

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-2(c)	
WASSERMAN, JURISTA & STOLZ, P.C. 110 Allen Road, Suite 304 Basking Ridge, New Jersey 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel for Debtor-in-Possession, Marburn Stores, Inc.</i>	
DANIEL M. STOLZ, ESQ. DONALD W. CLARKE, ESQ.	
In Re:	
MARBURN STORES, INC.,	
	Debtor-in-Possession.

Chapter 11

Honorable Vincent F. Papalia

Case No. 15-14411 (VFP)

Hearing Date: *See Order Shortening Notice*

**NOTICE OF DEBTOR'S MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363 AND 365,
AND BANKRUPTCY RULES 2002, 6004, 6006 AND 9019 FOR ENTRY OF AN ORDER**

**(A) APPROVING (I) BIDDING PROCEDURES (II) NOTICE OF THE SALE OF
SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND
ASSIGNMENT OF CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE
SALE AND (III) BID PROTECTIONS AND EXPENSES REIMBURSEMENT**

**(B) APPROVING THE FORM OF THE ORDER AUTHORIZING THE SALE AND
ASSUMPTION AND ASSIGNMENT OF UNEXPIRED LEASES, AND**

**(C) CONDITIONALLY SCHEDULING AN AUCTION IN CONNECTION WITH THE
SALE AND ASSUMPTION AND ASSIGNMENT OF UNEXPIRED LEASES**

**(D) SCHEDULING A HEARING TO (I) CONSIDER THE SALE AND ASSUMPTION
AND ASSIGNMENT OF UNEXPIRED LEASES AND (II) AUTHORIZE THE DEBTOR
TO ENTER INTO THE ASSET PURCHASE AGREEMENT WITH G-MAXX GROUP,
LLC OR ALTERNATIVE SUCCESSFUL BIDDER, AND**

(E) GRANTING RELATED RELIEF

TO: Office of the U.S. Trustee
One Newark Center
Suite 2100
Newark, NJ 07102

ALL PARTIES ON ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE, that *on the date specified in the Order Shortening Notice*, the undersigned, as counsel for Marburn Stores, Inc. (hereinafter, the “Debtor” or “Marburn”), an Employee Stock Ownership Plan (“ESOP”) and the Debtor-in-Possession in the above captioned Chapter 11 case (the “Case”), shall move before the Honorable Vincent F. Paplia, United States Bankruptcy Judge, United States Bankruptcy Court, King Federal Building, 50 Walnut Street, 3rd Floor, P.O. Box 3152, Newark, New Jersey 07102, seeking the entry of an Order from the Court: (i) approving the bidding procedures (the “Bidding Procedures”), notice (the “Notice”) of the sale of substantially all of the Debtor’s assets free and clear of all liens, claims, encumbrances and interests (the “Sale”) and the assumption and assignment of certain unexpired leases in connection with the Sale (the “Assumption and Assignment of Leases”), and bid protections and expense reimbursement (the “Stalking Horse Protections”); (ii) approving the form of the order authorizing the Sale and Assumption and Assignment of Leases (the “Proposed Sale Order”); (iii) conditionally scheduling an auction in connection with the Sale and Assumption and Assignment of Leases (the “Auction”); and (iv) scheduling a hearing to consider the Sale and Assumption and Assignment of Leases (the “Sale Hearing”) and authorize the Debtor to enter into an asset purchase agreement with G-MAXX Group, LLC (“G-MAXX”) or an alternative successful bidder; and (v) other relief the Court deems necessary.

PLEASE TAKE FURTHER NOTICE, that the undersigned shall rely upon the Certification and Memorandum of Law filed herewith in support of the relief sought.

PLEASE TAKE FURTHER NOTICE, that oral argument is requested.

PLEASE TAKE FURTHER NOTICE, that all objections must be in writing, filed with the Clerk of the United States Bankruptcy Court, King Federal Building, 50 Walnut Street, 3rd Floor, P.O. Box 1352, Newark, New Jersey 07102, and a copy thereof must simultaneously be served upon Wasserman, Jurista & Stolz, P.C., Attn: Donald W. Clarke, Esq., 110 Allen Rd., Ste. 304, Basking Ridge, New Jersey 07920.

PLEASE TAKE FURTHER NOTICE, that in the absence of any objections, the relief requested hereunder may be granted without further notice.

Respectfully submitted,

WASSERMAN, JURISTA & STOLZ, P.C.
Counsel for Debtor-in-Possession,
Marburn Stores, Inc.

By: _____

DONALD W. CLARKE

Date: August 1, 2016

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-2(c)

WASSERMAN, JURISTA & STOLZ, P.C.

110 Allen Road, Suite 304
Basking Ridge, New Jersey 07920
Phone: (973) 467-2700
Fax: (973) 467-8126

*Counsel for Debtor-in-Possession,
Marburn Stores, Inc.*

DANIEL M. STOLZ, ESQ.

DONALD W. CLARKE, ESQ.

In Re:

MARBURN STORES, INC.,

Debtor-in-Possession.

Chapter 11

Honorable Vincent F. Papalia

Case No. 15-14411 (VFP)

Hearing Date: *See Order Shortening Notice*

**CERTIFICATION OF EDWIN HUND IN SUPPORT OF DEBTOR’S MOTION
PURSUANT TO 11 U.S.C. §§ 105(a), 363 AND 365, AND BANKRUPTCY RULES 2002,
6004, 6006 AND 9019 FOR ENTRY OF AN ORDER**

**(A) APPROVING (I) BIDDING PROCEDURES (II) NOTICE OF THE SALE OF
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TO ENTER INTO THE ASSET PURCHASE AGREEMENT WITH G-MAXX GROUP,
LLC OR ALTERNATIVE SUCCESSFUL BIDDER, AND**

(E) GRANTING RELATED RELIEF

**TO: HONORABLE VINCENT F. PAPALIA
UNITED STATES BANKRUPTCY JUDGE**

I, **EDWIN HUND**, being of full age and having been duly sworn according to law, hereby certifies as follows:

1. I am President and Chief Executive Officer of Marburn Stores, Inc. (hereinafter, the “Debtor” or “Marburn”), and, as such, I am familiar with this matter.

2. Annexed hereto as **EXHIBIT “A”** is an Asset Purchase Agreement executed between the Debtor and G-MAXX (the “G-MAXX APA” or “Stalking Horse Bid”).

3. After consultation with the unsecured creditor committee (the “Committee”) and the Debtor’s professionals, it is the Debtor’s business judgment that the Sale in connection with the Stalking Horse Bid is in the best interests of the creditors and the estate.

4. Marburn Stores, Inc. d/b/a Marburn Curtains/Martin Curtain Warehouse (hereinafter, the “Debtor” or “Marburn”) was started in 1956 by its founder Bernard Hinden, as a single department in the Sloan’s Home Fair Store in Union City, New Jersey.

5. Over the years, Marburn grew to twenty-one (21) independent retail stores, located in New York, New Jersey and Pennsylvania. When the original owner of Marburn decided to withdraw from the company, he sold ownership of Marburn to its employees, under an Employee Stock Ownership Plan (hereinafter, “ESOP”).

6. Marburn’s central office and warehouse is located at 13-A Division Street, Fairview, Bergen County, New Jersey.

7. For the year 2014, Marburn generated gross sales of approximately \$25 Million Dollars.

8. Unfortunately, because of a number of factors, Marburn suffered an operating loss for the year 2014 in the approximate amount of \$2.5 Million Dollars.

9. In addition, the months of January, February and early March are traditionally the slowest sales periods annually. In early 2015, the harsh weather kept customers from Marburn's stores, depressing sales even more than customary in these winter months.

10. In light of the losses being incurred through operations, management of Marburn took steps to preserve available cash, such as laying off unnecessary personnel and closing stores. Unfortunately, the lack of sales during early 2015 has placed Marburn in a cash position where it cannot meet its ongoing obligations.

11. Based upon the foregoing, on March 13, 2015, Marburn filed a Voluntary Petition under 11 U.S.C. 1101, et seq. with this Court (the "Petition Date").

12. The Debtor continued to operate as a debtor-in-possession throughout these proceedings.

13. At the time of the Chapter 11 filing, Marburn was indebted to its suppliers and other vendors in the approximate amount of \$1.6 Million Dollars. In addition, Marburn owed pre-petition rent to its Landlords totaling four hundred thousand dollars (\$400,000.00).

14. Management of Marburn consists of myself, as President and CEO, and Deborah Egan, as VP of Merchandising.

15. At the time of the Petition Date, the Debtor was a party to an accounts receivable purchase agreement with Business Financial Services, Inc. (hereinafter, "BFS"). Pursuant to the agreements with BFS, BFS advanced the Debtor the sum of nine hundred thousand dollars

(\$900,000.00). All of the Debtor's credit card receipts flow into a lock box maintained by BFS. BFS deducted 6% of the credit card receipts and applied said amount to interest and principal on the obligation. As of the Petition Date, the indebtedness to BFS was approximately six hundred twenty thousand dollars (\$620,000.00). BFS has been paid off in full since March of 2016.

16. The Debtor maintains inventory in its warehouse and stores with a cost value of approximately Two Million Two Hundred Sixty-Four Thousand Five Hundred Seventeen Dollars and forty-nine cents (\$2,264,517.49) (the "Inventory Cost Value"). The Debtor also owns certain store fixtures and equipment, which are old and likely have little value.

17. During these Chapter 11 Proceedings, Marburn took steps to preserve available cash, such as laying off unnecessary personnel, closing the least profitable stores and consolidating inventory.

18. Shortly before the Petition Date, the Debtor vacated three of its least profitable locations, including: Nanuet, New York; Paramus, New Jersey; and Fairview, New Jersey.

19. In the Debtor's first, second and third motions to reject certain unexpired real property leases, the Debtor identified five (5) locations with poor profitability and secured orders authorizing the Debtor to vacate the premises and reject the respective leases, including: Millville, New Jersey; Union, New Jersey; West Orange, New Jersey; Delran, New Jersey; and Melville, New York.

20. By order, dated April 17, 2015, the Debtor retained Speed Financial Services, Inc. ("Speed Financial") as accountant in order to provide the necessary reporting requirements and assist with relevant financial analysis in this case.

21. By order, dated May 29, 2015, the Debtor retained Keen-Summit Capital Partners, LLC (“Keen-Summit”) as real estate advisor.

22. Keen-Summit was retained to renegotiate with landlords of existing real property leases to reduce rents and cure amounts.

23. The Debtor is current with all of its post-petition reporting and financial obligations, including payments to the U.S. Trustee, and all Landlords.

24. The Debtor has had productive discussions with the Committee and other professionals in coordinating a way forward. The Debtor executed non-disclosure agreements and exchanged information to satisfy its due diligence obligations.

25. On April 13, 2016, the Debtor retained Cambridge Financial Service, LLC (“Cambridge”). As a result of Cambridge’s efforts, the Debtor conducted discussions with multiple sources of financing with the goal of funding a Plan of Reorganization to allow the Debtor to exit bankruptcy.

26. On May 20, 2016, the Court entered an Order extending the Debtor’s exclusivity period to file a plan of reorganization through July 25, 2016.

27. Unfortunately, the Debtor did not receive any feasible offers for alternative funding that would have yielded a reasonable distribution to the creditors, and still enable the Debtor to continue to operate.

28. At present, the Debtor does not have a bank line or sufficient cash to continue its operations.

29. Earlier in these proceedings, G-MAXX approached the Debtor and expressed interest in the Debtor's operations as a going-concern but never submitted an offer after an exchange of information.

