

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
J & M SALES INC., <i>et al.</i> ,	)	Case No. 18-11801 (LSS)
Debtors. <sup>1</sup>	)	Joint Administration Requested
	)	Re: Docket No. 16

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS  
TO PERFORM IN ACCORDANCE WITH THE CONSULTING AGREEMENT,  
(II) AUTHORIZING AND APPROVING THE CONDUCT OF STORE CLOSING  
SALES, WITH SUCH SALES TO BE FREE AND CLEAR OF ALL LIENS,  
CLAIMS, AND ENCUMBRANCES, AND (III) GRANTING RELATED RELIEF**

Upon the *Debtors’ Motion for Interim and Final Orders (I) Authorizing the Debtors to Assume the Consulting Agreement, (II) Authorizing and Approving the Conduct of the Store Closing Sales, with such Sale to be Free and Clear of All Liens, Claim, and Encumbrances, and (III) Granting Related Relief* (the “**Motion**”);<sup>2</sup> and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b), and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware* dated as of February 29, 2012; and this Court having found that venue of these cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that due and sufficient notice of the Motion has been given under the particular

<sup>1</sup> Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: J & M Sales Inc. (4697); National Stores, Inc. (4874); J & M Sales of Texas, LLC (5979); FP Stores, Inc. (6795); Southern Island Stores, LLC (8099); Southern Island Retail Stores LLC (4237); Caribbean Island Stores, LLC (9301); Pazzo FNB Corp. (9870); Fallas Stores Holdings, Inc. (6052); and Pazzo Management LLC (1924). Debtors’ mailing address is 15001 South Figueroa Street, Gardena, CA 90248.

<sup>2</sup> All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.

circumstances and that no other or further notice of the Motion need be given; and this Court having determined that it may enter a final order consistent with Article III of the United States Constitution; and upon consideration of the First Day Declaration and the Bilbao Declaration; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interest of the Debtors, their estates and creditors, and all other parties in interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

**FOUND, CONCLUDED AND DETERMINED:<sup>3</sup>**

A. The Debtors have advanced sound business reasons for entering into the Agreement, a copy of which is attached hereto as Exhibit 1, on an interim basis as set forth in the Motion and at the hearing, and entering into the Agreement is a reasonable exercise of the Debtors' business judgment and is in the best interest of the Debtors and their estates.

B. The Agreement was negotiated, proposed, and entered into by the Debtors and the Agent without collusion, in good faith, and from arm's-length bargaining positions.

C. The Sale Guidelines, as described in the Motion and attached as Exhibit 2 hereto, are reasonable and will maximize the returns on the Store Closing Assets for the benefit of the Debtors' estates and creditors.

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<sup>3</sup> The findings and conclusions set forth herein constitute this 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 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.

D. The Store Closing Sales, in accordance with the Sale Guidelines and with the assistance of the Agent, will provide an efficient means for the Debtors to liquidate and dispose of the Store Closing Assets as quickly and effectively as possible, and are in the best interests of the Debtors' estates.

E. The Resolution Procedures are fair and reasonable, and comply with applicable law.

F. The Debtors have represented that, pursuant to the Motion, they are not seeking to either sell or lease personally identifiable information during the course of the Closing Sales at the Stores; *provided, however*, that the Agent will be authorized to distribute emails and promotional materials to the Debtors' customers consistent with the Debtors' existing policies on the use of consumer information.

G. The relief set forth herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates, and the Debtors have demonstrated good, sufficient, and sound business purposes and justifications for the relief approved herein.

H. The entry of this Interim Order is in the best interest of the Debtors, their estates and creditors, and all other parties in interest herein.

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on an interim basis, as set forth herein.

2. A final hearing (the "**Final Hearing**") will be held before this Court on August 28, 2018, at <sup>10:00 am</sup> ~~2:00 pm~~ (ET) to consider the relief requested in the Motion on a final basis. All objections, if any, to the Motion shall be in writing and filed with this Court and

served on (1) counsel to Debtors, (a) Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17<sup>th</sup> Floor, P.O. Box 8705, Wilmington, DE 19899 (Courier 19801) (Attn: Peter J. Keane, Esq. and Richard M. Pachulski, Esq.), and (b) Katten Muchin Rosenman LLP, 575 Madison Avenue, New York, NY 10022 (Attn: William Freeman, Esq. and Karen Dine, Esq.); (2) counsel to Encina Business Credit, LLC: Choate Hall & Stewart LLP, Two International Place, Boston, MA 02110 (Attn: Kevin J. Simard, Esq.); (3) counsel to Gordon Brothers Finance Company, as Administrative Agent, one of the Debtors' prepetition secured lenders, Holland & Knight, 10 St. James Avenue, 11th Floor, Boston, MA 02116 (Attn: Jason DelMonico, Esq.); (4) counsel for Israel Discount Bank of New York, as co-administrative agent and one of the Debtors' prepetition secured lenders, Otterbourg P.C., 230 Park Avenue, New York, NY 10169 (Attn: Daniel Fiorillo, Esq.); (5) counsel to Hilco Merchant Resources, 5 Revere Drive, Suite 206, Northbrook, Illinois, Attn: Ian Fredericks, Esq.; (6) counsel to Michael Fallas, SulmeyerKupetz, 333 South Hope Street, 35<sup>th</sup> Floor, Los Angeles, CA 90071 (Attn: Victor Sahn, Esq.); (7) the Office of the U.S. Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq.); and if applicable (8) counsel to any official committee appointed in these Chapter 11 Cases (collectively, the "**Notice Parties**"), as to be received on or before August 22, 2018, at 4:00 p.m. (ET).

3. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order. The failure to specifically include any particular provision of the Agreement in this Interim Order shall not diminish or impair the effectiveness of such provisions, it being the intent of this Court that the Agreement and all of its

provisions, payments, and transactions, be and hereby are authorized and approved as and to the extent provided for in this Interim Order.

4. To the extent there is any conflict between this Interim Order, the Sale Guidelines, and the Agreement, the terms of this Interim Order shall control over all other documents, and the Sale Guidelines shall control over the Agreement.

**A. Effectiveness of Agreement**

5. The Agreement is operative and effective on an interim basis. The Debtors are authorized to act in accordance with the terms of the Agreement, including, but not limited to, making payments required by the Agreement to the Agent without the need for any application of the Agent or a further order of this Court.

6. No later than five (5) days prior to the Final Hearing, Hilco Merchant Resources, LLC shall file a declaration of disinterestedness.

7. Subject to the restrictions set forth in this Interim Order and the Sale Guidelines, the Debtors and the Agent are authorized to take any and all actions as maybe necessary or desirable to implement the Agreement and the Store Closing Sales; and each of the transactions contemplated by the Agreements, and any actions taken by the Debtors and the Agent necessary or desirable to implement the Agreements and/or the Store Closing Sales prior to the date of this Interim Order are approved and ratified.

**B. Authority to Engage in the Store Closing Sales**

8. The Debtors are authorized, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to conduct the Store Closing Sales in accordance with this Interim Order, the Sale Guidelines, and the Agreement.

9. The Sale Guidelines are approved in their entirety.

10. All entities that are presently in possession of some or all of the Store Closing Assets in which the Debtors hold an interest that are or may be subject to the Agreement or this Interim Order hereby are directed to surrender possession of such Store Closing Assets to the Debtors or the Agent.

11. Except as provided herein, neither the Debtors nor the Agent nor any of their officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit or any Landlord, to conduct the Store Closing Sales and any related activities in accordance with the Sale Guidelines.

12. No Landlord, licensor, property owner, and/or property manager shall prohibit, restrict, or otherwise interfere with any of the Store Closing Sales.

13. The Debtors are authorized to discontinue operations at the Stores in accordance with this Interim Order and the Sale Guidelines.

**C. Conducting the Store Closing Sales**

14. All newspapers and other advertising media in which the Store Closing Sales may be advertised and all Landlords are directed to accept this Interim Order as binding authority so as to authorize the Debtors and the Agent to conduct the Store Closing Sales and the sale of Store Closing Assets pursuant to the Agreement and the Sale Guidelines, including, without limitation, to conduct and advertise the sale of the Store Closing Assets and the Additional Agent Goods in the manner contemplated by and in accordance with this Interim Order, the Sale Guidelines, and the Agreement.

15. Nothing in this Interim Order or the Agreement releases the Debtors or the Agent from complying with laws and regulations of general applicability, including, without limitation, public health and safety, criminal, tax, labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising.

