

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

In re:)	
	)	Chapter 11
LIMITED STORES COMPANY, LLC, <i>et al.</i> , ¹	)	Case No. 17-10124 (KJC)
)	
Debtors.	)	(Jointly Administered)
)	

**DEBTORS’ MOTION FOR ENTRY OF AN ORDER
AUTHORIZING DEBTORS TO SELL CERTAIN GOODS FREE
AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES**

The Limited Stores Company, LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”),² respectfully state the following in support of this motion.

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Sale Order”), authorizing the sale of approximately 266,806 pieces of first quality goods owned by the Debtors and located at their e-commerce fulfillment center at 5389 East Provident Drive, Cincinnati, Ohio, 45246 (collectively, the “Goods”) to Hilco Wholesale Solutions, LLC (the “Buyer”) pursuant to section 363 of the Bankruptcy Code (as defined herein), free and clear of, *inter alia*, liens, claims, encumbrances, defenses (including, without limitation, rights of setoff and recoupment) and interests, including, without limitation, security

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Limited Stores Company, LLC (6463); Limited Stores, LLC (0165); and The Limited Stores GC, LLC (6094). The location of the Debtors’ service address is: 7775 Walton Parkway, Suite 400, New Albany, Ohio 43054.

² A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Timothy D. Boates of Limited Stores Company, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), on January 17, 2017 (the “Petition Date”).

interests of whatever kind or nature, all as set forth in the Sale Order (collectively, “Encumbrances”), pursuant to the terms of the Agreement dated as of February 14, 2017, annexed as Exhibit 1 to the Sale Order (the “Agreement”). The Debtors believe that the proposed sale, as described herein and pursuant to the terms of the Agreement, is in the best interests of their estates and creditors and should be approved.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The Debtors confirm their consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”).

Background

5. The Debtors’ operations historically comprised approximately 250 brick and mortar retail locations across 42 states-primarily in leased mall-based locations-as well as an e-commerce channel, which could be accessed through the Debtors’ website at

www.TheLimited.com. Prior to the Petition Date, due to the Debtors' declining financial performance, the Debtors liquidated substantially all of their brick and mortar inventory, and ceased operations at and vacated the premises of all of their approximately 250 stores. In addition, prior to the Petition Date, the Debtors ceased operating their e-commerce business. Having liquidated their brick and mortar inventory and fully marketed their remaining assets through a competitive third-party process, the Debtors commenced these chapter 11 cases to efficiently consummate the sale of their remaining assets, including their intellectual property, followed by an orderly wind down of the Debtors' estates.

6. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases. On January 24, 2017, the Office of the United States Trustee for the District of Delaware appointed an official committee of unsecured creditors (the "Committee").

The Debtors' Proposed Sale of Goods

7. Upon the cessation of their e-commerce operations, the Debtors were left with a significant amount of inventory at their fulfillment center. The Debtors have decided that monetizing the Goods is in their best interest as they require inflows of cash to manage their estate and successfully wind down their operations and the proceeds of the sale of the Goods is contemplated in the Debtors' budget supporting their debtor in possession financing facility. The Debtors' have determined that the value of the Goods is likely to deteriorate over time and the carry cost for such Goods would unnecessarily burden the estates.

8. Given their need to monetize the Goods, the Debtors conducted a search and sought out and contacted potential buyers. The Debtors conducted this search through their

internal personnel with the assistance of their retained professionals. Given the Debtors' experience in the industry, they are confident that they have contacted the likely potential buyers in an efficient manner that minimized the expenses to the estates.

9. The Debtors requested bids for the Goods from the parties known to purchase assets such as the Goods in bulk; comprising twelve parties in total. The Debtors received four proposals and continued negotiation with such prospective purchasers after proposals were received. Through such arms-length negotiations and multiple rounds of back and forth negotiations, the Debtors eventually agreed to enter into the Agreement with Buyer on the terms set forth therein. The Agreement represents the highest and best offer received by the Debtors that was capable of closing with the least amount of cost or delay. The Agreement obligates the Debtors, subject to Court approval, to sell the Goods to the Buyer for a purchase price of \$3.28 per unit, which is estimated to result in total proceeds of \$875,124.00 (subject to adjustment as set forth in the Agreement).

10. The Debtors believe that the proposed sale described herein properly maximizes value for their stakeholders while efficiently capitalizing on the Buyer's interest in purchasing the Goods. Moreover, the Debtors' estates will receive a direct cash influx from the Buyer by consummating the sale to support their continued orderly liquidation and wind down.

Basis for Relief

A. The Sale Should Be Approved as an Exercise of Sound Business Judgment.

11. Section 363(b) of the Bankruptcy Code provides that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). In the Third Circuit, courts have authorized transactions outside the ordinary course of business when the transaction has a sound business purpose and is proposed in good faith. See *In re Martin*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Montgomery*

Ward Holding Corp., 242 B.R. 147, 153 (D. Del. 1999); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991); *In re Exaeris, Inc.*, 380 B.R. 741, 744 (Bankr. D. Del. 2008).

12. The Court may approve selling the Goods under section 363(b) of the Bankruptcy Code. First, the Debtors have a sound business purpose for pursuing a sale of the Goods. The Debtors no longer have the means to sell the Goods through their e-commerce channel, having ceased operating that portion of the business. The Goods will also have significant carry costs and will only provide value to the Debtors if sold in an expedient manner. The Goods will also provide cash for the estates to utilize to effectively wind down, to provide liquidity prior to more significant asset transactions, and to ultimately be returned to creditors. Second, the Debtors have proposed this sale in good faith and in an exercise of their sound business judgment. The sale will generate the highest and best price for the Goods. The Debtors' personnel and professionals are highly experienced in this type of sale and ran an extensive process to sell the Goods. Moreover, the net proceeds of the sale of the Goods would be highly diluted if a more significant sale process was conducted. Therefore, the Debtors believe that proceeding with the sale as set forth in this motion maximizes the net value to the estates. Thus, the Debtors submit that selling the Goods should be approved under section 363(b) of the Bankruptcy Code.