30. Once the Debtor determined that it would be unable to reorganize, discussions with G-MAXX were renewed.

The G-MAXX APA

31. Pursuant to the Stalking Horse Bid (*see Exhibit "A"*), the assets to be sold to G-MAXX include:

- a. All of the fixtures, leasehold improvements and furniture and other tangible property used in the Business, and located at the properties leased pursuant to the Assigned Leases (hereinafter defined), including, without limitation, the items listed on Schedule 1(a) to the Asset Purchase Agreement (the "G-MAXX APA") annexed hereto) (the "Fixtures");
- b. All machinery, equipment, office equipment, and other fixed assets owned by Debtor, used in the Business, at the properties leased pursuant to the Assigned Leases, including without limitation, the items listed on Schedule 1(a) to the G-MAXX APA (the "Equipment");
- c. All of Debtor's inventory and prepaid inventory used in or held for sale in the Business including, without limitation, the items listed on Schedule 1(a) to the G-MAXX APA (the "Inventory"); and
- d. The real property leases for the properties listed on Schedule 1(a) to the G-MAXX APA, which are being assumed by Debtor and assigned to Purchaser, pursuant to the terms and conditions of this Agreement, and as approved by the Bankruptcy Court (the "Assigned Leases"), provided that Purchaser shall pay one hundred percent (100%) of all Cure Costs related to such Assigned Leases and subject to the Purchaser's right to delete leases from the schedule prior to Closing.

32. Pursuant to the Stalking Horse Bid, the assets to be sold to G-MAXX will not include:

- a. All of Debtor's accounts receivable, due to Debtor from customers resulting from the ordinary conduct of the Business prior to the Closing shall belong to Debtor;
- b. All of the cash of Debtor including, without limitation, certificates of deposit and funds held in bank accounts;
- c. All prepaid or deferred expenses, including all deposits (other than any deposits described in Section 1(a)(xiv) hereof), advertising and promotional materials, catalogs and labels;
- d. All employee benefit plans of Debtor within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, which are presently in effect, including any assets or liabilities owned or held by any such plan;
- e. Any Prepaid Inventory not acquired by Purchaser, pursuant to the provisions of Section 3(b) of the G-MAXX APA; and
- f. All causes of action including, without limitation, bankruptcy avoidance claims, together with insurance refunds and tax refunds.

33. The purchase price pursuant to the G-MAXX APA shall be Seven Hundred Ninety-Two Thousand Five Hundred Eighty-One Dollars and twelve cents (\$792,581.12) (the "Purchase Price"), which shall be payable as follows: (i) Seventy-Nine Thousand Two Hundred Fifty-Eight Dollars (\$79,258.00) upon the execution of this Agreement by Debtor and Purchaser (the "Deposit"), which shall be credited to the payment of the Purchase Price at Closing, and (ii) Seven Hundred Thirteen Thousand Three Hundred Twenty-Three Dollars and twelve cents (\$713,323.12) in immediately available funds at Closing, subject to the adjustments set forth in Section 3(b) of the G-MAXX APA.

34. In short, the Purchase Price is based upon the Inventory Cost Value. Two days prior to the Closing Date (as defined in the G-MAXX APA), G-MAXX will perform an inventory valuation, and an adjustment will be made to the Purchase Price (the “Purchase Price Adjustment”).

35. The Purchase Price Adjustment shall increase or decrease the Purchase Price by thirty-five cents (\$0.35) for every one dollar (\$1.00) difference from the Inventory Cost Value.

36. In addition to the Purchase Price of \$792,581.12, the Purchaser will also be paying the cure claims for 13 of the Debtor’s leased locations, which cure amounts the Debtor and its real estate consultants, Keen-Summit, have advised the Purchaser total \$240,979. Thus Purchaser’s total cash outlay under the G-MAXX APA will be \$1,033,560.12 (the “Aggregate Cash Outlay”).

37. The Purchase Price is guaranteed by Popular Bath Products, Inc., a New York Corporation (“Popular Bath”).

38. The Stalking Horse Bid is contingent upon approval by the Bankruptcy Court, and is subject to higher and better offers.

BIDDING PROCEDURES

39. The Debtor is obligated to secure the greatest value for the assets of the within Estate. Although the Debtor believes that the terms of the Stalking Horse Bid are fair and reasonable and reflect the highest and best value for the assets as of the date of this Sale Motion, the Bankruptcy Code requires that the Debtor seek higher and better offers for the assets. Accordingly, the following Bidding Procedures were developed consistent with the Debtor’s need to expedite the Sale and maximize returns for the estate, while taking into account that no

other interested potential purchasers have come forward or shown interest since the Petition Date.

40. As a prerequisite to becoming a qualified bidder (“Qualified Bidder”), a potential bidder must provide a signed asset purchase agreement in similar form to the G-MAXX APA (“Qualified APA”), such financial and other information (“Financial Information”) as the Debtor shall reasonably deem necessary to provide sufficient support for the ability of the potential bidder to consummate a transaction and adequately assure of the potential bidder’s ability to continue to satisfy the obligations under the leases to be assigned, if such potential bidder is selected as the successful bidder, and a deposit of not less than ten percent (10%) of the total value of the bid (the deposit shall consist entirely of cash or cash equivalent in certified funds) (the “Deposit”).

41. For purposes of this Sale, G-MAXX shall be considered a Qualified Bidder.

42. Backup bidder deposits will be refunded after the closing on a Successful Bid (as defined below).

43. The Debtor may consider bids (each, a “Bid”) for all of the Purchased Assets in a single bid from a single bidder or multiple bids from multiple bidders. The Debtor shall determine, the successful bidder based on, among other things, but not limited to, the assets purchased, the assumption of certain liabilities, the purchase price, and the value to the estate (the “Successful Bid”).

44. All Bids must propose a purchase price equal to or greater than the aggregate of the sum of (i) the actual value of the Purchase Price; plus (ii) the sum of \$125,000.00 in cash or cash equivalents (the “Initial Overbid”).

45. All Bids must be served upon and actually received by the Debtor c/o Wasserman, Jurista & Stolz, P.C., Attn: Donald W. Clarke, Esq., located at 110 Allen Rd., Ste. 304, Basking Ridge, New Jersey, on or before 5:00 p.m., prevailing Eastern Time, on _____ (the “Bid Deadline”).

46. The Debtor will determine, in consultation with its professionals, and subject to the Bidding Procedures and the requirements below, whether a Bid is a Qualified Bid and, ultimately the Successful Bid or Backup Bid (as defined below).

47. Notwithstanding anything to the contrary in these Bidding Procedures, the Debtor reserves the right to reject or consider any and all bids, whether or not it would otherwise be considered a Qualifying Bid.

48. Notwithstanding anything to the contrary in these Bidding Procedures, the Successful Bid must remain irrevocable in accordance with the terms of the Qualified APA executed by the successful bidder. All other Bids must be irrevocable until the earlier of (a) twenty-five (25) days after entry of the Proposed Sale Order and (b) closing of the Sale in accordance with the Successful Bid.

49. The Debtor reserves the right to authorize and choose a backup bidder (the “Backup Bidder”). The Backup Bidder’s bid (the “Backup Bid”) shall be irrevocable in accordance with the terms of the Qualified APA executed by the Backup Bidder until the closing of the Sale in accordance with the Successful Bid.

Auction Date

50. In the event Qualified Bids are received by the Bid Deadline and accepted by the Debtor, an auction shall be conducted at the office of the Debtor’s bankruptcy counsel,

Wasserman, Jurista & Stolz, PC, 110 Allen Road, Ste. 304, Basking Ridge, New Jersey 07920,
on _____, at _____ (the "Auction Date").

51. The Debtor shall provide notice of the receipt of Qualified Bids and the Auction to: (i) all Qualified Bidders; (ii) the Office of the United States Trustee; (iii) all landlords; and (iv) counsel for the Committee in the event Qualified Bids are received and accepted, no later than _____ ("Qualified Bid Notice").

52. Qualified Bidders may enhance their Bids at the Auction by increments of \$50,000 (the "Bid Increments").

53. The Debtor reserves the right to consider and accept bids which do not conform with the Bid Increments or other relevant requirements for a Qualified Bid.

54. The Debtor shall send notice of the Successful Bid to: (i) all Qualified Bidders; (ii) the Office of the United States Trustee; (iii) all landlords; and (iv) counsel for the Committee within twenty-four (24) hours of the conclusion of the Auction.

55. If there are no Qualified Bids received or otherwise accepted by the Debtor, there will be no Auction and the Debtor will seek approval of the Stalking Horse Bid without further notice to any party, in accordance with this Sale Motion and the Order scheduling the Sale Hearing.

**APPROVAL OF THE G-MAXX APA WITH STALKING HORSE PROTECTIONS OR
QUALIFIED APA, THE PROPOSED SALE ORDER AND SALE**

56. The Debtor respectfully requests that the Court schedule a Sale Hearing to consider the approval of the G-MAXX APA or Qualified APA of the Successful Bid, the

proposed Sale Order (annexed hereto as **Exhibit “B”**) and Sale, to occur _____,
at _____.

57. The Debtor has proposed the Sale after thorough consideration of viable alternatives, and has concluded that the Sale is supported by a number of sound business reasons. The Debtor has determined that a sale of the Debtors’ assets, pursuant to the G-MAXX APA, provides the best and most efficient means for the Debtor to maximize the value of the assets for its estate.

58. The Debtor respectfully submits that the Stalking Horse Bid is the product of good faith negotiations, in which the Debtor bargained for the maximum possible purchase price for the Purchased Assets.

59. The Debtor submits that the Sale is justified by sound business reasons and is in the best interests of the Debtor and the estate. Accordingly, pursuant to sections 363(b), (f) and (m) of the Bankruptcy Code, the Debtor requests approval of the Sale.

Stalking Horse Protections

60. To compensate G-MAXX for serving as a “stalking horse”, whose bid will be subject to higher or better offers, the Debtor seeks to provide G-MAXX with certain Stalking Horse Protections, in the event that it is not the successful bidder. The Debtor believes that the Stalking Horse Protections are reasonable, given the benefits to the Estate of having a definitive agreement and the risk to G-MAXX that a third party offer ultimately may be accepted, and the Stalking Horse Protections are necessary to preserve and enhance the value of the Estate.

61. To be clear, the Stalking Horse Protections the Debtor is seeking approval of consist of the capped Expense Reimbursement of the fees and expenses incurred by the Stalking

Horse Bidder (including its reasonable legal fees), in the event it is not selected as the successful purchaser of the Debtor's assets, and requires an application to the Court. That reimbursement is capped at less than 9% of the Aggregate Cash Outlay by the Stalking Horse Bidder, and it is not a certainty that any subsequent application made by the Purchaser will request the full amount.

62. The prospect of the protection offered by the Stalking Horse Protections induced the Stalking Horse Bidder's substantial and valued bid in advance of the sale procedures and any Auction made Stalking Horse Agreement possible; the Stalking Horse Agreement establishes a committed baseline, or asset value floor, upon which any other bids can be compared and evaluated, and therefore, is beneficial to the Debtor's estate and its stakeholders.

63. In sum, the Debtor's ability to offer the Stalking Horse Protections enables it to ensure the sale of the Purchased Assets to a contractually-committed bidder at a price he believes to be fair, while, at the same time, providing it with the potential of even greater benefit to the estate. Thus, the Stalking Horse Protections should be approved.

**ASSUMPTION AND ASSIGNMENT OF UNEXPIRED LEASES,
AND APPROVAL OF MODIFICATIONS THERETO**

64. Pursuant to the Stalking Horse Bid, the Debtor's operations shall be continued by G-MAXX.

65. In connection with the Stalking Horse Bid, G-MAXX has indicated the locations out of which it intends to continue to operate, and the Debtor respectfully requests this Court authorize the Debtor to assume the unexpired leases referenced in Schedule 1(a)(v) attached to the G-MAXX APA (as modified where applicable), and assign same to G-MAXX (the "Purchased Leases").

66. Over the course of these proceedings, the Debtor's real estate advisors, Keen-Summit, secured modifications of various unexpired leases contingent upon authorization by this Court through an eventual plan of reorganization.

67. For each of the Purchased Leases, the Debtor has indicated the leased premises, the landlord, the outstanding cure amount (the "Cure Amount"), and whether there exists any modifications to be authorized for each of the Purchased Leases.

68. Any and all objections to the Cure Amount, the modifications, or the assumption and assignment of the Purchased Leases shall be made no later than _____ ("Purchased Lease Objection Deadline").