16. Subject to the Resolution Procedures provided in Section D of this Order, the Debtors and the Agent are hereby authorized to take such actions as may be necessary and appropriate to implement the Agreement and to conduct the Store Closing Sales without the need for a further order of this Court, including, but not limited to, advertising the sale as a “store closing,” “sale on everything,” “everything must go,” “liquidation sale,” “winter clearance outlet,” or similar themed sale through the posting of signs in accordance with the Sale Guidelines, notwithstanding any applicable non-bankruptcy laws that restrict such sales and activities, and notwithstanding any provision in any lease, sublease, license, or other agreement related to occupancy, “going dark,” or abandonment of assets (subject to the entry of a Final Order), or other provisions that purport to prohibit, restrict, or otherwise interfere with the Store Closing Sales.

17. No person or entity, including, but not limited to, any Landlord, service providers, utility provider, and creditor, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder the Store Closing Sales or the sale of Store Closing Assets and the Additional Agent Goods, or the advertising and promotion of the Store Closing Sales.

18. The Agent shall (i) honor gift cards and merchandise credits that were issued by or on behalf the Debtors and (ii) accept a return or exchange of Merchandise sold by the Debtors prior to the Petition Date and in accordance with any other order entered by this Court, *provided* that such return or exchange is otherwise in compliance with the Debtors' applicable policies and procedures that were in place at the time the Merchandise was purchased.

19. All sales of all Store Closing Assets shall be "as is" and final. Conspicuous signs stating that "all sales are final" and "as is" will be posted at the cash register areas at all Stores.

20. The Debtors remain responsible for the payment of any and all sales taxes. The Debtors shall remit all taxes accruing from the Store Closing Sales to the applicable Governmental Units as and when due, *provided* that in the case of a bona fide dispute, the Debtors shall only pay such taxes upon the resolution of the dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected.

21. Pursuant to section 363(f) of the Bankruptcy Code, the Agent, on behalf of the Debtors, is authorized to sell all Store Closing Assets pursuant to the Agreement and in accordance with the Sale Guidelines. All sales of Store Closing Assets, whether by the Agent or the Debtors, shall be free and clear of any and all liens, claims, and encumbrances; *provided, however*, that any liens, claims, and encumbrances shall attach to the proceeds of the sale of the applicable Store Closing Assets with the same validity and priority and to the same extent and



amount that any such liens, claims, and encumbrances had with respect to such Store Closing Assets, subject to any claims and defenses that the Debtors may possess with respect thereto and subject to the Agent's fees and expenses pursuant to the Agreement.

22. To the extent that the Debtors propose to sell or abandon Store Closing Assets that may contain any personal and/or confidential information about the Debtors' employees and/or customers (the "**Confidential Information**"), the Debtors shall remove all such the Confidential Information from such Store Closing Assets before they are sold or abandoned.

23. The Debtors and the Agent are authorized and empowered to transfer Store Closing Assets among the Stores. The Agent is authorized to sell or abandon the Store Closing Assets in accordance with the terms of the Agreement and the Sale Guidelines; *provided, however*, to the extent any of the Store Closing Assets remain at a Closing Store on the effective date of rejection for the underlying lease, such Store Closing Assets shall be deemed abandoned to the affected Landlord at the time of any rejection of the lease with the right of the Landlord to dispose of such property free and clear of all interests and without notice or liability to any person or entity.

24. In accordance with Section K of the Agreement, the Agent is authorized to supplement the Merchandise in the Stores with Additional Agent Goods, provided that any such supplementing with Additional Agent Goods must be of like kind and no lesser quality than goods sold in the Stores prior to the Petition Date. Sales of Additional Agent Goods shall be run through the Debtors' cash register systems; *provided, however*, that the Agent shall mark the

Additional Agent Goods using either a “dummy” SKU or department number or in such other manner so as to distinguish the sale of Additional Agent Goods from the sale of Merchandise. The Agent and Merchant shall cooperate to ensure that the Additional Agent Goods are marked in such a way that a reasonable consumer could identify the Additional Agent Goods from the Merchandise.

25. The transactions under the Agreement relating to the Additional Agent Goods are, and shall be construed as, a true consignment from the Agent to the Debtors in all respects and not a consignment for security purposes. At all times and for all purposes, the Additional Agent Goods and their proceeds shall be the exclusive property of the Agent, and no other person or entity (including, without limitation, the Debtors, or any third person claiming a security interest in the Debtors’ property, including any of the Debtors’ secured lenders, shall have any claim against any of the Additional Agent Goods or the proceeds thereof. The Additional Agent Goods shall at all times remain subject to the exclusive control of the Agent, and the Agent shall insure Additional Agent Goods and, if required, promptly file any proofs of loss with regard thereto.

26. The Agent and the respective Landlord of each Store are authorized to enter into a side letter agreement (a “**Side Letter Agreement**”) to govern the conduct of the Store Closing Sales at the applicable Store and such Side Letter Agreements shall control over the Sale Guidelines and this Interim Order.

**D. Resolution Procedures for Disputes Regarding Liquidation Laws**

27. To the extent that the Store Closing Sales at the Stores are conducted in accordance with this Interim Order and the Sale Guidelines, and are therefore conducted under the supervision of this Court, such Store Closing Sales are authorized notwithstanding any federal, state, or local statute, ordinance, rule, or licensing requirement directed at regulating “going out of business,” “store closing,” similar inventory liquidation sales, or bulk sale laws, including laws restricting safe, professional and non-deceptive, customary advertising such as signs, banners, posting of signage, and use of sign-walkers in connection with the sale and including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions (collectively, the “**Liquidation Laws**”) that contain exemptions for court ordered sales. Given such exemptions, the Debtors shall be presumed to be in compliance with all Liquidation Laws and are authorized on an interim basis to conduct the Store Closing Sales in accordance with the terms of this Interim Order and the Sale Guidelines without the necessity of showing compliance with any of the Liquidation Laws.

28. To the extent that any Governmental Unit asserts a dispute related to the any Liquidation Law, such Governmental Unit may assert a dispute (a “**Liquidation Dispute**”) by serving written notice (a “**Dispute Notice**”) of such Liquidation Dispute on the Notice Parties and the affected Landlord. If the Debtors, the Agent, the affected Landlord, and the Governmental Unit are unable to resolve the Liquidation Dispute within 14 days of service of the Dispute Notice, such governmental unit may file a motion with this Court requesting consideration and resolution of the Liquidation Dispute (a “**Dispute Resolution Motion**”), which shall be heard at the next regularly scheduled omnibus hearing in these Chapter 11 Cases.

The filing of a Dispute Resolution Motion shall not be deemed to affect the finality of this Interim Order or to limit or interfere with the Debtors' or the Agent's ability to conduct or to continue to conduct the Closing Sales pursuant to this Interim Order and in accordance with the Sale Guidelines, absent further order of this Court.

29. Within two (2) business days of the entry of this Interim Order, the Debtors shall serve copies of this Interim Order, which includes the Agreement and the Sale Guidelines, by email, facsimile, or regular mail on the Applicable Governmental Units and the Landlords.

**E. Miscellaneous**

30. Notwithstanding anything set forth in this Interim Order, none of the U.S. Trustee, the Debtors, or Agent shall be prejudiced with respect to any arguments that the Agent is or is not a ~~Professional~~ <sup>an auctioneer or "other professional person"</sup> as contemplated by section 327 of the Bankruptcy Code, which dispute will be heard at the Final Hearing <sup>^ a hearing to be established by the court.</sup> with opening briefs by the Debtors and Agent due on \_\_\_\_\_, 2018 at \_\_\_\_\_ : \_\_\_\_\_ m. (ET), response brief by the U.S. Trustee due on \_\_\_\_\_, 2018 at \_\_\_\_\_ : \_\_\_\_\_ m. (ET), and reply briefs by the Debtors and Agent due on \_\_\_\_\_, 2018 at \_\_\_\_\_ : \_\_\_\_\_ m. (ET); provided, however, that regardless of the outcome of such dispute, the expenses <sup>(but not fees)</sup> incurred by the Agent during the interim period through and including the date of the Final Hearing shall be paid pursuant to the terms of the Agreement.