B. The Proposed Sale is Appropriate Pursuant to Bankruptcy Rule 6004(f).

13. Bankruptcy Rule 6004(f) authorizes a debtor to sell estate property outside of the ordinary course of business via private sale or public auction. Courts have held that a debtor has broad discretion to determine the manner in which its assets are sold. *See Berg v. Scanlon (In re Alisa P'ship)*, 15 B.R. 802, 802 (Bankr. D. Del. 1981); *In re Bakalis*, 220 B.R. 525, 531 (Bankr. E.D.N.Y. 1998) (noting that a trustee has ample authority to conduct a sale of estate property through private sale). As set forth above, the Debtors have determined that a sale of the Goods as requested herein is essential to maximizing the value of their estates. The delay associated

with a lengthier process would require the Debtors' estates to incur additional administrative costs-costs that are unlikely to result in any incremental benefit to the Debtors' estates in light of the marketing efforts already undertaken by the Debtors. Accordingly, the Debtors submit that a sale of the Goods to the Buyer is appropriate under the circumstances.

C. The Sale Should Be Approved "Free and Clear" Under Section 363(f).

14. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party's interest in the property if: (a) applicable non-bankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is the subject of a bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. *See* 11 U.S.C. § 363(f).

15. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any one of the requirements enumerated therein will suffice to warrant the Debtors' sale of the Goods free and clear of all Encumbrances. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) ("[I]f any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens.").

16. The Debtors submit that any interest related to the Goods (a) satisfies or will satisfy at least one of the five conditions of section 363(f) of the Bankruptcy Code and (b) will be adequately protected by attaching to the net proceeds of the Sale, subject to any claims and defenses the Debtors may possess with respect thereto. Importantly, TradeGlobal LLC and Cerberus Business Finance, LLC ("Cerberus"), two parties that assert interests in the Goods have agreed to the relief in this motion as set forth in the *Stipulation Regarding Certain of the Debtors' Goods Located at the E-Commerce Fulfillment Center* [Docket No. 246] (the "Stipulation") filed by the Debtors with the Court and attached as Exhibit 2 to the proposed sale order. The terms of

the Stipulation and the sale of the Goods were extensively negotiated amongst the parties, in consultation with Cerberus and the Committee. The Debtors are not aware of any other parties with an interest in the Goods.

17. Put simply, the Buyer would not agree to the Sale if it were unable to purchase the Goods free and clear of Encumbrances. The Debtors accordingly request authority to convey the Goods to the Buyer, free and clear of all Encumbrances, with any such Encumbrances to attach to the proceeds of the Sale consistent with the terms of the Stipulation and the proposed order approving this motion.

E. Buyer is a Good-Faith Purchaser Under Section of 363(m) of the Bankruptcy Code.

18. The Debtors request that the Court find the Buyer is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the sale of the Goods.

19. Section 363(m) of the Bankruptcy Code provides that “[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith.” In the absence of a definition of “good faith” in the Bankruptcy Code and the Bankruptcy Rules, Courts determining whether a buyer was a “good faith purchaser” have “turned to traditional equitable principles, holding that the phrase encompasses one who purchases in ‘good faith’ and for ‘value’” and have looked to the “integrity of his conduct in the course of the sale proceedings.” *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F. 2d 143, 147 (3d Cir. 1986) (“Typically, the misconduct that would destroy a purchaser’s good-faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other

bidders.”). As the Third Circuit noted, section 363(m) “reflects the salutary policy . . . to give finality to those orders and judgments upon which third parties rely.” *Id.* at 147.

20. The Debtors submit that the Buyer is a “good faith purchaser” within the meaning of section 363(m) of the Bankruptcy Code, and the Agreement is a good-faith agreement on arm’s-length terms entitled to the protections of section 363(m) of the Bankruptcy Code. *First*, as set forth in more detail above, the consideration to be received by the Debtors pursuant to the Agreement is substantial, fair, and reasonable. *Second*, the parties entered into the Agreement in good faith and after extensive, arm’s-length negotiations, during which all parties were represented by competent counsel. *Third*, there is no indication of any “fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders” or similar conduct that would cause or permit the Sale or Agreement to be avoided under section 363(n) of the Bankruptcy Code. *Finally*, the Buyer’s offer was evaluated and approved by the Debtors in consultation with their advisors and the other constituents in these cases, including Cerberus and the Committee. Accordingly, the Debtors believe that the Buyer and Agreement should be entitled to the full protections of section 363(m) of the Bankruptcy Code.

Notice

21. The Debtors will provide notice of this motion to: (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel for the Debtors’ debtor-in-possession financing lender; (d) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (e) all known parties that have asserted a security interest in the Goods. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

22. No prior request for the relief sought in this motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

Dated: February 17, 2017
Wilmington, Delaware

/s/ Domenic E. Pacitti

Domenic E. Pacitti (DE Bar No. 3989)

Michael W. Yurkewicz (DE Bar No. 4165)

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Counsel for the Debtors and Debtors in Possession

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

In re:)	
	)	Chapter 11
LIMITED STORES COMPANY, LLC, <i>et al.</i> , ¹	)	Case No. 17-10124 (KJC)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Objection Deadline: March 3, 2017 at 4:00 p.m.
	)	Hearing Date: March 10, 2017 at 1:00 p.m.