69. The Debtor respectfully requests the Court approve any modifications to the Purchased Leases, and authorize the assumption by the Debtor and assignment to the Successful Bidder.

NOTICE

70. Notice of this Motion has been given to: (i) the Office of the United States Trustee; (ii) counsel for the Committee; (iii) G-MAXX; (iv) all landlords; and (v) all parties requesting notice in these proceedings pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

71. Due to the need to immediately commence the bidding process, as well as the Debtor's inability to continue operating, the Debtor requests a waiver of the 14 day stay pursuant to 6004(h) and 6006(d).

72. No previous request for the relief sought herein has been made to this or any other court.

73. Based on the foregoing, I respectfully request Your Honor authorize the Debtor to conduct the Sale in the manner and form consistent with the proposed Order submitted herewith.

74. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/Edwin Hund

Date: August 1, 2016

EDWIN HUND
*President and Chief Executive Officer of
Marburn Stores, Inc.*

ASSET PURCHASE AGREEMENT

between

MARBURN STORES, INC.

and

G-MAXX GROUP, LLC

Dated: as of August 1, 2016

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**") is made as of this 1st day of August 2016 ("**Agreement Date**") by and between MARBURN STORES, INC., a New Jersey Corporation (the "**Debtor**") and G-MAXX GROUP, LLC, a New York limited liability company on behalf of itself or its designee(s) ("**Purchaser**"). Debtor and Purchaser are sometimes hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**." Initially capitalized terms in this Agreement which are not otherwise defined within this Agreement shall have the meanings set forth in Exhibit A hereto.

WITNESSETH

WHEREAS, Debtor is engaged in the business of retail sales of curtains, drapes and home furnishings (the "**Business**");

WHEREAS, subject to the terms and conditions of this Agreement, Purchaser wishes to purchase from Debtor, and Debtor wishes to sell to Purchaser, substantially all of the assets of Debtor used or usable in the Business; and

WHEREAS, Debtor is currently a debtor in a bankruptcy case filed under Chapter 11, Title 11 of the United States Code (the "**Bankruptcy Code**"), and captioned: In re Marburn Stores, Inc., Case No. 15-14411-VFP, pending in the United States Bankruptcy Court for the District of New Jersey, Newark Division (the "**Bankruptcy Court**"), and, therefore, is required to obtain an order from the Bankruptcy Court approving this Agreement and the transactions contemplated hereby;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Purchase**. Subject to the terms and conditions of this Agreement, on the Closing Date (as hereinafter defined), Debtor shall sell, transfer, assign, convey, release and deliver to Purchaser, and Purchaser shall purchase and accept from Debtor, free and clear of all Liens, all of Debtor's right, title and interest in and to the following assets (collectively, the "**Purchased Assets**"):

(a) The Purchased Assets shall include the following:

(i) **Furniture and Fixtures**. All of the fixtures, leasehold improvements and furniture and other tangible property used in the Business, and located at the properties leased pursuant to the Assigned Leases (hereinafter defined), including, without limitation, the items listed on Schedule 1(a) hereto (the "**Fixtures**"). Notwithstanding the foregoing, in the event that the

Purchaser deletes any real property leases, pursuant to paragraph 1(a)(v) (the “Deleted Leases”), the Fixtures located at the properties subject to the Deleted Leases shall remain part of the Purchased Assets, provided that the Purchaser shall remove such Fixtures, and the Debtor hereby consents to the Purchaser removing such Fixtures, prior to the Closing Date.

(ii) Machinery and Equipment. All machinery, equipment, office equipment, and other fixed assets owned by Debtor, used in the Business, at the properties leased pursuant to the Assigned Leases, including without limitation, the items listed on Schedule 1(a) (the “**Equipment**”). Notwithstanding the foregoing, the Equipment located at the properties subject to the Deleted Leases shall remain part of the Purchased Assets, provided that the Purchaser shall remove such Equipment, and the Debtor hereby consents to the Purchaser removing such Equipment, prior to the Closing Date.

(iii) Inventory. All of Debtor’s inventory used in or held for sale in the Business including, without limitation, the items listed on Schedule 1(a) (the “**Inventory**”).

(iv) Assigned Contracts. All contracts, purchase orders, sales orders, equipment leases, software licenses (to the extent assignable) and other contracts listed on Schedule 1(a) hereto, which are being assumed by Debtor and assigned to Purchaser, pursuant to the terms and conditions of this Agreement, and as approved by the Bankruptcy Court (each an “**Executory Contract**” and together, the “**Assigned Contracts**”), provided that (i) Purchaser shall pay one hundred percent (100%) of all Cure Costs related to such Assigned Contracts and (ii) Purchaser may, no later than five (5) days prior to Closing, amend Schedule 1(a) to add any Executory Contract to Schedule 1(a) in which case such Executory Contract shall become an Assigned Contract.

(v) Assigned Leases. The real property leases for the properties listed on Schedule 1(a) hereto, which are being assumed by Debtor and assigned to Purchaser, pursuant to the terms and conditions of this Agreement, and as approved by the Bankruptcy Court (the “**Assigned Leases**”), provided that (i) Purchaser shall pay one hundred percent (100%) of all Cure Costs related to such Assigned Leases, (ii) the Leases shall be assigned to Purchaser without any change in any provisions of the Lease, including any additional security Deposit or any increased rent not approved by Purchaser and (iii) Purchaser may amend Schedule 1(a) at any time up until Closing to delete any real property lease from such schedule in which case such lease shall become an excluded asset pursuant to section 1(b) of this Agreement.

(vi) Goodwill; Name; Domain Name; Telephone Numbers; Accounts and Passwords. All of the goodwill of Debtor. The name Marburn and all forms and permutations of such name. The domain name “www.marburn.com”, together with all other domain names owned by Debtor and all passwords and log-in information necessary to maintain and modify such websites. All email addresses, telephone and facsimile transmission numbers owned by Debtor.

(vii) Proprietary Technology. All proprietary technology, including all manuals, business and policy manuals, performance standards, quality control standards, know-how, reports, processes, research and other data, trade secrets, computer software and programs, formulae, inventions and other ideas used in the Business.

(viii) Customer, Vendor and Sales Referral Information. All current or historical information relating to customers and to vendors or other suppliers and referral sources, including all customer, vendor, supplier, and referral lists including contact information, mailing and email lists, price lists, customer files, account histories, correspondence and other recorded knowledge relating to customers, vendors, suppliers and referral sources.

(ix) Product Catalogs; Sales Documents. All product lists and catalogues, including price lists, used in the Business. All documents utilized in the Business to support sales containing, among other things, product information, specifications, selling points and warranties.

(x) Permits. All licenses, franchises, permits, variances, certificates and other approvals issued by any Governmental Authority relating to the Purchased Assets and the Business (“**Permits**”).

(xi) Trademarks; Patents; and Copyrights. All of Debtor’s rights in and to all United States and foreign trademarks, trademark applications, trade names, service marks and the like, if any, including the trademarks MARBURN (USPTO Registration No. 4233975) and MARBURN CURTAINS and design (USPTO Registration No. 4234152) and all derivatives thereof (collectively, the “**Trademarks**”). All rights in and to all United States and foreign patents and patent applications (collectively, “**Patents**”), copyrights and copyright applications, (collectively “**Copyrights**”, and together with the Trademarks and Patents, hereinafter referred to as the “**Intellectual Property**”).

(xii) Warranties. Any manufacturer or other warranties or guarantees covering any of the Purchased Assets.

(xiii) Records. All books and records relating to the operation of the Business prior to Closing, including but not limited to all financial and personnel records related to the operation of the Business and any records related to the Purchased Assets.

(xiv) Security and Other Deposits. Security deposits pertaining to any rent security deposit under the Assigned Leases and any deposits pertaining to any Assigned Contract.

(xv) Prepaid Inventory. Any Prepaid Inventory (defined hereafter) acquired by Purchaser, pursuant to the provisions of **Section 3(b)** hereafter.

(b) Excluded Assets. Notwithstanding anything herein to the contrary, the following are not intended by the Parties to be a part of the Purchased Assets that are being purchased by Purchaser hereunder and shall be deemed “**Excluded Assets**”:

(i) Accounts Receivable. All of Debtor’s accounts receivable, due to Debtor from customers resulting from the ordinary conduct of the Business prior to the Closing shall belong to Debtor.

(ii) Cash. All of the cash of Debtor including, without limitation, certificates of deposit and funds held in bank accounts.

(iii) Prepaid Expenses. All prepaid or deferred expenses, including all deposits (other than any deposits described in Section 1(a)(xiv) hereof), advertising and promotional materials, catalogs and labels.

(iv) Securities. Any temporary investments in marketable securities.

(v) All employee benefit plans of Debtor within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, which are presently in effect, including any assets or liabilities owned or held by any such plan.

(vi) Any other asset listed on Schedule 1(b).

(vii) Any contract which is not an Assigned Contract.

(viii) The real property leases for properties used in connection with the Business which are not Assigned Leases.

(ix) All claims made or which may be made by Debtor to any Governmental Authority relating to refunds for Taxes (defined hereafter) with respect to any transactions or periods relating to the Business occurring prior to or ending on the Closing Date.

(x) All causes of action including, without limitation, bankruptcy avoidance claims, together with insurance refunds and tax refunds.

(xi) Any Prepaid Inventory not acquired by Purchaser, pursuant to the provisions of Section 3(b) hereafter.

2. Liabilities; Risk of Loss

(a) Assumed Liabilities. In connection with its acquisition of the Purchased Assets, Purchaser shall at the Closing assume only the following liabilities and obligations of Debtor (the “**Assumed Liabilities**”):

(i) executory obligations of Debtor under the Assigned Contracts, excluding any liability or obligation arising out of any defaults thereunder or which Debtor was obligated to have performed or discharged prior to the Closing Date including, without limitation, any Cure Costs related to such Assigned Contracts, if any, which shall not be assumed by Purchaser;

(ii) executory obligations of Debtor under the Assigned Leases, excluding, any liability or obligation arising out of any defaults thereunder or which Debtor was

obligated to have performed or discharged prior to the Closing Date; *provided, however*, that Purchaser shall pay one hundred percent (100%) of all Cure Costs related to such Assigned Leases.

(b) Excluded Liabilities. Other than the Assumed Liabilities, Purchaser shall not be deemed to have assumed, and Debtor shall remain responsible for, any claims, liabilities, obligations, lawsuits or debts of Debtor and the Business of any type or nature, whether known or unknown, fixed, contingent or otherwise, and whether or not threatened or pending, including, but not limited to: (i) liability based on tortious or wrongful actions; (ii) Taxes of any kind; (iii) wages or benefits for employees or agents, including any vacation pay or severance or benefit payments to any former employees or agents; (iv) payment of rent, service fees or any types of invoices payable by Debtor; and (v) recoupment or refund of amounts paid by any third party payor, including refunds requested by any Governmental Authority (collectively referred to hereinafter as the “**Excluded Liabilities**”).

(c) Risk of Loss of Inventory. Debtor shall bear all risk of destruction, loss or damage to the Inventory due to fire or other casualty until the Closing Date. In the event of any destruction, loss or damage to the Inventory, the Purchase Price (as defined below) shall be adjusted at the Closing to reflect such destruction, loss or damage, as provided in Section 3(b) hereafter.

3. Purchase Price.

(a) Purchase Price. The total purchase price for the Purchased Assets shall be Seven Hundred Ninety-Two Thousand Five Hundred Eighty-One Dollars and twelve cents (\$792,581.12) (the “**Purchase Price**”), which shall be payable as follows: (i) Seventy-Nine Thousand Two Hundred Fifty-Eight Dollars (\$79,258.00) upon the execution of this Agreement by Debtor and Purchaser (the “**Deposit**”), which shall be credited to the payment of the Purchase Price at Closing, and (ii) Seven Hundred Thirteen Thousand Three Hundred Twenty-Three Dollars and twelve cents (\$713,323.12) in immediately available funds at Closing, subject to the adjustments set forth in Section 3(b) hereafter.