31. All amounts due to the Agent under the Agreement shall be calculated and paid from proceeds of the Store Closing Sales and shall not be reduced or capped by the terms or conditions of any pre- or post-petition financing facilities; provided, however, that the Debtors'

*The U.S. Trustee shall file an objection in respect of the issues described in this paragraph 30 by no later than August 22, 2018 at 4:00 p.m. ET and the Agent shall file a response to such objection by no later than September 6, 2018 at 4:00 am ET.*

pre- and post-petition lenders shall have no obligation to pay any such amounts (other than to make proceeds of the Store Closing Sales available to pay amounts due or that become due to the Agent under the Agreement).

32. Notwithstanding any other provision of this Interim Order, nothing shall prevent or be construed to prevent the Agent (individually, as part of a joint venture, or otherwise) or any of its affiliates from (x) guaranteeing a recovery on or otherwise acquiring Merchandise or FF&E that may not be sold during the Store Closing Sales, subject to reaching an agreement with the Debtors with respect to such guarantee or other acquisition and providing notice as would be reasonable under the circumstances; or (y)(1) bidding on the Debtors' assets not subject to the Agreement pursuant to an agency agreement or otherwise and (2) the Agent is hereby authorized to bid on and guarantee or otherwise acquire such assets notwithstanding anything to the contrary in the Bankruptcy Code or other applicable law, provided that such guarantee transaction or acquisition is approved by separate order of this Court.

33. Nothing in this Interim Order shall be deemed to constitute a postpetition assumption of any agreement under section 365 of the Bankruptcy Code.

34. Non-material modifications, amendments, or supplementations to the Agreement and related documents by the parties may be made in accordance with the terms thereof without further order of this Court.

35. This Court shall retain exclusive jurisdiction with regard to all issues or disputes arising from or relating to the implementation, interpretation, or enforcement of this Interim Order or the Agreement, including, but not limited to, any claim or issue relating to any

efforts by any party or person to prohibit, restrict or in any way limit the Store Closing Sales in accordance with the Sale Guidelines, or any other disputes related to the Store Closing Sales. No parties or person shall take any action against the Debtors or the Agent until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

36. The Debtors are authorized to issue postpetition checks, or to effectuate postpetition fund transfer requests, in replacement of any checks or fund transfer requests in respect of payments made in accordance with this Interim Order that are dishonored or rejected.

37. Each of the Debtors' banks and financial institutions is authorized to honor checks presented for payment and all fund transfer requests made by the Debtors, to the extent that sufficient funds are on deposit in the applicable accounts, in accordance with this Interim Order and any other order of this Court.

38. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any person.

39. Nothing in this Interim Order is intended to affect any rights of any Applicable Governmental Unit to enforce any law affecting the Debtors' conduct of the Store Closing Sales prior to the Petition Date.

40. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

41. Notice of the Motion as provided therein shall be deemed good and sufficient and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

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

Dated August 8, 2018  
Wilmington, Delaware

  
\_\_\_\_\_  
LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1 to Interim Order**

**Agency Agreement**





August 5, 2018

VIA EMAIL

Mr. Michael Fallas  
National Stores Inc.  
15001 S. Figueroa St.  
Gardena, CA 90248

Re: Letter Agreement Governing Inventory Disposition

Dear Michael:

By executing below, this letter shall serve as an agreement ("Agreement") between Hilco Merchant Resources, LLC, on the one hand ( "Agent" or a "Party"), and National Stores Inc., on the other hand ("Merchant" or a "Party" and together with the Agent, the "Parties"), under which Agent shall act as the exclusive agent for the purpose of conducting a sale of certain Merchandise (as defined below) at the Merchant's stores set forth on Exhibit A (each a "Store" and collectively, the "Stores") through a "Store Closing", "Everything Must Go", "Everything on Sale" or similar themed sale (the "Sale").

**A. Merchandise**

For purposes hereof, "Merchandise" shall mean all goods, saleable in the ordinary course, located in the Stores on the Sale Commencement Date (defined below). "Merchandise" does not mean and shall not include: (1) goods that belong to sublessees, licensees or concessionaires of Merchant; (2) owned furnishings, trade fixtures, equipment and improvements to real property that are located in the Stores (collectively, "FF&E"); or (3) damaged or defective merchandise that cannot be sold.

**B. Sale Term**

Subject to Bankruptcy Court Approval, the Sale shall commence on or about August 9, 2018 (the "Sale Commencement Date") and conclude no later than October 15, 2018 (the "Sale Termination Date"); provided, however, that the Parties may mutually agree in writing to extend or terminate the Sale at any Store prior to the Sale Termination Date. The period between the Sale Commencement Date and the Sale Termination Date shall be referred to as the "Sale Term." At the conclusion of the Sale, Agent shall surrender the premises for each Store to Merchant in broom clean condition and in accordance with the lease requirements for such premises; provided, however, Merchant shall bear all costs and expenses associated with surrendering the premises in accordance with the lease requirements for such premises according to a budget mutually agreed to between the Agent and Merchant. At the conclusion of the Sale at each Store, Agent shall photographically document the condition of each such Store.

**C. Project Management**

(i) Agent's Undertakings

During the Sale Term, Agent shall, in collaboration with Merchant, (a) provide qualified supervisors (the "Supervisors") engaged by Agent to oversee the management of the Stores; (b) determine appropriate point-of-sale and external advertising for the Stores, approved in advance by Merchant; (c) determine appropriate discounts of Merchandise, staffing levels for the Stores, approved in advance by Merchant, and

appropriate bonus and incentive programs, if any, for the Stores' employees, approved in advance by Merchant; (d) oversee display of Merchandise for the Stores; (e) to the extent that information is available, evaluate sales of Merchandise by category and sales reporting and monitor expenses; (f) maintain the confidentiality of all proprietary or non-public information regarding Merchant in accordance with the provisions of the confidentiality agreement signed by the Parties; (g) assist Merchant in connection with managing and controlling loss prevention and employee relations matters; (h) if necessary, prepare permit or other license applications necessary to conduct the Sale at the Stores for signature by Merchant, the costs and expenses of which shall be paid by Merchant and are in addition to the Expense Budget; and (i) provide such other related services deemed necessary or appropriate by Merchant and Agent.

The Parties expressly acknowledge and agree that Merchant shall have no liability to the Supervisors for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from Agent's hiring or engagement of the Supervisors, and the Supervisors shall not be considered employees of Merchant.

(ii) Merchant's Undertakings

During the Sale Term, Merchant shall (a) be the employer of the Stores' employees, other than the Supervisors; (b) pay all taxes, costs, expenses, accounts payable, and other liabilities relating to the Stores, the Stores' employees and other representatives of Merchant; (c) prepare and process all tax forms and other documentation; (d) collect all sales taxes and pay them to the appropriate taxing authorities for the Stores; (e) use reasonable efforts to cause Merchant's employees to cooperate with Agent and the Supervisors; (f) execute all agreements determined by the Merchant and Agent to be necessary or desirable for the operation of the Stores during the Sale; (g) arrange for the ordinary maintenance of all point-of-sale equipment required for the Stores; and (h) ensure that Agent has quiet use and enjoyment of the Stores for the Sale Term in order to perform its obligations under this Agreement.

Merchant shall provide throughout the Sale Term central administrative services necessary for the Sale, including (without limitation) customary POS administration, sales audit, cash reconciliation, accounting, and payroll processing, all at no cost to Agent.

The Parties expressly acknowledge and agree that Agent shall have no liability to Merchant's employees for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from Merchant's employment, hiring or retention of its employees, and such employees shall not be considered employees of Agent.

**D. The Sale**

All sales of Merchandise shall be made on behalf of Merchant. Agent does not have, nor shall it have, any right, title or interest in the Merchandise. All sales of Merchandise shall be by cash, gift card, gift certificate, merchandise credit, or credit card and, at Merchant's discretion, by check or otherwise in accordance with Merchant's policies, and shall be "final" with no returns accepted or allowed, unless otherwise directed by Merchant.

**E. Expenses in Connection with the Sale**

Merchant shall be responsible for all expenses of the Sale, including (without limitation) all Store level operating expenses, all costs and expenses related to Merchant's other retail store operations, and Agent's other reasonable, documented out of pocket expenses. To control expenses of the Sale, Merchant and Agent have established an aggregate budget (the "Expense Budget") of certain delineated expenses, including (without limitation) payment of the costs of supervision (including (without limitation) Supervisors' wages, fees, travel, and deferred compensation) and advertising costs. The Expense Budget for the Sale is attached hereto as Exhibit B. The Expense Budget may only be modified by mutual agreement of Agent and Merchant. The

costs of supervision set forth on Exhibits B include, among other things, industry standard deferred compensation.

