tenant's fixtures and other property within the Premises if a separate award for such items is made to Tenant and does not diminish Landlord's award.

42. Execution of Lease. This Lease may be executed in counterparts, and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

43. Covenants and Conditions. Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Premises is conditioned upon such performance. Time is of the essence in the performance of all covenants and conditions.

44. Submission of Lease. The submission of this Lease to Tenant for examination does not constitute an offer to lease or a reservation of space. No agreement between Landlord and Tenant relating to the leasing of the Premises shall become effective or binding until executed by both parties and received by Tenant.

45. Security. Landlord may, from time to time and to the extent it deems appropriate, determine whether to arrange for security services or manned traffic control for special events at the Premises. Notwithstanding any other provision of the Lease, Landlord shall not be liable for any loss or damage suffered by Tenant or anyone else for failure to supply such services or manned traffic control. It is agreed that Landlord's supplying such security services shall not relieve Tenant of its duty to maintain security within the Premises.

46. Signage. Tenant shall make no changes to the existing signage at the Premises without the prior written consent of Landlord.

47. Release From Liability. Tenant agrees not to hold Landlord responsible for any damage sustained by Tenant or any other person due to the state of repair of the building or any part thereof or appurtenance thereto, the happening of any accident, damage caused by water, snow, windstorm, tornado, gas, steam, electric wiring, plumbing, or heating apparatus, any acts or omissions of co-tenants or other occupants of the building or losses by theft. Notwithstanding any other provision in this Lease, Tenant hereby releases Landlord from any claim with respect to water or other damage sustained by Tenant from the sprinkler system.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have hereunder executed this Lease the day and year above written.

TENANT:

GIBSON BRANDS, INC.

By: _____

Printed Name: _____

Its: _____

Date: ____ / ____ / ____

LANDLORD:

By: _____

Printed Name: _____

Its: _____

Date: ____ / ____ / ____

EXHIBIT A

Legal Description

Exhibit B

Form Estoppel Certificate

TENANT ESTOPPEL CERTIFICATE

TO:

RE: Lease dated _____,
between _____, (Landlord) _____ (Tenant)

Gentlemen:

We understand that the above Lease may be assigned to you by the Landlord in connection with your purchase of property located at _____.

You have requested the following certifications from us prior to acquiring the property, and we hereby certify to you and agree as follows:

1. The Lease is attached hereto as Exhibit A.
2. We have accepted and are in possession of the leased premises which have been satisfactorily completed in all respects, and we are currently open for business.
3. The Lease is in full force and effect and the Landlord has fulfilled all of its obligations, covenants, and warranties under the Lease. No circumstance exists which would, with the passage of time or the giving of notice, or both, constitute a default by either the Landlord or the Tenant under the Lease.
4. We have no defenses, offsets, or credits to our obligations under the Lease.
5. We have commenced to pay rent in the amount of _____ Dollars (\$ _____) per month under the Lease.
6. In addition to the rent, the Tenant is responsible for payment of its own cost for utilities, and pro-rata share of property tax and property insurance.
7. We are current in the payment of all rents and any taxes, utilities, common area maintenance payments, and other charges required to be paid under the Lease. The latest rental payment was made on _____ in the amount of \$ _____. We have not prepaid rent or other sums due under the Lease for more than the current month.
8. All rental payments under the Lease shall be paid as therein provided until we have been otherwise notified by you, and thereafter in accordance with your notification.

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9. The amount of security deposits held by Landlord is
\$_____.
10. We agree not to amend the Lease without your prior written consent.
11. The person executing this Certificate is duly authorized and empowered in all respects to do so on behalf of the undersigned Tenant.

TENANT:

Date: _____

SCHEDULE A

ASSIGNED CONTRACTS

SCHEDULE B

PERMITS