(b) Adjustment to Purchase Price. The Parties hereby acknowledge and agree that the Purchase Price was determined based on an amount equal to thirty-five percent (35%) of the cost value of the inventory of Two Million Two Hundred Sixty-Four Thousand Five Hundred Seventeen Dollars and forty-nine cents (\$2,264,517.49) being included in the Purchased Assets (the “**Estimated Inventory Value**”). In the event that the aggregate value of the Inventory, as determined by RGIS, LLC, two (2) days prior to the Closing Date (the “**Inventory Determination Date**”), is less than the Estimated Inventory Value including, without limitation, as a result of any loss in the value of the Inventory, as provided in Section 2(c) hereof, the Purchase Price shall be

reduced by an amount equal to thirty-five (35) cents for each One Dollar (\$1.00) that the Estimated Inventory Value exceeds the actual aggregate value of the Inventory on the Inventory Determination Date. In the event that the aggregate value of the Inventory, as determined by RGIS, LLC, on the Inventory Determination Date, is greater than the Estimated Inventory Value, the Purchase Price shall be increased by an amount equal to thirty-five (35) cents for each One Dollar (\$1.00) that the actual aggregate value of the Inventory exceeds the Estimated Inventory Value on the Inventory Determination Date. All costs relating to RGIS's valuation of the Inventory shall be shared equally by the Parties. In addition, in the event that there is any prepaid Inventory, which is not in the Debtor's possession on the Inventory Determination Date ("**Prepaid Inventory**"), for which the Debtor has provided Purchaser with sufficient documentation evidencing the cost of such Prepaid Inventory, Purchaser shall have the option, but not the obligation, to acquire all, or any portion of such Prepaid Inventory, at the cost of such Prepaid Inventory, or at such other valuation as mutually agreed to by the Debtor and Purchaser, which shall not be less thirty-five percent (35%) of the cost of such Prepaid Inventory, by providing written notice to Debtor, prior to the Closing, identifying the Prepaid Inventory to be acquired. The Purchase Price shall be increased, accordingly, to reflect any Prepaid Inventory acquired by Purchaser.

(c) Deposit. Immediately upon execution and delivery of this Agreement by the Parties, Purchaser shall remit payment of the Deposit to Debtor's bankruptcy counsel, Wasserman, Jurista & Stolz ("**WJS**") pursuant to wire instructions provided by WJS to Purchaser's counsel to be held in escrow by WJS pending Closing.

(d) Allocation. The Purchase Price shall be allocated among the Purchased Assets in the manner set forth on **Schedule 3(d)**. The Parties agree that (i) the allocation of the Purchase Price hereunder to items, classes and categories of the Purchased Assets as set forth in **Schedule 3(d)** reflects and constitutes arms-length negotiations between the Parties; and (ii) the foregoing allocations are reasonable based on the Parties' estimates of the fair market value as of the Closing Date of each such class of Purchased Assets. The allocation reflected in **Schedule 3(d)** shall be binding on the Parties for United States and all state income Tax purposes and shall be consistently reflected by each such Party on its United States and all state income Tax Returns (defined hereafter). Each Party covenants and agrees to execute and timely file U.S. Treasury Form 8594 consistent with the Parties' agreed upon allocation, and upon the reasonable request of either Party, the other Party shall execute and file such other documents as may be necessary to document such allocation.

(e) Taxes Arising from Transaction. Each Party agrees to pay any sales, transfer or other Tax which may be primarily imposed on such Party as a matter of law as a result of the transactions contemplated under this Agreement, and to indemnify, defend and hold the other Party

hereto harmless from and against any loss, cost, damage or expense arising by reason of the failure to pay any such tax. The terms of this **Section 3(e)** shall survive the Closing.

(f) **Guaranty of Payment of Purchase Price.** Popular Bath Products Inc., a New York Corporation (“**Popular Bath**”), hereby unconditionally and absolutely guaranties the payment of the Purchase Price due and payable by Purchaser hereunder so that, in the event Purchaser fails to pay the Purchase Price, or any portion thereof, when properly due and payable hereunder, the Debtor shall have the right to demand payment of the Purchase Price, or such portion thereof, as applicable, by Popular Bath, without having to enforce any of its rights against Purchaser for collection of the Purchase Price, and Popular Bath shall be obligated to pay such amount to the Debtor, within five (5) Business Days after any such demand for proper payment hereunder.

4. **Closing; Termination**

(a) **Closing.** The closing under this Agreement (the “**Closing**”) shall take place at the offices of counsel for Purchaser, Robinson Brog Lienwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9th Floor, New York, New York 10022. Closing shall be effective for accounting and all other purposes (including the collection of sales proceeds) as of 12:01 a.m. EDT on the date of Closing (the “**Closing Date**”), unless otherwise agreed in writing by the Parties.

(b) **Closing Date.** The Closing shall occur on the third Business Day following the date on which the Bankruptcy Court issues a Sale Order (as defined in **Section 5** hereafter) or on such other date and time, thereafter, as the Parties shall have agreed to in writing.

(c) **Termination by Mutual Consent.** This Agreement may be terminated at any time prior to the Closing by mutual written agreement of Debtor and Purchaser.

(d) **Termination – Purchaser not Prevailing Bidder.** This Agreement shall be automatically terminated in the event that the Bankruptcy Court does not issue a Sale Order approving this Agreement, as a result of Purchaser’s not being the prevailing bidder for the Purchased Assets and the Purchased Assets are purchased by another Person (the “**Prevailing Bidder**”).

(e) **Termination by Debtor.** Debtor may terminate this Agreement at any time prior to the Closing Date if:

(i) there has been a material breach by Purchaser of any of its representations and warranties contained in this Agreement;

(ii) there has been a material breach of any of the covenants or agreements set forth in this Agreement on the part of Purchaser, which breach is not curable or, if curable, is not cured within thirty (30) days after written notice of such breach is given by Debtor to Purchaser;

(iii) the conditions to the obligations of Debtor set forth in **Section 9** shall not have been waived or satisfied on or before the date specified therefor;

(iv) the Bankruptcy Court shall not have issued the Sale Order approving this Agreement on or before August 26, 2016; or

(v) the Closing shall not have occurred by August 30, 2016; *provided, however*, that the right to terminate by Debtor shall not be available under this **Section 4(e)** if the Closing shall not have occurred by such date as a result of the failure of Debtor to fulfill any of its obligations under this Agreement; or

(f) **Termination by Purchaser.** Purchaser may terminate this Agreement at any time prior to the Closing Date if:

(i) there has been a material breach by Debtor of any of its representations and warranties contained in this Agreement;

(ii) there has been material adverse change in the condition of the Purchased Assets or the Business between the Agreement Date and the Closing Date.

(iii) there has been a material breach of any of the covenants or agreements set forth in this Agreement on the part of Debtor, which breach is not curable or, if curable, is not cured within thirty (30) days after written notice of such breach is given by Purchaser to Debtor.

(iv) the conditions to the obligations of Purchaser set forth in **Section 8** shall not have been waived or satisfied on or before the date specified therefor;

(v) the Bankruptcy Court shall not have issued the Sale Order approving this Agreement on or before August 26, 2016; or

(vi) the Closing shall not have occurred by August 30, 2016; *provided, however*, that the right to terminate by Purchaser shall not be available under this **Section 4(f)** if the Closing shall not have occurred by such date as a result of the failure of Purchaser to fulfill any of its obligations under this Agreement.

(g) **Effect of Termination.** In the event of the termination of this Agreement pursuant to **Section 4(e)** or **Section 4(f)** hereof, as applicable, written notice thereof shall as

promptly as practicable be given to the other Party to this Agreement, in accordance with the notice provisions set forth in **Section 14** hereafter, and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by either of the Parties. If this Agreement is terminated as provided in **Section 4(c)**, **Section 4(d)**, **Section 4(e)** or **Section 4(f)**:

(i) all obligations of the Parties shall terminate, except for those provisions, which by their terms, survive the termination of this Agreement; and

(ii) if termination is effected by the mutual agreement of the Parties pursuant to **Section 4(c)**, then the Deposit will be refunded to Purchaser, within two (2) Business Days after termination; and

(iii) if termination occurs as provided in **Section 4(d)**, then (A) the Deposit will be refunded to Purchaser within two (2) business days of the entry of the Sale Order in favor of the Prevailing Bidder and (B) concurrent with the closing of the sale to the Prevailing Bidder, from the proceeds of the sale to the Prevailing Bidder and upon application and receipt of an appropriate order of the Bankruptcy Court, the Debtor shall also reimburse Purchaser for (x) all expenses incurred by Purchaser, in connection with its offer to purchase the Purchased Assets and the intended consummation of the transactions contemplated under this Agreement and (ii) all reasonable legal fees incurred by Purchaser in connection therewith including, without limitation, the drafting and negotiation of this Agreement and the Transaction Documents (defined hereafter) in accordance with documentation provided to the Debtor by the Purchaser prior to the closing of the sale to the Prevailing Bidder; *provided, however*, that the aggregate amount for which Purchaser shall be entitled to reimbursement hereunder shall be limited to Ninety-Five Thousand Dollars (\$95,000.00). To the extent that Purchaser has been unable to obtain an order from the Bankruptcy Court allowing its expense reimbursement prior to the closing of the sale to the Prevailing Bidder, the Purchaser shall provide the Debtor with a good faith estimate of its expenses that it intends to apply to the Bankruptcy Court for reimbursement under this provision (not to exceed \$95,000) and the Debtor shall deposit into attorney trust account of Wasserman, Jurista & Stolz, for the benefit of Purchaser, sufficient funds from the proceeds of the sale, to pay Purchasers expenses in full, pending Purchaser's application to the Bankruptcy Court for a court order allowing its expense reimbursement.

(iv) if termination is effected by Debtor pursuant to **Section 4(e)(i)**, **Section 4(e)(ii)** or **Section 4(e)(iii)**, then the Deposit shall be delivered to Debtor, within two (2) Business Days after termination; *provided, however*, that in the event termination is effected by Debtor pursuant to **Section 4(e)(iii)** by reason of the fact that the conditions to the obligations of Debtor set forth in **Section 9(d)** shall not have been waived or satisfied on or before the date specified therefor, then the Deposit shall be refunded to Purchaser, within two (2) Business Days after termination;

(v) if termination is effected by (A) Debtor pursuant to **Section 4(d)(iv)** or **Section 4(e)(v)** or (B) Purchaser pursuant to **Sections 4(f)(i)** through **(v)**, then the Deposit shall be refunded to Purchaser, within two (2) Business Days after termination; and

(vi) each Party shall have available to it such remedies as may exist at law or in equity.

5. **Bankruptcy Court Approval.** Immediately following the execution of this Agreement by the Parties, Debtor shall proceed to have this Agreement and the transactions contemplated thereby approved by the Bankruptcy Court in their entirety by way of a final, non-appealable order authorizing this Agreement and the transactions contemplated herein (a “**Sale Order**”). The Sale Order shall be in form and substance reasonably acceptable to Purchaser, in its sole discretion, and shall provide for all necessary and customary findings and holdings including, without limitation: (i) the purchase and sale shall be free and clear of all Liens pursuant to Section 363 of the Bankruptcy Code; (ii) assignment of the Assigned Contracts and Assigned Leases to Purchaser free and clear of all Liens pursuant to Sections 363 and 365 of the Bankruptcy Code, with any Cure Costs affiliated with the Assigned Leases to be paid by Purchaser; (iii) TIME IS OF THE ESSENCE AND A PROMPT CLOSING IS NECESSARY TO PRESERVE THE VALUE OF THE PURCHASED ASSETS; and (iv) the ten day automatic stays under Bankruptcy Rules 6004(g) and 6006(d) are waived for cause. Purchaser shall reasonably but promptly cooperate with Debtor in providing any information and evidence that may be reasonably required to demonstrate to the Bankruptcy Court’s satisfaction: (i) Purchaser’s good faith under Section 363(m) of the Bankruptcy Code such that the reversal or modification on appeal of the Sale Order shall not affect the validity of the sale of the Purchased Assets as contemplated hereunder, and (ii) adequate assurance of Purchaser’s future performance under the Assigned Contracts and Assigned Leases.