All accounting matters (including, without limitation, all fees, expenses, or other amounts reimbursable or payable to Agent) shall be reconciled on every Wednesday for the prior week and shall be paid within seven (7) days after each such weekly reconciliation. On a weekly basis, Agent shall provide Merchant with an invoice for the estimated Expense Budget items for the subsequent week, which invoice shall be paid by Merchant within seven (7) days. The Parties shall complete a final reconciliation and settlement of all amounts payable to Agent and contemplated by this Agreement (including, without limitation, Expense Budget items, and fees earned hereunder) no later than forty five (45) days following the Sale Termination Date for the last Store.

Upon execution of this Agreement, the Merchant shall pay by wire transfer to the Agent an advance payment of costs and expenses delineated in the Expense Budget of \$500,000 (the "Sale Expense Advance") which shall be held by Agent and applied towards Expense Budget items as incurred. Any portion of the Sale Expense Advance not so used shall be returned to Merchant within three days following the final reconciliation.

**F. Agent Compensation**

(A) As used herein, the following terms shall have the following meanings:

- (i) "Gross Proceeds" shall mean the gross proceeds of all sales of Merchandise during the Sale Term, net only of sales taxes.
- (ii) "Merchandise" shall mean the goods actually sold in the Stores during the Sale Term, the aggregate amount of which shall be determined using the gross rings inventory taking method.
- (iii) "Aggregate Recovery Percentage" shall mean the Gross Proceeds divided by the aggregate Cost Value of all of the Merchandise.
- (iv) "Cost Value" with respect to each item of Merchandise sold shall be determined by reference to the per unit cost in Merchant's books and records, maintained in the ordinary course consistent with historic practices.

(B) In consideration of its services hereunder, Merchant shall pay Agent an "Incentive Fee" equal to as one of the following (e.g., back to first dollar):

<u>Aggregate Recovery Percentage</u>	<u>Incentive Fee</u>
Below 100.0%	No Incentive Fee
Between 100.0% and 110.0%	1.00% of Gross Proceeds
Between 110.0% and 115.0%	1.25% of Gross Proceeds
Between 115.0% to 120.0%	1.50% of Gross Proceeds

(C) The parties acknowledge that the fee has been established based upon Agent's reliance that Merchant's personnel (including district, regional, and store managers, and Store-level personnel) will provide Agent with reasonable and good faith cooperation and support throughout the Sale Term in connection with the conduct of the Sale.

(D) On a weekly basis in connection with each weekly reconciliation contemplated by Section 5(B) below, Merchant shall pay Agent an amount equal to 1% of Gross Proceeds on account of the prior week's sales as an advance on account of the fees payable hereunder. The parties shall determine the definitive Aggregate Recovery Percentage in connection with the Final Reconciliation; and thus at such time the definitive Incentive Fee also will be determined in connection with the Final Reconciliation. Immediately thereafter (and as part of the Final Reconciliation), Merchant shall pay Agent any additional amount owed on account of the Incentive Fee.

**G. Indemnification****(i) Merchant's Indemnification**

Merchant shall indemnify, defend, and hold Agent and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, representatives, lenders, potential co-investors, principals, affiliates, and Supervisors (collectively, "Agent Indemnified Parties") harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to: (a) the willful or negligent acts or omissions of Merchant or the Merchant Indemnified Parties (as defined below); (b) the material breach of any provision of this Agreement by Merchant; (c) any liability or other claims, including, without limitation, product liability claims, asserted by customers, any Store employees (under a collective bargaining agreement or otherwise), or any other person (excluding Agent Indemnified Parties) against Agent or an Agent Indemnified Party, except claims arising from Agent's negligence, willful misconduct or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious or otherwise actionable treatment of Agent's Indemnified Parties or Merchant's customers by Merchant or Merchant's Indemnified Parties; (e) Merchant's failure to pay over to the appropriate taxing authority any taxes required to be paid by Merchant during the Sale Term in accordance with applicable law; and (f) Merchant's landlords, leases, or occupancy agreements.

**(ii) Agent's Indemnification**

Agent shall indemnify, defend and hold Merchant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, representatives, lenders, potential co-investors, principals, and affiliates (other than the Agent or the Agent Indemnified Parties) (collectively, "Merchant Indemnified Parties") harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to (a) the willful or negligent acts or omissions of Agent or the Agent Indemnified Parties; (b) the breach of any provision of, or the failure to perform any obligation under, this Agreement by Agent; (c) any liability or other claims made by Agent's Indemnified Parties or any other person (excluding Merchant Indemnified Parties) against a Merchant Indemnified Party arising out of or related to Agent's conduct of the Sale, except claims arising from Merchant's negligence, willful misconduct, or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious or otherwise actionable treatment of Merchant Indemnified Parties, or Merchant's customers by Agent or any of the Agent Indemnified Parties and (e) any claims made by any party engaged by Agent as an employee, agent, representative or independent contractor arising out of such engagement.

**H. Insurance****(i) Merchant's Insurance Obligations**

Merchant shall maintain throughout the Sale Term, liability insurance policies (including, without limitation, products liability (to the extent currently provided), comprehensive public liability insurance and auto liability insurance) covering injuries to persons and property in or in connection with the Stores, and shall cause Agent to be named an additional insured with respect to all such policies. At Agent's request, Merchant shall provide Agent with a certificate or certificates evidencing the insurance coverage required hereunder and that Agent is an additional insured thereunder. In addition, Merchant shall maintain throughout the Sale Term, in such amounts as it currently has in effect, workers compensation insurance in compliance with all statutory requirements.

**(ii) Agent's Insurance Obligations**

As an expense of the Sale, Agent shall maintain throughout the Sale Term, liability insurance policies (including, without limitation, products liability/completed operations, contractual liability, comprehensive public liability and auto liability insurance) on an occurrence basis in an amount of at least Two Million dollars (\$2,000,000) and an aggregate basis of at least five million dollars (\$5,000,000) covering injuries to persons

and property in or in connection with Agent's provision of services at the Stores. Agent shall name Merchant as an additional insured and loss payee under such policy, and upon execution of this Agreement provide Merchant with a certificate or certificates evidencing the insurance coverage required hereunder. In addition, Agent shall maintain throughout the Sale Term, workers compensation insurance compliance with all statutory requirements. Further, should Agent employ or engage third parties to perform any of Agent's undertakings with regard to this Agreement, Agent will ensure that such third parties are covered by Agent's insurance or maintain all of the same insurance as Agent is required to maintain pursuant to this paragraph and name Merchant as an additional insured and loss payee under the policy for each such insurance.

**I. Representations, Warranties, Covenants and Agreements**

(i) Merchant warrants, represents, covenants and agrees that (a) Merchant is a company duly organized, validly existing and in good standing under the laws of its state of organization, with full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and maintains its principal executive office at the address set forth herein, (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of Merchant and this Agreement constitutes a valid and binding obligation of Merchant enforceable against Merchant in accordance with its terms and conditions, and the consent of no other entity or person is required for Merchant to fully perform all of its obligations herein, (c) all ticketing of Merchandise at the Stores has been and will be done in accordance with Merchant's customary ticketing practices and no tickets shall be removed or altered; (d) all normal course hard markdowns will only be taken after consultation with Agent; (e) prior to the Sale Commencement Date, Merchant will not offer any promotion or discount at the Stores, other than those disclosed to Agent during due diligence or otherwise agreed to by Agent, and (f) the Stores will be operated in the ordinary course of business in all respects, other than those expressly agreed to by Merchant and Agent. Merchant hereby acknowledges and agrees that signage and messaging used in connection with the Sale may not comply with Merchant's leases or other occupancy agreements.

(ii) Agent warrants, represents, covenants and agrees that (a) Agent is a company duly organized, validly existing and in good standing under the laws of its state of organization, with full power and authority to execute and deliver this Agreement and to perform the Agent's obligations hereunder, and maintains its principal executive office at the addresses set forth herein, (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of Agent and this Agreement constitutes a valid and binding obligation of Agent enforceable against Agent in accordance with its terms and conditions, and the consent of no other entity or person is required for Agent to fully perform all of its obligations herein, (c) Agent shall comply with and act in accordance with any and all applicable state and local laws, rules, and regulations, and other legal obligations of all governmental authorities, (d) no non-emergency repairs or maintenance in the Stores will be conducted without Merchant's prior written consent, and (e) Agent will not take any disciplinary action against any employee of Merchant.