**NOTICE OF DEBTORS’ MOTION FOR ENTRY OF AN ORDER
AUTHORIZING DEBTORS TO SELL CERTAIN GOODS FREE
AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES**

PLEASE TAKE NOTICE that on February 17, 2017, the above captioned debtors and debtors in possession (the “Debtors”) filed the *Debtors’ Motion for Entry of an Order Authorizing Debtors to Sell Certain Goods Free and Clear of All Liens, Claims, Interests and Encumbrances* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that any responses to the Motion must be in writing and filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Third Floor, Wilmington, Delaware 19801, and served upon the undersigned, so as to be received on or before **4:00 p.m. on March 3, 2017**.

PLEASE TAKE FURTHER NOTICE THAT, IF AN OBJECTION IS PROPERLY FILED AND SERVED IN ACCORDANCE WITH THE ABOVE PROCEDURES, A HEARING WILL BE HELD ON MARCH 10, 2017 1:00 P.M. BEFORE THE KEVIN J. CAREY, UNITED STATES BANKRUPTCY JUDGE FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, COURT ROOM #5, 5TH FLOOR, WILMINGTON, DELAWARE 19801. ONLY OBJECTIONS MADE IN WRITING AND TIMELY FILED WILL BE CONSIDERED BY THE BANKRUPTCY COURT AT SUCH HEARING.

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

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Dated: February 17, 2017
Wilmington, Delaware

/s/ Domenic E. Pacitti

Domenic E. Pacitti (DE Bar No. 3989)

Michael W. Yurkewicz (DE Bar No. 4165)

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Counsel for the Debtors and Debtors in Possession

EXHIBIT A

Proposed Order

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

In re:)	
	)	Chapter 11
LIMITED STORES COMPANY, LLC, <i>et al.</i> , ¹	)	Case No. 17-10124 (KJC)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Related to Docket No. ____

**ORDER AUTHORIZING DEBTORS TO SELL OF CERTAIN GOODS
FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES**

Upon consideration of the Debtors’ Motion for Entry of an Order Authorizing Debtors to Sell Certain Goods Free and Clear of All Liens, Claims, Interests and Encumbrances (the “Motion”);² and it appearing that the relief requested is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Motion having been given and it appearing that no other notice need be given; and Hilco Wholesale Solutions, LLC (the “Buyer”) having agreed to purchase approximately 266,806 pieces of first quality goods owned by the Debtors and located at their e-commerce fulfillment center at 5389 East Provident Drive, Cincinnati, Ohio, 45246 (collectively, the “Goods”), on the terms and conditions set forth in that certain Agreement, by and between the Buyer and Debtors, the final form of which is attached hereto as Exhibit 1 (the “Agreement”); and the transaction set forth in the Agreement having been determined to be the

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² All capitalized terms not otherwise defined in this Order have the meaning ascribed to them in the Motion or in the Agreement.

highest and best offer for the Goods; and a hearing having been held on _____, 2017 (the “Sale Hearing”) to consider the relief requested in the Motion and approval of the Agreement; and appearances of all interested parties having been noted on the record of the Sale Hearing; and upon all of the proceedings had before the Court (including but not limited to the testimony and other evidence filed, proffered or adduced at or prior to the Sale Hearing); and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors, and all 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, it is hereby

FOUND AND DETERMINED THAT:²

A. **Jurisdiction:** This Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1134. Approval of the Debtors entry into the Agreement, and the transactions contemplated thereby is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (D), (N) and (O).

B. **Venue:** Venue of these cases in this district is proper pursuant to 28 U.S.C. § 1409(a).

C. **Statutory Predicates:** The statutory predicates for the approval of the Agreement and transactions contemplated therein are section 363 of the Bankruptcy Code and Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

² The findings of fact and the conclusions of law stated herein shall 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 any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed

D. **Notice:** Proper, timely, adequate and sufficient notice of the Motion and the Sale Hearing has been provided in accordance with sections 102(1), 105(a), and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001 and 6004. No other or further notice is required.

E. **Opportunity to be Heard:** A reasonable opportunity to object or be heard regarding the relief requested in the Motion and the transactions pursuant thereto has been afforded to all interested persons and entities. Objections, if any, to the Motion have been withdrawn or resolved and, to the extent not withdrawn or resolved, are hereby overruled.

F. **Marketing Process:** As demonstrated by (i) testimony and other evidence filed, proffered or adduced at or prior to the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, the Debtors have thoroughly marketed the Goods and conducted the solicitation fairly, with adequate opportunity for parties that either expressed an interest in acquiring the Goods, or who the Debtors believed may have an interest in acquiring the Goods, to submit competing bids. The Debtors and the Buyer have respectively negotiated and undertaken their roles leading to the Sale and entry into the Agreement in a diligent, noncollusive, fair and good faith manner.

G. **Highest and Best Offer:** The Agreement attached hereto as Exhibit 1, including the form and total consideration to be realized by the Debtors pursuant to the Agreement, (i) is the highest and best offer received by the Debtors for the Goods, (ii) is fair and reasonable, and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest. There is no legal or equitable reason to delay entry into the Agreement, and the transactions contemplated therein.

H. **Business Judgment:** The Debtors' decision to (i) enter into the Agreement, and (ii) perform under the Agreement, is a reasonable exercise of the Debtors' sound business judgment consistent with their fiduciary duties and is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

I. **Time of the Essence:** Time is of the essence in effectuating the Agreement and proceeding with the transaction contemplated therein without interruption. Based on the record of the Sale Hearing, and for the reasons stated on the record at the Sale Hearing, the transactions contemplated by the Agreement must be commenced on the first day following entry of this Order to maximize the value that the Debtors may realize from entering into the Agreement. Accordingly, cause exists to lift the stay to the extent necessary, as contemplated by Bankruptcy Rules 4001(a) and 6004(h), and permit the immediate effectiveness of this Order.