6. **Debtor’s Representations, Warranties and Covenants.** In order to induce Purchaser to enter into this Agreement, Debtor makes the following representations and warranties to Purchaser as of the date hereof and the Closing Date:

(a) **Authorized Action.** Subject to the Bankruptcy Court’s entry of the Sale Order, all requisite actions required in connection with the execution, delivery and performance of this Agreement and any other documents contemplated hereby have been duly and validly taken and, without limitation of the foregoing, the execution, delivery and performance of this Agreement and any other documents necessary to effectuate the transactions contemplated herein (the “**Transaction Documents**”) have been duly and validly authorized by Debtor.

(b) **Binding Agreement; Organization.** Subject to the Bankruptcy Court’s entry of the Sale Order, this Agreement and each of the Transaction Documents, when executed and delivered, will be the legal, valid and binding obligation of Debtor enforceable in accordance with

their respective terms. Debtor is a corporation, validly existing and in good standing under the laws of the State of New Jersey. Debtor has full power and authority to own, lease or otherwise hold its properties and assets and to carry out the transactions contemplated hereby and to conduct the business presently being conducted by Debtor. Except as set forth on **Schedule 6(b)** hereto, Debtor is not qualified to do business as a foreign corporation in any other state, and does not have any subsidiaries.

(c) **Power and Authority.** Except as set forth on **Schedule 6(c)** hereto, and subject to the Bankruptcy Court's entry of the Sale Order, Debtor has all requisite power and authority to execute, deliver and perform this Agreement and deliver all documents required to be delivered by it under this Agreement.

(d) **Absence of Conflicting Agreements.** Except as set forth on **Schedule 6(d)** hereto, and except as would not have a material adverse effect on the Purchased Assets, and also subject to the Bankruptcy Court's entry of the Sale Order, neither the execution nor delivery of this Agreement or any of the documents contemplated hereby, nor the performance of the transactions contemplated hereby and thereby, conflicts with, or constitutes a breach of or a default by Debtor under; (i) any applicable law, rule, judgment, order, writ, injunction or decree of any court currently in effect; or (ii) any applicable rule or regulation of any Governmental Authority currently in effect and applicable to Debtor, as applicable; or (iii) any agreement, indenture, contract or instrument to which Debtor is now a party or by which any of the Purchased Assets are bound.

(e) **Consents.** Except as set forth on **Schedule 6(e)** hereto, and subject to the Bankruptcy Court's entry of the Sale Order, Debtor is not required to obtain any approval or consent or make any filing with any Person or Governmental Authority in connection with Debtor's execution and delivery of this Agreement and the Transaction Documents.

(f) **Compliance with Law and Instruments.** Except as set forth on **Schedule 6(f)** hereto, to Debtor's knowledge, the Business has been conducted, in all material respects, in compliance with all applicable laws, rules, and regulations, except for violations which, individually or in the aggregate, did not or would not have a material adverse effect on the Purchased Assets and the Business. Except as set forth on **Schedule 6(f)**, to Debtor's knowledge, Debtor has not received notice that the operation of the Business has not been in compliance with all applicable laws, rules, regulations and ordinances, except for possible violations that would not have a material adverse effect on the Purchased Assets and the operations of the Business.

(g) **Sufficiency of Purchased Assets.** To the knowledge of Debtor, the Purchased Assets constitute the assets of Debtor necessary to operate the Business in the manner presently operated by Debtor.

(h) Title to Purchased Assets. Debtor has good and marketable title to the Purchased Assets and, subject to the Bankruptcy Court's entry of the Sale Order, shall, on the Closing Date, deliver the Purchased Assets free and clear of any Liens.

(i) Condition of Property. All Fixtures and Equipment included in the Purchased Assets are in good condition and working order, ordinary wear and tear excepted. All properties which are the subject of the Assigned Leases shall be in the same condition as of the date hereof, ordinary wear and tear excepted. All manufacturer warranties for the Equipment, and personal property, if any, which are in the possession of Debtor, shall be transferred to Purchaser at the Closing.

(j) Assigned Contracts. A complete and accurate list of all Assigned Contracts is set forth on **Schedule 1(a)** hereto. Subject to any Cure Costs being paid by Debtor, each of the Assigned Contracts is in full force and effect and Debtor is not in material default under any Assigned Contract. To Debtor's knowledge, there has not been asserted, either by or against Debtor under any Assigned Contract, any written notice of default, set-off or claim of default. To the knowledge of Debtor, the parties to the Assigned Contracts other than Debtor are not in default of any of their respective obligations under the Assigned Contracts, and to the knowledge of Debtor, there has not occurred any event which with the passage of time or the giving of notice (or both) would constitute a default or breach under any Assigned Contract.

(k) Assigned Leases. A complete and accurate list of all Assigned Leases, including any applicable Cure Costs, is set forth on **Schedule 1(a)** hereto. Subject to any Cure Costs being paid by Purchaser, each of the Assigned Leases is in full force and effect and Debtor is not in material default under any Assigned Lease. To Debtor's knowledge, there has not been asserted, either by or against Debtor under any Assigned Lease, any written notice of default, set-off or claim of default. To the knowledge of Debtor, the parties to the Assigned Leases other than Debtor are not in default of any of their respective obligations under the Assigned Leases, and to the knowledge of Debtor, there has not occurred any event which with the passage of time or the giving of notice (or both) would constitute a default or breach under any Assigned Lease.

(l) Litigation. Except for the Bankruptcy Case, and as otherwise set forth on **Schedule 6(l)** hereto, there are no Actions presently pending or to Debtor's knowledge threatened against the Business or the Purchased Assets, and Debtor is not aware of any facts that it reasonably anticipates may result in any such Action.

(m) Permits. Set forth on **Schedule 6(m)** hereto is a true and correct list of all Permits which are held by Debtor and material to the operation of the Business. All of the Permits

are in full force and effect. Except as set forth on **Schedule 6(m)**, to Debtor's knowledge, Debtor has not received any notices of any claim, default, deficiency or violation or any other proceeding, relating to any Permit.

(n) **Employment; Labor Matters.** None of the individuals employed, engaged or leased by Debtor is represented by any union or other collective bargaining representative nor, to Debtor's knowledge, are there currently any attempts by any union or other collective bargaining representative to organize employees and there have been no such attempts within the last year. All employees of Debtor are employees at will.

(o) **Employee Benefit Plans.** Except as set forth on **Schedule 6(o)**, Debtor has no unfunded liabilities under any pension or other employee benefit plan, which it may have established or to which it is bound.

(p) **No Unusual Arrangements with Employees.** Debtor has no cash compensation arrangements with any of its employees. All employees are paid through Debtor's payroll system and receive only the payments disclosed by such system.

(q) **Intellectual Property.** To the best of Debtor's knowledge, (i) Debtor has not infringed any patents, trademarks, trade name rights, service marks, copyrights, applications for any of the foregoing or similar intellectual property of any Person, and (ii) no third party has infringed any Intellectual Property rights of Debtor. **Schedule 6(q)** lists (x) all Intellectual Property presently owned by Debtor in whole or in part and any applications (whether or not filed) for any of the foregoing, together with the jurisdictions in which such Intellectual Property is registered (if registered), the name of the registered owner if different from Debtor, the date of registration (or filing as to filed applications) and the expiration date thereof; (y) all technical assistance, licensing (as licensor or licensee), know-how, engineering, consulting, employee and other agreements relating to the Intellectual Property to which Debtor is a party, by which it or its assets are bound or pursuant to which it has rights; and (iii) all proceedings involving any Intellectual Property. Debtor has provided Purchaser with true and complete copies of all agreements referred to in (y) of the immediately preceding sentence.

(r) **Taxes.** Except as set forth on **Schedule 6(r)** hereto, Debtor has:

(i) timely filed or caused to be filed with appropriate Governmental Authorities all federal, state, local and foreign returns (the "**Tax Returns**") for Taxes (as hereinafter defined) required to be filed by it; and

(ii) paid or caused to be paid, or have made adequate provision or set up an adequate accrual or reserve for the payment of, all Taxes required to be paid in respect of the periods for which such Tax Returns are due or filed any or all necessary appeal(s) related thereto.

The term “**Tax**” or “**Taxes**” shall include but not be limited to, those related to income, gross receipts, gross income, sales, use, withholding and other payroll taxes, excise, occupation, services, leasing, valuation, transfer or license.

(s) No Brokers. No broker or finder has acted for Debtor in connection with the transactions contemplated by this Agreement, and no broker or finder is entitled to any broker's or finder's fee or other commission in respect thereof based in any way on agreements, understandings or arrangements with Debtor regarding the transactions contemplated by this Agreement.

(t) Insurance. At all times during the operation of the Business, Debtor has maintained and will continue to maintain through the Closing Date, insurance coverage against general liability, professional liability and property loss or casualty on all aspects of Debtor's operation of the Business, including, without limitation, the Purchased Assets, the Assigned Leases and personnel (the “**Insurance**”). Debtor shall keep said Insurance in full force and effect through midnight on the Closing Date.

(u) Hazardous Substances. Debtor has not caused or permitted the Purchased Assets or the Business to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances (as hereinafter defined), or other dangerous or toxic substances, oils, or solid waste (other than as such may be usual and customary in the operation of the Business, the “**Permitted Substances**”), and Debtor has not caused or permitted any Release (as hereinafter defined) of any Hazardous Substance on or offsite of the Premises. “**Hazardous Substances**” include any pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials, oils, or hazardous substances as defined in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601-9657 (“**CERCLA**”), or any other federal, state or local environmental law, ordinance, rule or regulation as such laws, ordinances, rules or regulations exist as of the date hereof. “**Release**” means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping. Debtor has caused all Permitted Substances arising from the operations of the Business to be disposed of in accordance with applicable laws and regulations. Debtor has not received any notice from any Governmental Authority that Debtor is a potentially responsible party in any proceeding under any state or local environmental statute or regulation nor does Debtor have any knowledge of the presence of any Hazardous Substances on or under any of the properties subject to the Assigned Leases.

(v) Records. The business and financial records of Debtor are complete and correct in all material respects.Disclosure. No representation or warranty by Debtor in this Agreement, nor any Schedule hereto furnished or to be furnished by or on behalf of Debtor pursuant to this Agreement or in connection with transactions contemplated hereby, contains any untrue statement of a material fact or omits a material fact necessary to make the statements contained therein not misleading.

7. **Purchaser's Representations, Warranties and Covenants**. In order to induce Debtor to enter into this Agreement, Purchaser makes the following representations and warranties to Debtor:

(a) Organization and Standing. Purchaser is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New York (or such other state that a permitted assignee(s) will be organized under the laws of). At the Closing Date, Purchaser or its permitted assignee(s) will have all power and authority to carry on its business as now conducted and all Permits, consents and approvals to carry on its business as now conducted.

(b) Power and Authority. All corporate actions required in connection with the execution, delivery and performance of this Agreement and any other documents contemplated hereby have been duly and validly taken and, without limitation of the foregoing, the execution, delivery and performance of this Agreement and any Transaction Documents have been duly and validly authorized by Purchaser's Manager.

(c) Binding Agreement. This Agreement and each of the Transaction Documents, when executed and delivered, will constitute legal, valid and binding obligations of Purchaser enforceable in accordance with their respective terms.

(d) Power and Authority. Purchaser has all requisite power and authority to execute, deliver and perform this Agreement, and as of the Closing, will have all requisite power and authority to execute and deliver all the documents required to be delivered by it at Closing and to consummate the transactions contemplated hereby.

(e) Absence of Conflicting Agreements. Neither the execution or delivery of this Agreement or any of the documents contemplated hereby, nor the performance of the transactions contemplated hereby and thereby, conflicts with, or constitutes a breach of or a default by Purchaser under: (i) its Articles of Organization; or (ii) any applicable law, rule, judgment, order, writ, injunction, or decree of any court currently in effect; or (iii) any applicable rule or regulation of any Governmental

Authority currently in effect; or (iv) any agreement, indenture, contract or instrument to which it is a party.