**J. Furniture, Fixtures and Equipment**

Agent shall sell the FF&E in the Stores from the Stores themselves. Merchant shall be responsible for all reasonable costs and expenses incurred by Agent in connection with the sale of FF&E, which costs and expenses shall be incurred pursuant to a budget or budgets to be established from time to time by mutual agreement of the Parties. Agent shall have the right to abandon at the Stores any unsold FF&E.

In consideration for providing the services set forth in this section I, Agent shall be entitled to a commission from the sale of the FF&E equal to fifteen percent (15%) of the Gross Proceeds of the sale of the FF&E.

Agent shall remit to Merchant all Gross Proceeds from the sale of FF&E. During each weekly reconciliation described in section E above, Agent's FF&E fee shall be calculated, and Agent's calculated

FF&E fee and all FF&E costs and expenses then incurred shall be paid within seven (7) days after each such weekly reconciliation.

**K. Additional Agent Goods**

So long as such supplementation is not reasonably likely to materially increase the term of the Sale at any Store or adversely affect the sales of Merchandise through the Sale, Agent shall have the right to supplement the Merchandise in the Sale at the Stores with additional goods procured by Agent which are of like kind, and no lesser quality to the Merchandise in the Sale at the Stores ("Additional Agent Goods"). The Additional Agent Goods shall be purchased by Agent as part of the Sale, and delivered to the Stores at Agent's sole expense (including as to labor, freight and insurance relative to shipping such Additional Agent Goods to the Stores). Sales of Additional Agent Goods shall be run through Merchant's cash register systems; provided, however, that Agent shall mark the Additional Agent Goods using either a "dummy" SKU or department number, or in such other manner so as to distinguish the sale of Additional Agent Goods from the sale of Merchandise. Agent and Merchant shall also cooperate so as to ensure that the Additional Agent Goods are marked in such a way that a reasonable consumer could identify the Additional Agent Goods as non-Merchant goods. Additionally, Agent shall provide signage in the Stores notifying customers that the Additional Agent Goods have been included in the Sale.

Proceeds from Additional Agent Goods shall be used first to reimburse Agent for its Cost of the Additional Agent Goods, including the freight, labor and insurance costs referred to above. Thereafter, Agent shall pay to Merchant an amount equal to fifty percent (50%) of the remaining proceeds from the sale of the Additional Agent Goods (the "Additional Agent Goods Fee"), and Agent shall retain all remaining amounts from the sale of the Additional Agent Goods. Agent shall pay Merchant its Additional Agent Goods Fee in connection with the Final Reconciliation of the Sale.

Agent and Merchant intend that the transactions relating to the Additional Agent Goods are, and shall be construed as, a true consignment from Agent to Merchant in all respects and not a consignment for security purposes. Subject solely to Agent's obligations to pay to Merchant the Additional Agent Goods Fee, at all times and for all purposes the Additional Agent Goods and their proceeds shall be the exclusive property of Agent, and no other person or entity shall have any claim against any of the Additional Agent Goods or their proceeds. The Additional Agent Goods shall at all times remain subject to the exclusive control of Agent.

Merchant shall, at Agent's sole cost and expense, insure the Additional Agent Goods and, if required, promptly file any proofs of loss with regard to same with Merchant's insurers. Agent shall be responsible for payment of any deductible (but only in relation to the Additional Agent Goods) under any such insurance in the event of any casualty affecting the Additional Agent Goods.

Merchant acknowledges that the Additional Agent Goods shall be consigned to Merchant as a true consignment under Article 9 of the Uniform Commercial Code (the "UCC"). Agent is hereby granted a first priority security interest in and lien upon (i) the Additional Agent Goods and (ii) the Additional Agent Goods proceeds, and Agent is hereby authorized to file UCC financing statements and provide notifications to any prior secured parties.

**L. Termination**

The following shall constitute "Termination Events" hereunder:

- (a) Merchant's or Agent's failure to perform any of their respective material obligations hereunder, which failure shall continue uncured seven (7) days after receipt of written notice thereof to the defaulting Party;

- (b) Any representation or warranty made by Merchant or Agent is untrue in any material respect as of the date made or at any time and throughout the Sale Term; or
- (c) the Sale is terminated or materially interrupted or impaired for any reason other than an event of default by Agent or Merchant.

If a Termination Event occurs, the non-defaulting Party (in the case of an event of default) or either Party (if the Sale is otherwise terminated or materially interrupted or impaired) may, in its discretion, elect to terminate this Agreement by providing seven (7) business days' written notice thereof to the other Party and, in the case of an event of default, in addition to terminating this Agreement, pursue any and all rights and remedies and damages resulting from such default. If this Agreement is terminated, Merchant shall be obligated to pay Agent all amounts due under this Agreement through and including the termination date.

**M. Notices**

All notices, certificates, approvals, and payments provided for herein shall be sent by fax or by recognized overnight delivery service as follows: (a) To Merchant: at the address listed above; (b) To Agent: c/o Hilco Merchant Resources, LLC, One Northbrook Place, 5 Revere Drive, Suite 206, Northbrook, IL 60062, Fax: 847- 849-0859, Attn: Ian S. Fredericks; or (c) such other address as may be designated in writing by Merchant or Agent.

**N. Independent Consultant**

Agent's relationship to Merchant is that of an independent contractor without the capacity to bind Merchant in any respect. No employer/employee, principal/agent, joint venture or other such relationship is created by this Agreement. Merchant shall have no control over the hours that Agent or its employees or assistants or the Supervisors work or the means or manner in which the services that will be provided are performed and Agent is not authorized to enter into any contracts or agreements on behalf of Merchant or to otherwise create any obligations of Merchant to third parties, unless authorized in writing to do so by Merchant.

**O. Non-Assignment**

Neither this Agreement nor any of the rights hereunder may be transferred or assigned by either Party without the prior written consent of the other Party. No modification, amendment or waiver of any of the provisions contained in this Agreement, or any future representation, promise or condition in connection with the subject matter of this Agreement, shall be binding upon any Party to this Agreement unless made in writing and signed by a duly authorized representative or agent of such Party. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and permitted assigns.

**P. Severability**

If any term or provision of this Agreement, as applied to either Party or any circumstance, for any reason shall be declared by a court of competent jurisdiction to be invalid, illegal, unenforceable, inoperative or otherwise ineffective, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. If the surviving portions of the Agreement fail to retain the essential understanding of the Parties, the Agreement may be terminated by mutual consent of the Parties.

**Q. Governing Law, Venue, Jurisdiction and Jury Waiver**

This Agreement, and its validity, construction and effect, shall be governed by and enforced in accordance with the internal laws of the State of Delaware (without reference to the conflicts of laws provisions

therein). Merchant and Agent waive their respective rights to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Agent against Merchant or Merchant against Agent on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship between Merchant and Agent, any claim of injury or damage or the enforcement of any remedy under any law, statute or regulation, emergency or otherwise, now or hereafter in effect.

**R. Entire Agreement**

This Agreement, together with all additional schedules and exhibits attached hereto, constitutes a single, integrated written contract expressing the entire agreement of the Parties concerning the subject matter hereof. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any Party except as specifically set forth in this Agreement. All prior agreements, discussions and negotiations are entirely superseded by this Agreement.

**S. Execution**

This Agreement may be executed simultaneously in counterparts (including by means of electronic mail, facsimile or portable document format (pdf) signature pages), any one of which need not contain the signatures of more than one party, but all such counterparts taken together shall constitute one and the same instrument. This Agreement, and any amendments hereto, to the extent signed and delivered by means of electronic mail, a facsimile machine or electronic transmission in portable document format (pdf), shall be treated in all manner and respects as an original thereof and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

The Parties hereby agree that any list of Stores attached as Exhibit A may be supplemented from time to time by written amendment to this Agreement executed in accordance with the foregoing in which case any retail location added to Exhibit A shall be deemed a "Store" for all purposes under this Agreement, and the Parties shall mutually agree upon any modifications to the Sale Term, Expense Budget(s), Recovery Percentage Ranges (if applicable), fee, and other terms and conditions that may be necessary or appropriate in light of the additional retail locations.