K. **Sale Free and Clear:** A sale of the Goods other than one free and clear of liens, claims, encumbrances, defenses (including, without limitation, rights of setoff and recoupment) and interests, including, without limitation, security interests of whatever kind or nature, conditional sales or title retention agreements, pledges, hypothecations, assignments, preferences, debts, easements, charges, suits, licenses, options, rights-of-recovery, judgments, orders and decrees of any court or governmental entity, taxes (including state and local taxes), licenses, covenants, restrictions, indentures, instruments, leases, options, claims for reimbursement, contribution, indemnity or exoneration, successor, product, tax, labor, ERISA, alter ego and other liabilities, causes of action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature (including, without limitation, all "claims" as defined in section 101(5) of the Bankruptcy Code), known or unknown, whether pre-petition or post-petition, secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled,

perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, statutory or non-statutory, matured or unmatured, legal or equitable (collectively, “Encumbrances”) and without the protections of this Order would hinder the Debtors’ ability to obtain the consideration provided for in the Agreement and, thus, would impact materially and adversely the value that the Debtors’ estates would be able to obtain for the sale of such Goods. But for the protections afforded to the Buyer under the Bankruptcy Code and this Order, the Buyer would not have offered to pay the consideration contemplated in the Agreement. In addition, each entity with an Encumbrance upon the Goods, (i) has consented to the transactions contemplated by the Agreement or is deemed to have consented to the transactions contemplated by the Agreement, (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such interest, or (iii) otherwise falls within the provisions of section 363(f) of the Bankruptcy Code, and therefore, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Therefore, approval of the Agreement and the sale of the Goods free and clear of Encumbrances is appropriate pursuant to section 363(f) of the Bankruptcy Code and is in the best interests of the Debtors’ estates, their creditors and other parties in interest.

L. **Arms-length Sale:** The consideration to be paid by the Buyer under the Agreement was negotiated at arm’s-length and constitutes reasonably equivalent value and fair and adequate consideration for the Goods under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and the laws of the United States, any

state, territory, possession thereof or the District of Columbia. The terms and conditions set forth in the Agreement are fair and reasonable under these circumstances and were not entered into for the purpose of, nor do they have the effect of, hindering, delaying or defrauding the Debtors or their creditors under any applicable laws.

M. **Good Faith:** The Debtors and the Buyer, and their respective employees, agents and representatives, actively participated in the sale process and acted in good faith. The Agreement between the Buyer and the Debtors was negotiated and entered into based upon arm's length bargaining, without collusion or fraud, and in good faith as that term is used in section 363(m) of the Bankruptcy Code. The Buyer shall be protected by section 363(m) of the Bankruptcy Code in the event that this Order is reversed or modified on appeal. The Debtors were free to deal with any other party interested in buying or selling on behalf of the Debtors' estate some or all of the Goods. Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Agreement, or any related action or the transactions contemplated thereby to be avoided under section 363(n) of the Bankruptcy Code, or that would prevent the application of section 363(m) of the Bankruptcy Code. The Buyer has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Buyer has not acted in a collusive manner with any person and was not controlled by any agreement among bidders. The Buyer's prospective performance and payment of amounts owing under the Agreement are in good faith and for valid business purposes and uses.

N. **Insider Status:** The Buyer is not an "insider" as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling stockholders exists between the Buyer and the Debtors.

O. **Corporate Authority:** The Debtors (i) have full corporate or other power to execute, deliver and perform their obligations under the Agreement and all other transactions contemplated thereby, and entry into the Agreement has been duly and validly authorized by all necessary corporate or similar action, (ii) have all of the corporate or other power and authority necessary to consummate the transactions contemplated by the Agreement, and (iii) have taken all actions necessary to authorize and approve the Agreement and the transactions contemplated thereby. No consents or approvals, other than those expressly provided for herein or in the Agreement, are required for the Debtors to consummate such transactions.

P. **No Successor Liability:** No sale, transfer or other disposition of the Goods pursuant to the Agreement or entry into the Agreement will subject the Buyer to any liability for claims, obligations or Encumbrances asserted against the Debtors or the Debtors' interests in such Goods by reason of such transfer under any laws, including, without limitation, any bulk-transfer laws or any theory of successor or transferee liability, antitrust, environmental, product line, de facto merger or substantial continuity or similar theories. The Buyer is not a successor to the Debtors or their respective estates.

Q. **No Sub Rosa Plan:** Entry into the Agreement and the transactions contemplated thereby neither impermissibly restructure the rights of the Debtors' creditors, nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtors. Entry into the Agreement does not constitute a *sub rosa* chapter 11 plan.

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

1. The relief requested in the Motion is granted as set forth herein.

2. Any remaining objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included in such objections are overruled in all respects and denied.

3. The Agreement is approved pursuant to section 363 of the Bankruptcy Code. The Debtors are hereby authorized and empowered to enter into and perform under the Agreement, and the Agreement (and each of the transactions contemplated therein without further order of the Court, including, but not limited to, the sale of the Goods free and clear of Encumbrances) is hereby approved in its entirety and is incorporated herein by reference. The failure to include specifically any particular provision of the Agreement in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Agreement and all of its provisions, payments and transactions, be authorized and approved in their entirety. Likewise, all of the provisions of this Order are nonseverable and mutually dependent.

4. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors, the Buyer and each of their respective officers, employees and agents are hereby authorized and directed to execute such documents and to do such acts as are necessary or desirable to carry out and effectuate the Agreement and each of the transactions and related actions contemplated or set forth therein and no other consents or approvals are necessary or required for the Debtors to carry out or effectuate the Agreement and each of the transactions and related actions contemplated or set forth therein.

5. This Order shall be binding upon and shall govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other

persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Goods.

6. This Order and the terms and provisions of the Agreement shall be binding on all of the Debtors' creditors (whether known or unknown), the Debtors, the Buyer, and their respective affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons asserting an interest in the Goods, notwithstanding any subsequent appointment of any trustee, party, entity or other fiduciary under any section of the Bankruptcy Code with respect to the forgoing parties, and as to such trustee, party, entity or other fiduciary, such terms and provisions likewise shall be binding. The provisions of this Order and the terms and provisions of the Agreement, to the extent still operative or applicable, and any actions taken pursuant hereto or thereto shall survive the entry of any order which may be entered confirming or consummating any plan(s) of the Debtors or converting the Debtors' cases from chapter 11 to chapter 7, and the terms and provisions of the Agreement, as well as the rights and interests granted pursuant to this Order and the Agreement, shall continue in these or any superseding cases and shall be binding upon the Debtors, the Buyer and their respective successors and permitted assigns, including any trustee or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code.

7. Entry into the Agreement is undertaken by the parties thereto in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and Buyer shall be protected by section 363(m) of the Bankruptcy Code in the event that this Order is reversed or modified on appeal. The reversal or modification on appeal of the authorization provided herein to enter into the Agreement and consummate the transactions contemplated thereby shall not affect the validity of

such transactions, unless such authorization is duly stayed pending such appeal. The Buyer is entitled to all of the benefits and protections afforded by section 363(m) of the Bankruptcy Code. The transactions contemplated by the Agreement are not subject to avoidance pursuant to section 363(n) of the Bankruptcy Code.

8. If any person or entity that has filed financing statements, mortgages, construction or mechanic's liens, *lis pendens* or other documents or agreement evidencing liens on or interests in the Goods shall not have delivered to the Debtors, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, or releases of any Encumbrances which the person or entity has with respect to the Goods, each such person or entity is hereby directed to deliver all such statements, instruments and releases and the Debtors and the Buyer are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity asserting the same and the Buyer is authorized to file a copy of this Order which, upon filing, shall be conclusive evidence of the release and termination of such interest. Each and every federal, state and local governmental unit is hereby directed to accept any and all documents and instruments necessary or appropriate to give effect to the Agreement and related transactions.

9. All entities that are presently in possession of some or all of the Goods or other property in which the Debtors hold an interest that are or may be subject to the Agreement hereby are directed to surrender possession of such Goods to the Buyer.

10. No bulk sales law or any similar law of any state or jurisdiction applies in any way to the sale of the Goods.

11. The Buyer shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against Buyer, in each case, other than as expressly provided

for in the Agreement. The Buyer shall have no successor liability whatsoever with respect to any Encumbrances or claims of any nature that may exist against the Debtors, including, without limitation, the Buyer shall not be, or to be deemed to be: (i) a successor in interest or within the meaning of any law, including any revenue, successor liability, pension, labor, ERISA, bulk-transfer, products liability, tax or environmental law, rule or regulation, or any theory of successor or transferee liability, antitrust, environmental, product line, de facto merger or substantial continuity or similar theories; or (ii) a joint employer, co-employer or successor employer with the Debtors, and the Buyer shall have no obligation to pay the Debtors' wages, bonuses, severance pay, vacation pay, WARN act claims (if any), benefits or any other payments to employees of the Debtors, including pursuant to any collective bargaining agreement, employee pension plan, or otherwise.

12. The Buyer is a party in interest and shall have the ability to appear and be heard on all issues related to or otherwise connected to this Order and any issues related to or otherwise connected to the Agreement.

13. Nothing contained in any plan confirmed in the Debtors' chapter 11 cases or any order of this Court confirming such plan or in any other order in this chapter 11 cases (including any order entered after any conversion of this case to a case under chapter 7 of the Bankruptcy Code) shall alter, conflict with, or derogate from, the provisions of the Agreement or the terms of this Order, to the extent still operative or applicable.

14. Notwithstanding Bankruptcy Rules 4001 and 6004, or any other law that would serve to stay or limit the immediate effect of this Order, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of

any person or entity obtaining a stay pending appeal, the Debtors and the Buyer are free to perform under the Agreement at any time, subject to the terms of the Agreement.

15. All liens, claims, encumbrances, or interests in the Goods shall attach to the proceeds of the Sale in accordance with the terms of the *Stipulation Regarding Certain of the Debtors' Goods Located at the E-Commerce Fulfillment Center* [Docket No. 246], attached hereto as Exhibit 2.

16. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: March __, 2017
Wilmington, Delaware

THE HONORABLE KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Agreement

Agreement

This agreement (the “Agreement”) is made by and between The Limited Stores Company, LLC, Limited Stores LLC and The Limited Stores GC, LLC (collectively, “Seller”) as debtors in possession in the chapter 11 cases captioned in re: Limited Stores Company, LLC, et al., Case Number 17–10124 currently pending in the United States Bankruptcy Court for the District of Delaware and Hilco Wholesale Solutions, LLC, a Delaware limited liability company (“Buyer”), as of this 14th day of February, 2017.