(f) Brokers. No broker or finder has acted for Purchaser in connection with the transactions contemplated by this Agreement, and no broker or finder is entitled to any broker's or finder's fee or other commission in respect thereof based in any way on agreements, understandings or arrangements with Purchaser.

(g) Governmental Authorizations. Other than the consent of the Bankruptcy Court, no material consent, approval or other authorization of, or material filing with any Governmental Authority or expiration of any governmentally imposed waiting period is required in connection with the execution and delivery by Purchaser of this Agreement and the Transaction Documents to which Purchaser will be a party or the consummation by Purchaser of those transactions contemplated thereby except those consents, approvals, authorizations or filings obtained prior to Closing.

(h) Financial Ability to Close Transaction. Purchaser or Popular Bath has the financial resources available to pay the Purchase Price, when due and owing in accordance with the terms and conditions of this Agreement.

8. **Conditions Precedent to Purchaser's Obligation to Close**. In addition to the Bankruptcy Court approval described in **Section 5** hereof, which may not be waived, the obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction and fulfillment, prior to or on the Closing Date, of the following conditions precedent; *provided, however*, that Purchaser shall have the right to waive any such conditions, in its sole discretion, upon written notice to Debtor:

(a) Representations, Warranties and Covenants. The representations and warranties of Debtor made in this Agreement shall be true and correct in all material respects at and as of the Closing Date, as though such representations and warranties were made at and as of such time except to the extent affected by the transactions herein contemplated. Debtor shall have performed and complied in all material respects with all its covenants and agreements contained in this Agreement required to be performed and complied with by it at or prior to Closing.

(b) Proceeding and Instruments Satisfactory. All proceedings to be taken in connection with the transactions contemplated by this Agreement, and all documents incident thereto, shall be reasonably satisfactory in form and substance to Purchaser. Debtor shall have made available to Purchaser for examination the originals or true and correct copies of all

documents which Purchaser reasonably may request, and which are in Debtor's possession or control, in connection with the transactions contemplated by this Agreement.

(c) No Adverse Change. From the Agreement Date through the Closing Date, there shall not have occurred any material adverse change in the condition of the Purchased Assets or the Business.

(d) Insurance. Debtor shall have provided evidence to Purchaser of Debtor's having Insurance to insure against all claims arising out of any and all occurrences in connection with the operation of the Business, including any and all claims related to the properties leased pursuant to the Assigned Leases, prior to the Closing Date.

(e) Availability of Certain of Debtor's Employees. All of Debtor's employees listed on **Schedule 8(e)** hereto are employed by the Debtor immediately prior to the Closing Date and Debtor shall have provided Purchaser with free access to such employees, from the Agreement Date through and until the Closing Date.

(f) Termination of Debtor's Employees. Debtor shall have terminated the employment of all of its employees as of the Closing Date. Purchaser shall not have any obligation to hire any of Debtor's employees.

(g) Governmental Prohibition of the Transactions. No court or any other Governmental Authority shall have issued an order restraining or prohibiting the transactions herein contemplated; no Governmental Authority or third party shall have commenced or threatened in writing to commence any action or suit before any court of competent jurisdiction or other Governmental Authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby or impose material damages or penalties in connection therewith.

9. **Conditions Precedent to Debtor's Obligation to Close**. In addition to the Bankruptcy Court approval, described in **Section 5** hereof, which may not be waived, the obligation of Debtor to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction and fulfillment, prior to or on the Closing Date, of the following conditions precedent; *provided, however*, that Debtor shall have the right to waive any such conditions, in its sole discretion, upon written notice to Purchaser:

(a) Representations, Warranties and Covenants. The representations and warranties of Purchaser made in this Agreement shall be true and correct in all material respects at and as of the Closing Date, as though such representations and warranties were made at and as of such time except to the extent affected by the transactions herein contemplated. Purchaser shall

have performed and complied in all material respects with all its covenants and agreements contained in this Agreement required to be performed and complied with it at or prior to Closing.

(b) Proceeding and Instruments Satisfactory. All proceedings, corporate or otherwise, to be taken in connection with the transactions contemplated by this Agreement, and all documents incident thereto, shall be satisfactory in form and substance to Debtor; and Purchaser shall have made available to Debtor for examination the originals or true and correct copies of all documents which Debtor reasonably may request, and which are in Purchaser's possession or control, in connection with the transactions contemplated by this Agreement.

(c) Delivery. All documents required to be delivered to Debtor at or prior to the Closing shall have been so delivered, in a form reasonably acceptable to Debtor.

(d) Governmental Prohibition of the Transaction. No court or any other Governmental Authority shall have issued an order restraining or prohibiting the transactions herein contemplated; no Governmental Authority or third party shall have commenced or threatened in writing to commence any action or suit before any court of competent jurisdiction or other Governmental Authority that seeks to restrain or prohibit the consummation of the transactions contemplated hereby or impose material damages or penalties in connection therewith.

10. Closing Deliveries by Debtor. At or before the Closing, Debtor shall deliver or cause to be delivered to Purchaser the following instruments, documents and items:

(a) A Closing Certificate of Debtor in the form attached hereto as Exhibit B.

(b) A Bill of Sale, in the form of Exhibit C attached hereto and made a part hereof, sufficient to vest in Purchaser good title to the Purchased Assets, free and clear, in accordance with the Sale Order, of all Liens.

(c) Possession of the Purchased Assets, keys to the properties covered by the Assigned Leases and alarm codes, passwords if any.

(d) An Assignment and Assumption Agreement in substantially the form attached hereto as Exhibit D.

(e) All other instruments and documents, if any, required to be executed, acknowledged and/or delivered by Debtor to Purchaser pursuant to and in accordance with any of the other provisions of this Agreement.

(f) Certificate of Good Standing of the Debtor.

11. **Closing Deliveries by Purchaser.** At the Closing, Purchaser shall execute, acknowledge and/or deliver to Debtor the following payments, instruments and documents:

(a) A Closing Certificate of Purchaser in the form attached hereto as **Exhibit E.**

(b) Incumbency certificates in respect of the officers of Purchaser who execute this Agreement and the closing documents and certified resolution of managers authorizing this Agreement and the transactions provided herein, in the form attached hereto as **Exhibit F.**

(c) The balance of the Purchase Price, subject to adjustment, as set forth in **Section 3(b).**

(d) A Certificate of Good Standing of Purchaser from the New York Department of State, dated not earlier than ten (10) Business Days prior to Closing.

(e) An Assignment and Assumption Agreement in substantially the form attached hereto as **Exhibit D.**

(f) All other instruments and documents, if any, required to be executed, acknowledged and/or delivered by Purchaser to Debtor pursuant to and in accordance with any of the other provisions of this Agreement.

12. **Covenants of the Parties.**

(a) **Conduct of Debtor Prior to Closing.**

(i) Debtor shall maintain the Insurance specified in **Section 8(d)** hereof.

(ii) Debtor will maintain the Fixtures and Equipment which comprise the Purchased Assets in the same good condition and working order existing as of the Agreement Date, normal wear and tear excepted.

(iii) Debtor shall, to the extent consistent with the Bankruptcy Code and subject to any orders from time to time of the Bankruptcy Court binding on Debtor, (A) continue to operate the Business in the usual and customary manner and use reasonable efforts to preserve intact its present business organization and its relationships with customers, suppliers, and others having business dealings with Debtor, keep available the service of its present employees and preserve its goodwill; (B) not enter into any transaction or perform any act that would constitute a

breach of the representations, warranties, covenants or agreements contained in this Agreement or is not in the ordinary course of business; (C) not increase the amount of salary, compensation or benefits payable or provided to any employee; (D) not do or omit to do any act which may cause a material breach of or default under any commitment or a material breach of any representation, warranty, covenant or agreement made herein by Debtor; (E) not take any other action or make any commitment that could reasonably be foreseen to have a materially adverse effect on the Business or the Purchased Assets; and (F) maintain its books of account and records in their usual, regular and ordinary manner.

(iv) Debtor shall pay, when due and owing, all Tax obligations relating to taxable periods ending prior to the Closing Date.

(v) Debtor shall provide final revised Schedules to Purchaser on the Closing Date, in each case marked to reflect any changes thereon, so that Debtor's representations and warranties shall be deemed repeated on and as of the Closing Date as modified by any final revised schedules.

(vi) Without limiting the generality of the other provisions of this Agreement, Debtor shall give Purchaser prompt written notice of any material adverse change occurring prior to the Closing Date in any of the information contained in the representations and warranties of Debtor hereunder (including in the Schedules hereto) or any other document furnished by Debtor, relating to the transactions contemplated hereby, provided the delivery of such information shall not create any estoppel, waiver or similar condition.

(vii) Debtor shall not terminate, amend or modify any Assigned Contracts, Assigned Leases or any other agreement, license, contract or instrument used in the Business.

(b) Bankruptcy Court Action.

(i) Within five (5) Business Days following the Agreement Date, Debtor will file with the Bankruptcy Court all papers necessary for the Bankruptcy Court to approve this Agreement and issue the Sale Order.

(ii) Debtor will provide Purchaser with copies of all motions, applications, and supporting papers prepared by Debtor (including forms of orders and notices to interested parties) relating in any way to Purchaser, the transactions contemplated herein, the Business or the Assets prior to the filing thereof.

14. **Notices.** All notices, consents, approvals and elections which the Parties shall be required or permitted to make or give under this Agreement shall duly be in writing and shall be given to the applicable Party in the matter permitted below and at its address or facsimile number set forth below or such other address or facsimile number as the Party may later specify for that

purpose by notice to the other Party:

Debtor: Marburn Stores, Inc.
13-A Division Street
Fairview, New Jersey 07022
Attention: Ed Hund
Fax: 201-943-1267

With a copy to: Wasserman, Jurista & Stolz
110 Allen Road, Suite 304
Basking Ridge, NJ 07920
Attention: Daniel M. Stolz, Esq.
Fax: 973-467-8126

Purchaser: G-MAXX Group, LLC
802 Georgia Avenue
Brooklyn, New York 11207
Attention: Joey Gindi
Fax: 718-927-1463

With a copy to: Robinson Brog Leinwand Greene Genovese & Gluck P.C.
875 Third Avenue, 9th Floor
New York, NY 10022
Attention: Fred B. Ringel, Esq.
Fax: 212-956-2164

Each notice shall, for all purposes, be deemed given and received:

(a) if given by facsimile, when the facsimile is transmitted to the party's facsimile number specified above and confirmation of complete receipt is received by the transmitting party during normal business hours on any Business Day or on the next Business Day if not confirmed during normal business hours;

(b) if by hand, when delivered;

(c) if given by nationally recognized and reputable overnight delivery service, the Business Day on which the notice is actually received by the party; or

(d) if given by certified mail, return receipt requested, postage prepaid, the date shown on the return receipt.

15. **Costs and Expenses.** Except as set forth herein, all sales, excise, stamp or transfer taxes which may be payable in connection with the transactions contemplated by this Agreement shall be paid by Debtor. Except as expressly otherwise provided in this Agreement, the Parties shall bear their own costs and expenses in connection with this Agreement and the transactions contemplated hereby, including any attorneys' and accountants' fees.

16. **Interpretation.** As used in this Agreement, unless the context otherwise specifically requires, the singular includes the plural, and vice-versa, and the masculine includes the feminine, and vice-versa.

17. **Severability of Provisions.** If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or unenforceability of the remaining provisions of this Agreement shall not be affected thereby. To the extent permitted by applicable law, each Party waives any provision of law which renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

18. **Governing Law.** The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

19. **Entire Agreement; Amendment.** This Agreement, including the Exhibits and Schedules hereto, and the Transaction Documents executed and delivered at Closing by the Parties hereto, contain the entire understanding between the Parties, and supersede and replace the offer letter executed by the attorneys for the Parties, dated July 20, 2016, as well as any prior oral or written agreements between the Parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants or undertakings other than those expressly set forth herein. Modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement.