**T. Bankruptcy**

If Merchant commences a case under Chapter 11 of title 11, United States Code (the "Bankruptcy Code"), with a bankruptcy court (the "Bankruptcy Court"), Merchant shall promptly file a motion to assume this Agreement under section 365 of the Bankruptcy Code, and utilize its reasonable best efforts to ensure that such motion is approved by an order (the "Approval Order") that provides, among other things, as follows: (i) the payment of all fees and reimbursement of expenses hereunder to Agent is approved without further order of the court and shall be free and clear of all liens, claims and encumbrances; (ii) all such payments of fees and reimbursement of expenses shall be made on a weekly basis without further order of the Bankruptcy Court and otherwise in accordance with this Agreement; (iii) approval of the transaction contemplated hereby; (iv) authorizing the Sale without the necessity of complying with state and local rules, laws, ordinances and regulations, including, without limitation, permitting and licensing requirements, that could otherwise govern the Sale; (v) authorizing the Sale notwithstanding restrictions in leases, reciprocal easement agreements or other contracts that purport to restrict the Sale or the necessity of obtaining any third party consents; (vi) authorizing the sale of Additional Agent Goods and granting the Agent a first priority senior security interest and lien upon the Additional Agent Goods and proceeds thereof; and (vii) take all further actions as are necessary or appropriate to carry out the terms and conditions of this Agreement. In such event, any legal action, suit or proceeding arising in connection with this Agreement shall be submitted to the exclusive jurisdiction of the Bankruptcy Court having jurisdiction over Merchant, and each Party hereby waives any defenses or objections based on lack of jurisdiction, improper venue, and/or forum non conveniens. From and



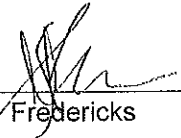
after entry of the Approval Order, Agent shall conduct the Sale in accordance with the terms of the Approval Order in all material respects.

\* \* \*

If this Agreement is acceptable to you, kindly execute a copy in the space provided, and return a countersigned version to the undersigned. Thank you again for this opportunity -- we look forward to working with you.

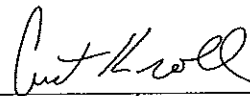
Very truly yours,

HILCO MERCHANT RESOURCES, LLC

  
\_\_\_\_\_  
By: Ian S. Fredericks  
Its: EVP

**AGREED AND ACCEPTED** as of the 5th day  
of ~~July~~, 2018:

August  
NATIONAL STORES INC.

  
\_\_\_\_\_  
By: CURT KROLL  
Its: CRO

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
2	Jamaica NY	162-Jamaica Ave.	Jamaica	NY	11432	Fallas
3	Fordham Bronx	215-223 East Fordham Rd.	Bronx	NY	10458	Fallas
107	NORWALK - PIONEER	14027 South Pioneer Boulevard	Norwalk	CA	90650	Fallas
323	ROSENBERG	3719 Avenue "H"	Rosenberg	TX	77471	Fallas
361	EAGLE PASS MAIN (KIDS)	296 Main St.-opened 10/18/07	Eagle Pass	TX	78852	Fallas
405	Chicago-Cicero	7601 S.Cicero Ave 1935	Chicago	IL	60652	Fallas
411	Aurora	1270 N. Lake St.	Aurora	IL	60506	Fallas
412	Calumet	490 River Oakes W.	Calumet City	IL	60409	Fallas
415	Phoenix - Indian School	4003 Indian School Rd.	Phoenix	AZ	85018	Fallas
434	Kingman	3136 N. Stockton Hills Rd	Kingman	AZ	96409	Fallas
435	Hanover	7630 N Barrington Rd	Hanover Park	IL	60133	Fallas
442	131 Market Street	131 Market St.	Newark	NJ	07102	Fallas
444	Kedzie Ave	4760 S. Kedzie Ave.	Chicago	IL	60632	Fallas
448	GREENBELT	6106 Greenbelt Road, Unit 35	Greenbelt	MD	20770	Fallas
449	Hampton Virginia	6 Town Center Way	Hampton	VA	23666	Fallas
450	ORIANA VIRGINIA	439 Oriana Rd	Newport News	VA	23608	Fallas
451	Red Bluff Pasadena TX	2619 Red Bluff	Pasadena	TX	77506	Fallas
455	BELAIR BALTIMORE	2501 Belair Rd	Baltimore	MD	21213	Fallas
458	VIRGINIA BEACH	600 S Lynnhaven Rd Suite 100	Virginia Beach	VA	23452	Anna's Linens
460	Hollywood SC	5420 Sunset Blvd	Hollywood	CA	90028	Fallas
463	Marketplace 99	9163 E. Stockton Boulevard, #360	Elk Grove	CA	95624	Anna's Linens
468	Atlantic Square	2022 S. Atlantic Blvd	Monterey Park	CA	91754	Anna's Linens
469	Lemon Grove Plaza	7044 Broadway	Lemon Grove	CA	91945	Anna's Linens
470	Burbank	928 N. San Fernando Road	Burbank	CA	91505	Fallas
471	Valley Central	44436 Valley Central Way	Lancaster	CA	93536	Fallas
473	Bristol Warner Marketplace	2120 S. Bristol Street	Santa Ana	CA	92704	Fallas
474	The Marketplace	1881 E. Ventura Boulevard	Oxnard	CA	93036	Anna's Linens

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
476	Visalia SC	3446 S. Mooney Boulevard	Visalia	CA	93277	Fallas
477	Northridge Plaza	8762 Corbin Avenue	Northridge	CA	91324	Fallas
478	Silverado Ranch Plaza	9833 S. Eastern Road	Las Vegas	NV	89183	Anna's Linens
480	North Mesa Shopping Center	1925 W. Craig Road, Suite 104	N Las Vegas	NV	89032	Fallas
484	Concord Shopping Plaza	11397 SW 40th Street	Miami	FL	33165	Fallas
486	Oakwood Plaza	3791 Oakwood Blvd.	Hollywood	FL	33020	Anna's Linens
489	Mall at 163rd Street	1371 NE 163rd St #1114	North Miami	FL	33162	Fallas
491	Lakewood Shopping Center	5385 West Atlantic Blvd	Margate	FL	33063	Fallas
492	Southside Plaza	624 W Southside Plaza Street	Richmond	VA	23224	Fallas
494	Copperfield Plaza SC	349 Copperfield Blvd NE	Concord	NC	28025	Fallas
496	Franklin Square SC	3054 E. Franklin Blvd., Suite 1	Gastonia	NC	28056	Fallas
503	Lompoc	1009 North H Street, Suite M	Lompoc	CA	93436	Fallas
510	W 116th Street	101116 West 116th St.	NY	NY	10026	Fallas
515	Rockaway Rosedale	25301 Rockaway Blvd.	Rosedale	NY	11422	Fallas
516	Steinway Queens	3108 Steinway Street	New York	NY	11103	Fallas
526	West Cermak N Riverside	7501 West Cermak Rd.	North Riverside	IL	60546	Fallas
531	West North Street	4939 W. North Avenue	Chicago	IL	60639	Fallas
532	Capitol Dr	709 E Capitol Dr.	Milwaukee	WI	53212	Fallas
533	Indianapolis Highland	8315 Indianapolis Blvd	Highland	IN	46322	Fallas
534	Markham	2959 W 159th St.	Markham	IL	60428	Fallas
535	Cicero Chicago	3925 N Cicero Ave.	Chicago	IL	60641	Fallas
537	Grand Rapids	1102 28th St.	Grand Rapids	MI	49509	Fallas
538	Eureka Southgate	14255 Eureka Rd.	Southgate	MI	48195	Fallas
539	Telegraph Redford	9313 Telegraph Rd	Redford	MI	48239	Fallas
541	John Madison Hts	29411 John R. Rd.	Madison Heights	MI	48071	Fallas
542	Berlin Turnpike Wethersfield	1410 Berlin Turnpike	Wethersfield	CT	06109	Fallas
543	Boston Ave Bridgeport	156 Boston Avenue	Bridgeport	CT	06610	Fallas
544	Dixwell Hamden	1245 Dixwell Avenue	Hamden	CT	06514	Fallas
545	Boston Post West Haven	901 Boston Post Rd.	West Haven	CT	06516	Fallas
548	Grafton Worcester	899 Grafton St.	Worcester	MA	01604	Fallas