Background Information

- A. Seller is the owner of certain Goods, as hereafter more particularly described;
- B. Buyer desires to purchase the Goods, subject to the approval of the United States Bankruptcy Court for the District of Delaware; and
- C. Seller desires to sell the goods to Buyer, subject to the approval of the United States Bankruptcy Court for the District of Delaware;

NOW THEREFORE in consideration of the promises contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follow:

- 1. Incorporation of Background Information. The Background Information and the representations set forth above are hereby incorporated in and made a part of this Agreement.
- 2. Agreement to Purchase and Sell. Buyer agrees to buy and Seller agrees to sell the Goods on the terms and conditions set forth herein.
- 3. Description of Goods. E-Commerce Goods located at 5389 East Provident Drive, Cincinnati, Ohio, 45246 (the “Location”) identified as approximately 266,806 pieces of first quality goods owned by Seller (the “Goods”). The Goods are more particularly described within the Excel Spreadsheet attached hereto as Exhibit A and incorporated herein and made a part hereof (the “Spreadsheets”). The parties acknowledge that the final count and categories of the Goods may deviate from those described on the Spreadsheet. Seller shall use commercially reasonable efforts to provide Buyer with access to the Location prior to the closing date in order to inspect the Goods.
- 4. Representation of Seller. The Goods are being sold “as is/where is” with any and all faults.
- 5. Inspection Right. Buyer shall have the right to inspect the goods at the Location for purposes of calculating the final purchase price pursuant to Section 6 below and may exclude any goods that do not materially conform to the description and inventory mix described in the Spreadsheets from the Goods to be purchased pursuant to this Agreement.

6. Purchase Price. The purchase price shall equal \$3.28 per piece, for an aggregate estimated purchase price of \$875,124 (the “Estimated Purchase Price”). The Estimated Purchase Price shall be funded by Buyer within one (1) business day after the entry of the Bankruptcy Court Order (as defined below) into an escrow account designated in writing by Seller (which may be the escrow account of Seller’s bankruptcy counsel) (the “Escrow Account”). The final count of the Goods will be determined when Buyer picks up the Goods from the Location subject to any adjustment for goods that are excluded under Section 5 above and/or any adjustment based on the final inventory count and mix based on the bid vale attributed to each inventory category on the chart set forth as Exhibit B attached hereto. The parties acknowledge that the Goods may be picked up by the Buyer over multiple days. A final count of the Goods for each such day shall be determined and agreed to by the parties and the appropriate corresponding purchase price amount for the Goods purchased on each such day shall be released from the Escrow Account. Any balance remaining in the Escrow Account after the final closing shall be returned to Buyer. If the final purchase price exceeds the Estimated Purchase Price, an amount equal to any such excess shall be paid by Buyer to Seller by wire transfer of immediately available funds on the same date on which the corresponding Goods are delivered. All processing, shipping and loading expenses will be at Buyer’s cost and expense.
7. Blackline of All Labels. At Buyer’s sole cost and expense, the labels in all Goods shall be marked through with black indelible ink (except for any care and content labels not bearing The Limited brand name) and all price tags and other removable material shall be removed therefrom and disposed of in a manner which prevents re-use. Buyer shall indemnify Seller and hold Seller harmless for any violation by Buyer of this covenant.
8. Closing. The Closing shall occur within one (1) business day after the satisfaction of the Contingencies set forth in Section 9.
9. Bankruptcy Approval Contingency. The obligations of Buyer and Seller hereunder are expressly conditioned upon Seller obtaining an order of the United States Bankruptcy Court for the District of Delaware approving this Agreement (the “Bankruptcy Court Order”). Seller shall act in good faith and shall use commercially reasonable efforts to obtain such approval by submitting a motion to approve this Agreement within one (1) business day of its execution (the “Approval Motion”). Buyer shall have an opportunity to review and comment on the Approval Motion, which shall be in a form reasonably acceptable to Buyer. Seller shall use commercially reasonable efforts to have this Agreement approved at the hearing scheduled on February 23, 2017. Seller shall provide notice of this Agreement to (i) any and all parties that may assert a lien, security interest or other claim against or in the Goods; (ii) the Creditors’ Committee appointed in the Seller’s chapter 11 cases; and (iii) any other party who requested notice in the Seller’s chapter 11 cases. The Bankruptcy Court Order must be acceptable to Seller and Buyer in each of their reasonable discretion.

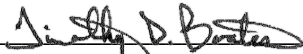
10. Miscellaneous.

- a. Expenses. The Parties shall each bear all expenses incurred by them in connection with this Agreement and in the consummation of the transactions contemplated hereby and in preparation thereof.
- b. Amendment and Waiver. This Agreement may only be amended or modified by an instrument in writing executed by all of the Parties hereto.
- c. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent by overnight delivery service of recognized reputation, addressed to the respective Parties at the addresses set forth above, or at such other address as shall be furnished in writing by any Party to the others.
- d. Choice of Law. It is the intention of the Parties that the laws of Delaware should govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Parties.
- e. Section and Other Headings. Section, paragraph, and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- f. Counterpart Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
- g. Gender. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.
- h. Parties in Interest. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the Parties hereto and their successors and assigns, including, without limitation, a chapter 11 or chapter 7 trustee appointed in the Seller's chapter 11 cases.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have entered into this Agreement and have fixed their seals hereto as of the date first above written, intending to be legally bound hereby.

**LIMITED STORES COMPANY, LLC
LIMITED STORES, LLC
THE LIMITED STORES GC, LLC**

By: 
Name: Timothy Boates
Title: Chief Restructuring Officer

HILCO WHOLESALE SOLUTIONS, LLC

By: _____
Name: Ian S. Fredericks
Title: SVP &CLO, Managing Member

IN WITNESS WHEREOF, the parties have entered into this Agreement and have fixed their seals hereto as of the date first above written, intending to be legally bound hereby.