20. **Waiver.** The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

21. **Further Assurances.** Each Party hereto agrees, at any time and from time to time after the issuance of the Sale Order, to execute, acknowledge where appropriate and deliver such further instruments and documents and to take such other action as the other Party may reasonably request in order to carry out the intent and purpose of this Agreement, at the expense of the Party making such request, such obligations to survive the Closing.

22. **Benefit and Assignment.** This Agreement shall be binding upon the Parties hereto, and their heirs, executors, administrators, trustees in bankruptcy, court appointed officers, successors and assigns. No Party may assign this Agreement to any other Person without the prior written consent of the other Party; *provided, however*, that Purchaser shall have the right to assign

this Agreement, and all of its rights, benefits and obligations hereunder, at any time on or before the Closing, to any Affiliate or Affiliates created for the purpose of purchasing the Business and the Purchased Assets and consummating the transactions contemplated by this Agreement.

23. **Limitation of Recourse.** Any remedy available to either Party hereunder and any recourse that either Party may seek in connection with the transactions contemplated hereby shall be expressly limited to the Parties named hereunder and shall in no event extend to or otherwise be available with respect to a Party's principals, partners, members, officers, directors, shareholders, managers, employees, lenders and/or agents in their capacity as such.

24. **Schedules and Exhibits.** All Schedules and Exhibits referred to in this Agreement and attached hereto shall be deemed a part of this Agreement and are hereby incorporated herein by reference.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed signature pages to this Agreement may be delivered by facsimile transmission or emailed in .pdf format and any such signature page shall be deemed an original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands and seals and caused these presents to be executed by their authorized signatories as of the day and year first above written.

MARBURN STORES, INC.



By: _____

Name: Edwin F. Hund

Title: CEO, President & CFO

G-MAXX GROUP, LLC

By: _____

Name: Joey Gindi

Title: Managing Member

AGREED TO WITH RESPECT TO SECTION 3(f) ONLY:
POPULAR BATH PRODUCTS INC.

By: _____

Name: Joey Gindi

Title: Vice President

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands and seals and caused these presents to be executed by their authorized signatories as of the day and year first above written.

MARBURN STORES, INC.

By: _____

Name: Edwin F. Hund

Title: CEO, President & CFO

G-MAXX GROUP, LLC

By: _____

Name: Joey Gindi

Title: Managing Member

AGREED TO WITH RESPECT TO SECTION 3(f) ONLY:
POPULAR BATH PRODUCTS INC.

By: _____

Name: Joey Gindi

Title: Vice President

[Handwritten mark]

Schedule 1.1(a)
to Asset Purchase Agreement

Purchased Assets

Schedule 1(a)(1) – Furniture and Fixtures

To be Attached

Schedule I(a)(ii) – Machinery and Equipment

To be Attached

Schedule 1(a)(iii) – Inventory

Inventory Category Age

dept	<30	30-60	61-90	91-120	121-180	181-360	361+	TOTAL ext cost
BATH	\$20,883.45	\$46,416.39	\$17,162.55	\$13,232.19	\$9,146.05	\$15,140.20	\$63,986.48	\$185,967.31
BEDDING	\$7,823.05	\$15,584.85	\$13,223.40	\$18,425.75	\$12,583.46	\$20,684.75	\$116,348.49	\$204,673.75
CURTAINS	\$230,169.90	\$376,384.87	\$106,534.67	\$56,406.39	\$48,264.12	\$108,721.94	\$357,250.47	\$1,283,732.36
DEC PILLOW	\$1,858.35	\$2,455.75	\$3,283.90	\$546.00	\$1,309.50	\$6,477.00	\$4,449.69	\$20,380.19
HARDWARE	\$91,008.17	\$2,889.96	\$27,919.31	\$7,273.65	\$4,042.29	\$15,915.52	\$43,310.40	\$192,359.30
HSWRS	\$188.40	\$10,549.75	\$754.83	\$383.25	\$1,049.50	\$9,283.68	\$6,484.74	\$27,694.15
KITCH SOFT	\$13,773.62	\$11,852.43	\$3,864.07	\$2,214.79	\$10,732.33	\$4,846.86	\$60,056.30	\$107,340.40
MISC	\$2,528.75	\$8,199.86	\$7,335.02	\$2,223.50	\$6,612.81	\$6,832.01	\$35,087.02	\$68,818.97
RUGS	\$5,430.56	\$8,840.75	\$4,526.50	\$2,084.55	\$4,333.78	\$6,134.75	\$18,649.72	\$51,000.61
STORAGE	\$907.50	\$13,695.10	\$1,123.20	\$519.00	\$700.75	\$4,350.55	\$6,254.35	\$27,550.45
	\$375,571.75	\$495,869.71	\$185,727.45	\$103,309.07	\$98,774.59	\$197,387.26	\$711,877.66	\$2,169,517.49
	17%	23%	9%	5%	5%	9%	33%	100%

Schedule 1(a)(iv) – Assigned Contracts

None

Schedule 1(a)(v) – Assigned Leases and Cure Amounts

Location	Store Number	Net Cure Amount	Modification
Howell, New Jersey	9	\$0.00	Yes
South Plainfield, New Jersey	29	\$18,218	No
Toms River, New Jersey	37	\$10,878	Yes
Philadelphia, Pennsylvania	41	\$6,250	Yes
Bensalem, Pennsylvania	42	\$7,800	Yes
Folsom, Pennsylvania	43	\$6,300	Yes
Totowa, New Jersey	46	\$27,095	No
Hamilton, New Jersey	55	\$5,323	Yes
Teaneck, New Jersey	66	\$71,944	No
Audubon, New Jersey	77	\$31,056	Yes
Deptford, New Jersey	88	\$15,999	No
Carle Place, New York	107	\$7,420	Yes
Patchogue, New York	127	\$21,994	No
Fairview, New Jersey- Office/Warehouse		\$10,702	Yes
GRAND TOTAL	CURE CLAIMS	\$240,979	XXXXX

Schedule 1.1(b)
to Asset Purchase Agreement

Other Excluded Assets

Schedule 3(d)
to Asset Purchase Agreement

Allocation of Purchase Price

Schedule 6(b)
to Asset Purchase Agreement

Jurisdictions in which Debtor is Qualified as a Foreign Corporation

Schedule 6(c)
to Asset Purchase Agreement

Exceptions to Authority

Schedule 6(d)
to Asset Purchase Agreement

Conflicting Agreements

Schedule 6(e)
to Asset Purchase Agreement

Consents

Schedule 6(f)
to Asset Purchase Agreement

Compliance with Law and Instruments

Schedule 6(I)
to Asset Purchase Agreement

Litigation

Schedule 6(m)
to Asset Purchase Agreement

Permits

Schedule 6(o)
to Asset Purchase Agreement

Unfunded Liabilities under Employee Benefit Plans

Schedule 6(q)
to Asset Purchase Agreement

Intellectual Property

Schedule 6(r)
to Asset Purchase Agreement

Taxes

Schedule 8(e)
to Asset Purchase Agreement

List of Debtor's Employees

Edwin F. Hund

Deborah Egan

Wendy Grimes

Rita Rahme

Franklyn O. Pinnock

Eliskarime Simon

Danielle Batayiannis

EXHIBIT A

Definitions

“**Action**” means any litigation, claim, action, suit, inquiry, proceeding, audit or investigation by or before any Governmental Authority, or any other arbitration, mediation or similar proceeding.

“**Affiliate**” means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

“**Business Day**” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the State of New Jersey.

“**Cure Costs**” means a finding by the Bankruptcy Court, in a Final Order, determining the amount required to be paid to cure any outstanding defaults under an Assigned Contract or Assigned Lease.

“**Governmental Authority**” means any United States or non-United States federal, national, supranational, state, provincial, local or similar government, governmental, regulatory or administrative authority, branch, agency or commission or any court, tribunal, or arbitral or judicial body (including any grand jury).

“**Liens**” means any mortgage, deed of trust, pledge, assignment, security interest, encumbrance, lien, mechanics liens, charge, hypothecation, deemed trust, action, easement, charge or otherwise, or claim of any kind or nature whatsoever in respect of any property, other than any license of Intellectual Property, including any of the foregoing created by, arising under, or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of a financing statement naming the owner of the property as to which such lien relates as the debtor under the Uniform Commercial Code or any comparable law in any other jurisdiction.

“**Person**” means an individual, corporation, partnership, limited liability company, limited liability partnership, syndicate, person, trust, association, organization or other entity, including any Governmental Authority, and including any successor, by merger or otherwise, of any of the foregoing.

EXHIBIT B

Closing Certificate of Debtor

Attached

EXHIBIT C

Bill of Sale

Attached

EXHIBIT D

Assignment and Assumption Agreement

Attached

EXHIBIT E

Closing Certificate of Purchaser

Attached

EXHIBIT F

Purchaser Incumbency Certificates

Attached

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c) WASSERMAN, JURISTA & STOLZ, P.C. 110 Allen Road, Suite 304 Basking Ridge, New Jersey 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel for Debtor-in-Possession, Marburn Stores, Inc.</i> DANIEL M. STOLZ, ESQ. DONALD W. CLARKE, ESQ.
In Re: MARBURN STORES, INC., Debtor-in-Possession.

Chapter 11

Honorable Vincent F. Papalia

Case No. 15-14411 (VFP)

**ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365 AND BANKRUPTCY RULES
2002, 6004, 6006 AND 9019 AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF
THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND ASSIGNMENT OF
CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE SALE**

The relief set forth on the following pages, numbered two (2) through fourteen (14), is
hereby

ORDERED.

Page(2)

Debtor: Marburn Stores, Inc.,

Case No. 15-14411 (VFP)

Caption: ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365 AND BANKRUPTCY RULES 2002, 6004, 6006 AND 9019 AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE SALE

Upon the motion of Marburn Stores, Inc., the Chapter 11 Debtor (the "*Debtor*") (the "*Sale Motion*"), for an order (the "*Sale Order*") under 11 U.S.C. §§ 105, 363 and 365 and Bankruptcy Rules 6004, 6006 and 9019 authorizing the Debtor to sell the Debtor's Assets free and clear of all liens, claims, interests and encumbrances to G-MAXX Group, LLC (or the Successful Bidder) (the "*Buyer*") pursuant to the terms and conditions of the G-MAXX APA (or Qualified APA), dated as of _____ and annexed hereto as Exhibit A (the "*Asset Purchase Agreement*")¹; and

Upon this Court's prior order dated _____ (the "*Bidding Procedures Order*"), scheduling a hearing with respect to the sale of the Assets, prescribing the form and manner of notice thereof, and approving certain auction procedures including the terms and conditions of sale and bidding for the Assets (the "*Bidding Procedures*") and authorizing and approving certain bidding protections for G-MAXX as the Stalking Horse Bidder in accordance with the G-MAXX APA, including the payment of the Expense Reimbursement on the terms and conditions described therein; and

Due notice of the proposed Sale, the Bidding Procedures Order, the Sale Hearing (as defined below), and the assumption and assignment of the Purchased Leases having been

¹ Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Asset Purchase Agreement, the Bidding Procedures Order or the Sale Motion, filed _____.

Page(3)

Debtor: Marburn Stores, Inc.,

Case No. 15-14411 (VFP)

Caption: ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365 AND BANKRUPTCY RULES 2002, 6004, 6006 AND 9019 AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE SALE

given to all parties entitled thereto under the Bidding Procedures Order, as evidenced by the certification of service filed with this Court (the "*Certification of Service*"); and

A hearing having been held before this Court on _____ to consider the sale of the Assets (the "*Sale Hearing*"), at which time all parties in interest were afforded an opportunity to be heard; and the Court having received evidence in support of approval of the sale of the Assets including evidence regarding the good faith status of the purchaser in connection with the Debtor's request for a finding under section 363(m) of the Bankruptcy Code;

NOW, THEREFORE, based upon the Court's review of the proofs provided in support of the Sale Motion; and upon all of the evidence proffered, memoranda and objections, if any, filed in connection with, and arguments of counsel made at the Sale Hearing; and upon the entire record of the Sale Hearing and this case; and after due deliberation thereon; and good cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:²

1. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334.