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
550	Broadway Malden	54 Broadway	Malden	MA	02148	Fallas
551	Westgate Brokton	200 Westgate Mall	Brokton	MA	02301	Fallas
558	Broad Street Elizabeth	46 Broad Street	Elizabeth	NJ	07201	Fallas
559	Olney Philadelphia	122 East Olney Ave.	Philadelphia	PA	19120	Fallas
563	Park West Philadelphia	1575 N 52nd St. (Park West Shopping Center)	Philadelphia	PA	19131	Fallas
566	Ridge Irondequoit	2255 E Ridge Rd.	Irondequoit	NY	14622	Fallas
567	Delaware Buffalo	2638 Delaware Ave.	Buffalo	NY	14216	Fallas
568	Harlem Cheektowaga	2195 Harlem Rd.	Cheektowaga	NY	14225	Fallas
569	Main St Armherst	3500 Main St.	Amherst	NY	14226	Fallas
570	Shop City Plaza	139 Shop City Plaza	Syracuse	NY	13206	Fallas
572	Mohawk Utica	1154 Mohawk St.	Utica	NY	13501	Fallas
573	Onondaga Syracuse	4671 Onondaga Blvd.	Syracuse	NY	13219	Fallas
574	Altamont Schenectady	1320 Altamont Ave.	Schenectady	NY	12303	Fallas
578	Ridge Cincinnati	5375 Ridge Road	Cincinnati	OH	45213	Fallas
579	Ingram Shop Center	256 Crafton Ingram Shop Center	Pittsburgh	PA	15205	Fallas
580	Braddock Pittsburgh	1763 S Braddock Ave	Pittsburgh	PA	15218	Fallas
589	Virginia Beach Norfolk	5900 E. Virginia Beach	Norfolk	VA	23502	Fallas

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**National Stores  
Exhibit B**

<b>Expense Budget</b>
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**Advertising**

Media	-
Signs	317,112
Sign Walkers	401,146
Subtotal Advertising	<u>718,258</u>

**Supervision**

Fees / Wages / Expenses (1)	487,352
Subtotal Supervision	<u>487,352</u>

Total Expenses	<u><u>1,205,610</u></u>
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**Note(s):**

1. Includes Deferred Compensation and Insurance.
2. This Expense Budget contemplates a sale term of August, 2, 2018 through October 7, 2018. The Expense Budget remains subject to modification in the event that this term is extended, or as otherwise agreed to by the parties.

**EXHIBIT 2 to Interim Order**

**Sale Guidelines**

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

<p><b>In re:</b></p> <p><b>J &amp; M SALES INC., et al.,</b></p> <p style="text-align: right;"><b>Debtors.<sup>1</sup></b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Chapter 11</b></p> <p><b>Case No. 18-11801 (___)</b></p> <p><b>Joint Administration Requested</b></p>
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**SALE GUIDELINES**

The following procedures (the “**Sale Guidelines**”) shall apply to the store closing sale (each, a “**Store Closing Sale**” and collectively, the “**Store Closing Sales**”) to be held at the store locations (to be closed by the Debtors set forth on Exhibit A) (each, a “**Closing Store**” and collectively, the “**Closing Stores**”) operated by the above-captioned debtors in possession (collectively, the “**Debtors**”), subject to the agreement (the “**Agreement**”)² by and among Hilco Merchant Resources, LLC (together, the “**Agent**”), and J & M Sales and its affiliates, and in accordance with the order of the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) approving the Store Closing Sales in accordance with these Sale Guidelines:

1. Each Store Closing Sale shall be conducted at the Stores during the normal business hours maintained at each Closing Store by the Debtors prior to the filing of their petitions; *provided* that the Debtors may in their discretion modify the business hours as necessary or advisable.
2. Conspicuous signs stating that “all sales are final” and “as is” will be posted at the cash register areas at all Closing Stores.
3. The Agent and the Debtors may advertise each Store Closing Sale as a “store closing,” “sale on everything,” “everything must go,” “liquidation sale,” “summer clearance outlet,” “summer clearance entire store on sale,” “nothing held back,” or similar themed sale. The Agent and the Debtors may also have “countdown to closing” signs prominently displayed in a manner consistent with these Sale Guidelines.
4. The Agent and the Debtors shall be permitted to utilize exterior banners *provided, however*, that such banners (A) shall not exceed 4 feet by 40 feet in size; (B) shall be

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<sup>1</sup> Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: J & M Sales Inc. (4697); National Stores, Inc. (4874); J & M Sales of Texas, LLC (5979); FP Stores, Inc. (6795); Southern Island Stores, LLC (8099); Southern Island Retail Stores LLC (4237); Caribbean Island Stores, LLC (9301); Pazzo FNB Corp. (9870); Fallas Stores Holdings, Inc. (6052); and Pazzo Management LLC (1924). Debtors’ mailing address is 15001 South Figueroa Street, Gardena, CA 90248.

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



located or hung so as to make clear that the Sale is being conducted only at the affected Closing Store; and (C) shall not be wider than the storefront of the Closing Store.

5. Except with respect to the hanging of exterior banners, the Agent and the Debtors shall not make any alterations to the storefront or exterior walls of any Closing Stores.

6. No landlord, licensor, property owner, and/or property manager (each, a “**Landlord**” and collectively, the “**Landlords**”) shall prohibit, restrict, or otherwise interfere with any Store Closing Sale at any Closing Store.

7. The Agent and the Debtors shall not make any alterations to interior or exterior Closing Store lighting. No property of a Landlord of a Closing Store shall be removed or sold during any Sale. The hanging of exterior banners or signage or banners in a Store shall not constitute an alteration to a Closing Store.

8. The Agent and the Debtors shall be permitted to utilize sign-walkers in a safe and professional manner.

9. On “shopping center” property, neither the Debtors nor the Agent shall distribute handbills, leaflets, or other written materials to customers outside of any Closing Store’s premises, unless permitted by the lease or, if distribution is customary in the “shopping center” in which such Closing Store is located; *provided* that the Debtors and the Agent may solicit customers in the Closing Stores themselves. On “shopping center” property, the Debtors and the Agent shall not use any flashing lights or amplified sound to advertise the Closing Store Closing Sale or solicit customers, except as permitted under the applicable lease or agreed to by the Landlord.

10. The Agent and the Debtors shall keep Closing Store premises and surrounding areas clean and orderly consistent with present practices.

11. Nothing contained in these Sale Guidelines shall be construed to create or impose upon the Agent and the Debtors any additional restrictions not contained in the applicable lease agreement.

12. Subject to the provisions of the Agreement, the Agent and the Debtors shall have the right to sell all FF&E. The Agent and the Debtors may advertise and sell FF&E in a manner consistent with these Sale Guidelines and the Agreement. The purchasers of any FF&E sold at any of the Closing Stores shall be permitted to remove the FF&E either through the back shipping areas at any time, or through other areas after Store business hours, consistent with the operating hours of the Store or shopping center.

13. All Merchandise and FF&E shall be sold free and clear of all claims, liens, and encumbrances.

14. Upon the earlier of (i) the completion of the Store Closing Sale at a Store or (ii) the Sale Termination Date, the Agent shall leave each Closing Store in broom clean condition and shall abandon any Merchandise and FF&E in a neat and orderly manner.

15. The Agent and the Debtors may abandon any Merchandise and FF&E not sold in a Store Closing Sale at the Closing Store at the earlier of the conclusion of the Sale Term at the applicable Closing Store or the Sale Termination Date.

16. The Agent and its respective agents and representatives shall continue to have exclusive and unfettered access to the Closing Stores until the conclusion of the applicable Sale Term for each Store under the Agreement.

17. The rights of any Landlord as against the Debtors' estates for any damages caused to a Closing Store shall be reserved in accordance with the provisions of the applicable lease. If and to the extent that a Landlord of any Closing Store affected hereby contends that the Agent or the Debtors are in breach of or default under these Sale Guidelines, such Landlord shall deliver notice on the following parties by email or deliver written notice so as to ensure delivery thereof within one business day thereafter: (1) counsel to Debtors, (a) Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17<sup>th</sup> Floor, P.O. Box 8705, Wilmington, DE 19899 (Courier 19801) (Attn: Peter J. Keane, Esq. and Richard M. Pachulski, Esq.), and (b) Katten Muchin Rosenman LLP, 575 Madison Avenue, New York, NY 10022 (Attn: William Freeman, Esq. and Karen Dine, Esq.); (2) counsel to Encina Business Credit, LLC: Choate Hall & Stewart LLP, Two International Place, Boston, MA 02110 (Attn: Kevin J. Simard, Esq.); (3) counsel to Gordon Brothers Finance Company, as Administrative Agent, one of the Debtors' prepetition secured lenders, Holland & Knight, 10 St. James Avenue, 11th Floor, Boston, MA 02116 (Attn: Jason DelMonico, Esq.); (4) counsel for Israel Discount Bank of New York, as co-administrative agent and one of the Debtors' prepetition secured lenders, Otterbourg P.C., 230 Park Avenue, New York, NY 10169 (Attn: Daniel Fiorillo, Esq.); (5) counsel to Hilco Merchant Resources, 5 Revere Drive, Suite 206, Northbrook, Illinois, Attn: Ian Fredericks, Esq.); (6) counsel to Michael Fallas, SulmeyerKupetz, 333 South Hope Street, 35<sup>th</sup> Floor, Los Angeles, CA 90071 (Attn: Victor Sahn, Esq.); (7) the Office of the U.S. Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq.); and if applicable, and if applicable (8) counsel to any official committee appointed in these Chapter 11 Cases.