**LIMITED STORES COMPANY, LLC
LIMITED STORES, LLC
THE LIMITED STORES GC, LLC**

By: _____
Name: Timothy Boates
Title: Chief Restructuring Officer

HILCO WHOLESALE SOLUTIONS, LLC

By: _____
Name: Ian S. Fredericks
Title: SVP & CLO, Managing Member

Exhibit A

Good Spreadsheets

Good Spreadsheets provided to Ian S. Fredericks via email on February 13, 2017 by Michael P. Rittinger.

Exhibit B

Inventory Mix / Price Adjustment

Final Hilco Bid			
Limited Bid	Units	Bid	Extended Cost
Eva / Jackets / Outerwear / Handbags	48,886	\$5.75	\$281,128
Sweaters / WTW Pants / Dresses / Casual Pants / Denim Jeans	111,463	\$3.45	\$384,592
Woven Tops / Skirts / Knit Tops / Loungewear	75,611	\$2.30	\$173,926
Fragrance / Seamless / Jewelry / Accessories	30,846	\$1.15	\$35,477
TOTALS	266,806	\$3.28	\$875,124

Exhibit 2

Stipulation

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

In re:)	
	)	Chapter 11
LIMITED STORES COMPANY, LLC, <i>et al.</i> , ¹	)	Case No. 17-10124 (KJC)
)	
Debtors.	)	(Jointly Administered)
)	

**STIPULATION REGARDING CERTAIN OF THE DEBTORS’
GOODS LOCATED AT THE E-COMMERCE FULFILLMENT CENTER**

WHEREAS, on January 17, 2017 (the “Petition Date”) each of the Debtors filed a voluntary petition with the United States Bankruptcy Court for the District of Delaware (the “Court”) for relief under title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”);

WHEREAS, the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409;

WHEREAS, on January 24, 2017, the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”) pursuant to section 1102 of the Bankruptcy Code [Docket No. 112];

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Limited Stores Company, LLC (6463); Limited Stores, LLC (0165); and The Limited Stores GC, LLC (6094). The location of the Debtors’ service address is: 7775 Walton Parkway, Suite 400, New Albany, Ohio 43054.

WHEREAS, the Debtors entered into an e-commerce fulfillment agreement with Fulfillment Technologies, LLC (succeeded to by merger by Netrada North America, LLC, now known as TradeGlobal LLC) ("TradeGlobal");

WHEREAS, the Debtors own approximately 266,806 pieces of first quality goods (collectively, the "Goods") located at their e-commerce fulfillment center at 5389 East Provident Drive, Cincinnati, Ohio, 45246 (the "Fulfillment Center") which Fulfillment Center is owned by TradeGlobal;

WHEREAS, the Debtors, TradeGlobal, Bank of America, N.A., and Cerberus Business Finance, LLC ("Cerberus") entered into a certain letter agreement (the "Letter Agreement"), dated February 27, 2012, with respect to the relative rights of the parties in and to any goods owned by the Debtors located at the Fulfillment Center, including the Goods;

WHEREAS, the Debtors have entered into an agreement dated February 14, 2017 (the "Sale Agreement") with Hilco Wholesale Solutions, LLC ("Buyer"), pursuant to which Buyer has agreed to purchase the Goods, subject to approval of the Court;

WHEREAS, the Debtors intend to file the *Debtors' Motion for Entry of an Order Authorizing the Debtors to Sell Certain Goods Free and Clear of All Liens, Claims, Interests and Encumbrances* (the "E-Commerce Goods Sale Motion") seeking approval of the Sale Agreement and the sale of the Goods to Buyer (the "Sale of Goods");

WHEREAS, on January 17, 2017, the Debtors filed the *Debtors' Motion for Entry of (I) An Order (A) Approving Form and Manner of Notices, (B) Scheduling a Bid Protections Hearing, an Auction, a Sale Hearing, and Establishing Dates and Deadlines Related Thereto, (C) Approving Procedures for the Assumption and Assignment of Executory Contracts, and (D) Granting Related Relief; (II) An Order (A) Approving Certain Bid Protections in Connection*

with the Sale of Certain of the Debtors' Assets and (B) Granting Related Relief; and (III) An Order (A) Approving the Asset Purchase Agreement Between the Debtors and the Purchaser, (B) Authorizing the Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts; and (D) Granting Related Relief [Docket No, 13] which seeks authority to sell certain intellectual property of the Debtors and related assets to a third party purchaser (the “IP Asset Sale”);

WHEREAS, the parties hereto (the “Parties”) have agreed to the matters contained herein with respect to the Goods and the Sale of Goods by the Debtors that will be incorporated into the order approving the E-Commerce Goods Sale Motion.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Parties to this Stipulation through their respective counsel that:

1. This Stipulation shall become effective upon execution by or on behalf of each of the Parties.
2. Notwithstanding the pendency of the IP Asset Sale, TradeGlobal LLC consents to the Sale of Goods to Buyer pursuant to the terms of the Sale Agreement and E-Commerce Goods Sale Motion as set forth herein.
3. Buyer shall pay to TradeGlobal the costs associated with packing and preparing the Goods for shipment (currently estimated at \$26,132.53) (the “Buyer Amount”), pursuant to terms that will be memorialized in an agreement between Buyer and TradeGlobal (the “Transition Agreement”). Buyer shall pay the Buyer Amount directly to TradeGlobal in advance of or in conjunction with picking up the Goods from TradeGlobal’s warehouse in accordance with payment instructions to be provided by TradeGlobal.