*[End of Sale Guidelines]*

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
<b>Stores</b>						
2	Jamaica NY	162-Jamaica Ave.	Jamaica	NY	11432	Fallas
3	Fordham Bronx	215-223 East Fordham Rd.	Bronx	NY	10458	Fallas
107	NORWALK - PIONEER	14027 South Pioneer Boulevard	Norwalk	CA	90650	Fallas
323	ROSENBERG	3719 Avenue "H"	Rosenberg	TX	77471	Fallas
361	EAGLE PASS MAIN (KIDS)	296 Main St.-opened 10/18/07	Eagle Pass	TX	78852	Fallas
405	Chicago-Cicero	7601 S.Cicero Ave 1935	Chicago	IL	60652	Fallas
411	Aurora	1270 N. Lake St.	Aurora	IL	60506	Fallas
412	Calumet	490 River Oakes W.	Calumet City	IL	60409	Fallas
415	Phoenix - Indian School	4003 Indian School Rd.	Phoenix	AZ	85018	Fallas
434	Kingman	3136 N. Stockton Hills Rd	Kingman	AZ	96409	Fallas
435	Hanover	7630 N Barrington Rd	Hanover Park	IL	60133	Fallas
442	131 Market Street	131 Market St.	Newark	NJ	07102	Fallas
444	Kedzie Ave	4760 S. Kedzie Ave.	Chicago	IL	60632	Fallas
448	GREENBELT	6106 Greenbelt Road, Unit 35	Greenbelt	MD	20770	Fallas
449	Hampton Virginia	6 Town Center Way	Hampton	VA	23666	Fallas
450	ORIANA VIRGINIA	439 Oriana Rd	Newport News	VA	23608	Fallas
451	Red Bluff Pasadena TX	2619 Red Bluff	Pasadena	TX	77506	Fallas
455	BELAIR BALTIMORE	2501 Belair Rd	Baltimore	MD	21213	Fallas
458	VIRGINIA BEACH	600 S Lynnhaven Rd Suite 100	Virginia Beach	VA	23452	Anna's Linens
460	Hollywood SC	5420 Sunset Blvd	Hollywood	CA	90028	Fallas
463	Marketplace 99	9163 E. Stockton Boulevard, #360	Elk Grove	CA	95624	Anna's Linens
468	Atlantic Square	2022 S. Atlantic Blvd	Monterey Park	CA	91754	Anna's Linens
469	Lemon Grove Plaza	7044 Broadway	Lemon Grove	CA	91945	Anna's Linens
470	Burbank	928 N. San Fernando Road	Burbank	CA	91505	Fallas
471	Valley Central	44436 Valley Central Way	Lancaster	CA	93536	Fallas
473	Bristol Warner Marketplace	2120 S. Bristol Street	Santa Ana	CA	92704	Fallas
474	The Marketplace	1881 E. Ventura Boulevard	Oxnard	CA	93036	Anna's Linens

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
476	Visalia SC	3446 S. Mooney Boulevard	Visalia	CA	93277	Fallas
477	Northridge Plaza	8762 Corbin Avenue	Northridge	CA	91324	Fallas
478	Silverado Ranch Plaza	9833 S. Eastern Road	Las Vegas	NV	89183	Anna's Linens
480	North Mesa Shopping Center	1925 W. Craig Road, Suite 104	N Las Vegas	NV	89032	Fallas
484	Concord Shopping Plaza	11397 SW 40th Street	Miami	FL	33165	Fallas
486	Oakwood Plaza	3791 Oakwood Blvd.	Hollywood	FL	33020	Anna's Linens
489	Mall at 163rd Street	1371 NE 163rd St #1114	North Miami	FL	33162	Fallas
491	Lakewood Shopping Center	5385 West Atlantic Blvd	Margate	FL	33063	Fallas
492	Southside Plaza	624 W Southside Plaza Street	Richmond	VA	23224	Fallas
494	Copperfield Plaza SC	349 Copperfield Blvd NE	Concord	NC	28025	Fallas
496	Franklin Square SC	3054 E. Franklin Blvd., Suite 1	Gastonia	NC	28056	Fallas
503	Lompoc	1009 North H Street, Suite M	Lompoc	CA	93436	Fallas
510	W 116th Street	101116 West 116th St.	NY	NY	10026	Fallas
515	Rockaway Rosedale	25301 Rockaway Blvd.	Rosedale	NY	11422	Fallas
516	Steinway Queens	3108 Steinway Street	New York	NY	11103	Fallas
526	West Cermak N Riverside	7501 West Cermak Rd.	North Riverside	IL	60546	Fallas
531	West North Street	4939 W. North Avenue	Chicago	IL	60639	Fallas
532	Capitol Dr	709 E Capitol Dr.	Milwaukee	WI	53212	Fallas
533	Indianapolis Highland	8315 Indianapolis Blvd	Highland	IN	46322	Fallas
534	Markham	2959 W 159th St.	Markham	IL	60428	Fallas
535	Cicero Chicago	3925 N Cicero Ave.	Chicago	IL	60641	Fallas
537	Grand Rapids	1102 28th St.	Grand Rapids	MI	49509	Fallas
538	Eureka Southgate	14255 Eureka Rd.	Southgate	MI	48195	Fallas
539	Telegraph Redford	9313 Telegraph Rd	Redford	MI	48239	Fallas
541	John Madison Hts	29411 John R. Rd.	Madison Heights	MI	48071	Fallas
542	Berlin Turnpike Wethersfield	1410 Berlin Turnpike	Wethersfield	CT	06109	Fallas
543	Boston Ave Bridgeport	156 Boston Avenue	Bridgeport	CT	06610	Fallas
544	Dixwell Hamden	1245 Dixwell Avenue	Hamden	CT	06514	Fallas
545	Boston Post West Haven	901 Boston Post Rd.	West Haven	CT	06516	Fallas
548	Grafton Worcester	899 Grafton St.	Worcester	MA	01604	Fallas

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Store List

National Stores  
Exhibit A

Store List

Store #	Name	Address	City	State	Zip Code	Banner
550	Broadway Malden	54 Broadway	Malden	MA	02148	Fallas
551	Westgate Brokton	200 Westgate Mall	Brokton	MA	02301	Fallas
558	Broad Street Elizabeth	46 Broad Street	Elizabeth	NJ	07201	Fallas
559	Olney Philadelphia	122 East Olney Ave.	Philadelphia	PA	19120	Fallas
563	Park West Philadelphia	1575 N 52nd St. (Park West Shopping Center)	Philadelphia	PA	19131	Fallas
566	Ridge Irondequoit	2255 E Ridge Rd.	Irondequoit	NY	14622	Fallas
567	Delaware Buffalo	2638 Delaware Ave.	Buffalo	NY	14216	Fallas
568	Harlem Cheektowaga	2195 Harlem Rd.	Cheektowaga	NY	14225	Fallas
569	Main St Amherst	3500 Main St.	Amherst	NY	14226	Fallas
570	Shop City Plaza	139 Shop City Plaza	Syracuse	NY	13206	Fallas
572	Mohawk Utica	1154 Mohawk St.	Utica	NY	13501	Fallas
573	Onondaga Syracuse	4671 Onondaga Blvd.	Syracuse	NY	13219	Fallas
574	Altamont Schenectady	1320 Altamont Ave.	Schenectady	NY	12303	Fallas
578	Ridge Cincinnati	5375 Ridge Road	Cincinnati	OH	45213	Fallas
579	Ingram Shop Center	256 Crafton Ingram Shop Center	Pittsburgh	PA	15205	Fallas
580	Bradock Pittsburgh	1763 S Bradock Ave	Pittsburgh	PA	15218	Fallas
589	Virginia Beach Norfolk	5900 E. Virginia Beach	Norfolk	VA	23502	Fallas

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