4. Buyer shall pick up the Goods from TradeGlobal's warehouse after Bankruptcy Court approval of the Sale Motion. TradeGlobal acknowledges and agrees that Buyer may pick up the Goods over the course of multiple days during normal business hours, with reasonable advance notice and otherwise in accordance with commercially reasonable standards and the terms of the Transition Agreement. For the avoidance of doubt, provided that TradeGlobal acts in accordance with commercially reasonable standards and the terms of the Transition Agreement, TradeGlobal shall have no liability of any kind to the Buyer or any other party arising out of or relating to the Goods, including, without limitation, the packing and preparation of the Goods, the condition of the Goods, or the actual number of Goods in TradeGlobal's possession. TradeGlobal makes no representations or warranties (either express or implied) as to the actual number or condition of the Goods in its possession.

5. TradeGlobal, Cerberus and the Debtors acknowledge and agree that Buyer is purchasing the Goods free and clear of all liens, claims, interests and encumbrances, with any such liens, claims, interests and encumbrances attaching only to the proceeds of the sale of the Goods as set forth herein.

6. In addition to the Buyer Amount, in conjunction with the closing of the Sale Agreement, the Debtors will segregate \$250,000.00 from the sale proceeds from the Sale of Goods (the "Set Aside Proceeds"), which will be used as follows:

(a) The Debtors will promptly pay to TradeGlobal from the Set Aside Proceeds all storage costs owing to TradeGlobal relating to the storage of the Goods from the Petition Date through the date Buyer picks up all of the Goods purchased under the sale from TradeGlobal's warehouse (the "Storage Costs"). The Storage Costs are estimated at \$52,000 per month (\$0.65 per square foot x 80,000 square feet of space), subject to a per diem rate for a partial month. The payment of the Storage Costs will resolve all administrative claims of TradeGlobal, including all administrative claims relating in any way to the Goods, any other inventory belonging to the Debtors, or that TradeGlobal may otherwise have against the Debtors as of the date hereof.

(b) The remainder of the Set Aside Proceeds (the “Remaining Proceeds”) (for avoidance of doubt the Remaining Proceeds means the Set Aside Proceeds less the Storage Costs) will be held in trust for the sole benefit of Cerberus and TradeGlobal and subject to Cerberus’ senior liens (including its liens in connection with the Senior Secured and Superpriority Debtor-in-Possession Credit Agreement, dated as of January 18, 2017) and TradeGlobal’s statutory junior warehouse liens in accordance with the Letter Agreement. For the avoidance of doubt, TradeGlobal’s possessory liens shall attach to the Remaining Proceeds in lieu of physical possession of the Goods or any other inventory to which the Remaining Proceeds relate, and shall otherwise remain in full force and effect.

(c) Cerberus agrees not to look to the Remaining Proceeds for payment unless Cerberus is not indefeasibly paid in full in cash from the proceeds generated through the IP Asset Sale by no later than April 30, 2017. If Cerberus is indefeasibly paid in full in cash from the IP Asset Sale proceeds on or before April 30, 2017, the Remaining Proceeds shall be deemed subject only to TradeGlobal’s statutory warehouse liens and promptly paid to TradeGlobal in satisfaction of its secured claim without further notice or order of the Bankruptcy Court. In the event the IP Asset Sale does not close and Cerberus does not receive indefeasible payment in full in cash prior to April 30, 2017 (the “Standstill Period”), the Remaining Proceeds shall be paid to Cerberus in partial satisfaction of its senior secured claims; provided, however, that (i) Cerberus and TradeGlobal may mutually agree to an extension of the Standstill Period in their discretion, and (ii) during the Standstill Period, Cerberus shall not request that TradeGlobal release its liens with respect to the Remaining Proceeds.

7. TradeGlobal reserves the right to assert any additional claims against the Debtors, provided, however, that any such claims asserted shall be prepetition general unsecured claims.

8. The balance of the sale proceeds from the Sale of Goods (all proceeds from such sale less the Set Aside Proceeds) are free and clear of the liens of and interests of TradeGlobal, but shall remain subject to Cerberus’s senior liens (including its liens in connection with the Senior Secured and Superpriority Debtor-in-Possession Credit Agreement, dated as of January 18, 2017).

9. For avoidance of doubt, Buyer shall not be responsible for any obligations contemplated by Section 6 of this Stipulation, including, without limitation, any storage costs as set forth herein.

10. This Stipulation contains the entire agreement by and between the Parties with respect to the subject matter hereof, and all prior understandings or agreements, whether written or oral, if any, are merged into this Stipulation; provided, however, that for the avoidance of doubt, the Letter Agreement shall remain in full force and effect, subject to the Standstill Period set forth in paragraph 6(c) hereof.

11. This Stipulation shall not be modified, altered, amended, or vacated without the prior written consent of the Parties. Any such modification, alteration, amendment, or vacation, in whole or in part, shall be subject to the approval of the Bankruptcy Court.

12. This Stipulation shall be construed and interpreted in accordance with the laws of the State of Delaware, without regard to the choice of law principles of the State of Delaware. For purposes of construing this Stipulation, none of the Parties shall be deemed to have been the drafter of the Stipulation.

13. The Parties are authorized to take all actions necessary to effectuate the relief granted pursuant to this Stipulation.

14. Neither this Stipulation, nor any actions taken pursuant hereto, shall constitute evidence admissible against the parties in any action or proceeding other than one to enforce the terms of this Stipulation.

15. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation, and the Parties hereby consent to such jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation. Any motion or

application brought before this Court to resolve a dispute arising from or related to this Stipulation shall be brought on notice as provided by and in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of Delaware.

[Remainder of page intentionally left blank]

Dated: February 17, 2017
Wilmington, Delaware

/s/ Domenic E. Pacitti

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