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. *See* Bankruptcy Rule 7052.

Page(4)

Debtor: Marburn Stores, Inc.,

Case No. 15-14411 (VFP)

Caption: ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365 AND BANKRUPTCY RULES 2002, 6004, 6006 AND 9019 AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE SALE

2. Venue of this case in this district is proper pursuant to 28 U.S.C. § 1409(a).

3. Determination of the Sale Motion is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) and (N). The statutory predicates for the relief requested herein are sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* as amended (the “*Bankruptcy Code*”) and Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) 2002, 6004, 6006, and 9019.

4. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

5. The Debtor has followed the procedures for giving notice of the Sale Motion and the Sale Hearing on the sale of the Assets as set forth in the Bidding Procedures Order.

6. Proper, timely, adequate and sufficient notice of the Sale Motion, the Sale Hearing and the sale of the Assets has been provided in accordance with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, and 9019 and the Bidding Procedures Order, and no other or further notice of the Sale Motion, the Sale Hearing or the entry of this Sale Order is required.

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7. As evidenced by the certificates of service filed with the Court, and in accordance with the provisions of the Bidding Procedures Order, the Debtors have served, prior to the Sale Hearing, notice (the "Cure Notice") of the Debtors' intent to assume and assign the Leases set forth on the Schedules to the G-MAXX APA and of the related proposed cure amount (the "Cure Amount") upon each non-debtor counterparty to the Leases. The service of the Cure Notice was good, sufficient and appropriate under the circumstances and no further notice need be given with respect to the Cure Amounts for the assumption and assignment of the Leases. All non-debtor parties to the Leases have had a reasonable opportunity to object both to the Cure Amounts listed on the applicable Cure Notice and to the assumption and assignment of the Leases to Buyer.

8. A reasonable opportunity to object or be heard regarding the relief requested in the Sale Motion has been afforded to all interested persons and entities.

9. As set forth and represented in the APA, (a) the Debtor has full corporate power and authority to execute the APA and all other documents contemplated thereby and the sale of the Assets by the Debtor has been duly and validly authorized by all necessary corporate action of the Debtor, (b) the Debtor has all the corporate power and authority necessary to consummate the transactions contemplated by the APA and (c) no consents or approvals, other than those expressly provided for in the APA, are required for the Debtor to consummate such transactions. The sale of the Assets reflects the exercise of the Debtor's sound business judgment. Business justifications for the Sale include, but are not limited to, the following: (i) the

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APA constitutes the highest and best offer received for the Debtor's assets; (ii) the APA presents the best opportunity to maximize the value of the Debtor's assets and avoid decline and devaluation of same; (iii) unless the Sale and all of the other transactions contemplated by the APA are concluded expeditiously, as provided for pursuant to the APA, recoveries to creditors may be materially diminished; and (iv) the value of the Debtors' estates will be maximized through the sale of the Debtor's assets pursuant to the APA. The sale of the Assets is further justified by the compelling circumstances described in the Sale Motion.

10. Approval of the Asset Purchase Agreement and consummation of the sale of the Assets at this time are in the best interests of the Debtor, the creditors and the estate.

11. The terms and conditions of the Asset Purchase Agreement are fair and reasonable. The Asset Purchase Agreement represents the highest and best offer for the Assets, and the Purchase Price is fair and reasonable, and constitutes reasonably equivalent and fair market value under the Bankruptcy Code and applicable non-bankruptcy law.

12. The Debtor's conducted a fair and open sale process with respect to the assets being sold under the APA. The Auction noticed in accordance with the bidding procedures approved by this Court were non-collusive, duly noticed, and provided a full, fair and reasonable opportunity for any entity to make an offer to acquire the Debtor's assets. The process conducted by the Debtor obtained the highest and best value for the assets being sold under the APA for the Debtor and its estate.

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13. The Asset Purchase Agreement was negotiated, proposed and entered into by the parties without collusion, in good faith, and from arm's length bargaining positions. The Buyer is a good faith Buyer under section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby. Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Asset Purchase Agreement to be avoided under section 363(n) of the Bankruptcy Code.

14. In the absence of a stay pending appeal, the Buyer will be acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in closing the transactions contemplated by the Asset Purchase Agreement at any time after the entry of this Sale Order. Buyer is not an "insider" of any of the Debtors, as that term is defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders existed between Buyer and the Debtor.

15. The transfer of the Assets will be legal, valid and effective transfers of property of the Debtor's estate to the Buyer, and (b) will vest the Buyer with all right, title, and interest of the Debtor in and to the Assets free and clear of all liens, claims, interests, and encumbrances under section 363(f) of the Bankruptcy Code.

16. The total consideration to be provided under the APA reflects Buyer's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy

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Code, with title to and possession of the Acquired Assets free and clear of all Claims (including, without limitation, any potential derivative, vicarious, transferee or successor liability claims).

17. The assumption and assignment of the Leases are integral to the APA, are in the best interests of the Debtor and its estate, and represents the reasonable exercise of the Debtor's sound business judgment. Specifically, the assumption and assignment of the Leases (i) is necessary to sell the Assets to Buyer, (ii) limit the losses suffered by counterparties to the Leases, and (iii) maximize the recoveries to other creditors of the Debtor by limiting the amount of claims against the Debtors' estates by avoiding the rejection of the Leases.

18. With respect to each of the Leases, the Debtor has met all requirements of section 365(b) of the Bankruptcy Code. Further, Buyer has provided adequate assurance of future performance under the Leases in satisfaction of sections 365(b) and 365(f) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Leases. Accordingly, the Leases may be assumed by the Debtor and assigned to Buyer as provided for in the APA.

19. Buyer is not, and will not be, a mere continuation, and is not holding itself out as a mere continuation, of the Debtor or its estate and there is no continuity between Buyer and the Debtor. The Sale does not amount to a consolidation, merger or *de facto* merger of Buyer and the Debtors.

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20. The transfer of the Assets does not and will not subject the Buyer to any debts, liabilities, obligations, commitments, responsibilities or claims of any kind or nature whatsoever, whether known or unknown, contingent or otherwise, existing as of the date hereof or hereafter arising, of or against the Debtors, any affiliate of the Debtors, or any other person by reason of such transfers, except as expressly provided in the Asset Purchase Agreement.

21. The sale of the Assets must be approved and consummated promptly in order to preserve the value of the Assets. Therefore, time is of the essence in consummating the Sale Transaction, and the Debtor and Buyer intend to close under the APA as soon as reasonably practicable. The Debtor has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the Sale as contemplated by the APA. Accordingly, there is sufficient cause to lift the stay contemplated by Bankruptcy Rules 6004(h) and 6006(d) with regards to the transactions contemplated by this Order.

22. All of the provisions of this Sale Order and the Asset Purchase Agreement are nonseverable and mutually dependent.

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

1. The Sale Motion is granted and the relief requested therein is granted and approved as set forth herein.

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2. All objections (except for objections to Cure Amounts, if any, that have been adjourned (the "Adjourned Cure Objections")), solely to the extent such objections relate to any asserted cure obligations pursuant to sections 365(b)(1)(A) and (B) of the Bankruptcy Code), if any, to the Sale Motion or the relief requested therein that have not been withdrawn, waived, or settled as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included therein, are overruled on the merits.

3. Notice of the Sale Hearing was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006.

4. The consideration provided by Buyer under the APA is fair and reasonable.

5. The terms and conditions and transactions contemplated by the Asset Purchase Agreement are hereby approved in all respects, and the sale of the Assets pursuant to the Asset Purchase Agreement are hereby authorized and directed under section 363(b) of the Bankruptcy Code.

6. Pursuant to sections 363(b) of the Bankruptcy Code, the Debtor, as well as their officers, employees and agents, are hereby authorized, directed and empowered to fully perform under, comply with, consummate and implement the Asset Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or

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desirable to implement the Asset Purchase Agreement, and to take all further actions as may reasonably be requested by the Buyer for the purpose of assigning, transferring, granting, conveying and conferring to the Buyer, or reducing to possession, any or all of the Assets, or as may be necessary or appropriate to the performance of the obligations contemplated by the Asset Purchase Agreement and this Order, all without further order of this Court.

7. Pursuant to sections 105(a), 363(b), 363(f) and 365 of the Bankruptcy Code, the Debtor is authorized to transfer the Assets to the Buyer and upon the closing under the Asset Purchase Agreement, such transfer shall be: (a) be valid, legal, binding and effective; (b) vest Buyer with all right, title and interest of the Debtor in the Assets; and (c) be free and clear of all mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, easements, restrictions or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership (the foregoing collectively referred to as “*Liens*” herein) and all debts arising in any way in connection with any acts of the Debtor, claims (as that term is defined in the Bankruptcy Code), setoffs, claims of recoupment, obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, understanding, law, equity or otherwise (the foregoing collectively referred to as “*Claims*” herein), with all such Liens and Claims to attach to

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the Purchase Price in the order of their priority, with the same validity, force and effect which they now have as against the Assets.

8. Except as expressly permitted by the Asset Purchase Agreement, all persons and entities holding Liens or Claims of any kind and nature with respect to the Assets hereby are barred from asserting such Liens and Claims of any kind and nature against the Buyer, its successors or assigns, or the Assets including, but not limited to, claims of setoff or recoupment.

9. Except as provided in the Asset Purchase Agreement, the Buyer is not assuming nor shall it in any way whatsoever be liable or responsible, as a successor or otherwise, for any liabilities, debts or obligations of the Debtors or any liabilities, debts or obligations in any way whatsoever relating to or arising from the assets or the Debtors operation or use of the assets including, without limitation, the contracts to be assumed or rejected, prior to consummation of the transactions contemplated by the Asset Purchase Agreement, or any liabilities calculable by reference to the Debtors or their assets or operations, or relating to continuing conditions existing on or prior to consummation of the transactions contemplated by the Asset Purchase Agreement, which liabilities, debts and obligations are hereby extinguished insofar as they may give rise to successor liability, without regard to whether the claimant asserting any such liabilities, debts or obligations has delivered to buyer a release thereof.

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10. Without limiting the generality of the foregoing, except as provided in the Asset Purchase Agreement, the Buyer and its successor and assigns shall not be liable or responsible, as a successor or otherwise, for any Claim, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, whether derivatively, vicariously, as a transferee or successor or otherwise, of any kind, nature or character whatsoever, including, without limitation, Claims for the Debtor's liabilities, debts or obligations, whether calculable by reference to the Debtor or its operations, or under or in connection with (a) any employment or labor agreements or the termination thereof, (b) any pension, welfare compensation or other employee benefit plans, agreements, practices and programs including, without limitation, any pension plan of or related to the Debtor any Debtor's Affiliate(s) or predecessors or any current or former employees of any of the foregoing, or the termination of any of the foregoing, (c) the Debtor's business operations or the cessation thereof,(d) any litigation involving the Debtor, (e) any employee, workers' compensation, occupational disease or unemployment or temporary disability related law, including, without limitation, claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Worker Adjustment and Retraining Notification Act of 1988, (vii) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (viii) the Americans with Disabilities Act of 1990, (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985, (x) the Multiemployer Pension Plan Amendments Act of

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1980,(xi) state and local discrimination laws, (xii) state and local unemployment compensation laws or any other similar state and local laws, (xiii) state workers' compensation laws or (xiv) any other state, local or federal employee benefit laws, regulations or rules or other state, local or federal laws, regulations or rules relating to, wages, benefits, employment or termination of employment with the Debtor or any predecessor; (xv) any antitrust laws; (xvi) any product liability or similar laws, whether state or federal or otherwise; (xvii) any environmental laws, rules, or regulations, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq., or similar state statutes; (xviii) any bulk sales or similar laws; (xix) any federal, state or local tax statutes, regulations or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; and (xx) any common law doctrine of de facto merger or successor or transferee liability, successor-in-interest liability theory or any other theory of or related to successor liability.

11. The recitation, in the immediately preceding paragraph of this Sale Order, of specific agreements, plans or statutes is not intended, and shall not be construed, to limit the generality of the categories of liabilities, debts or obligations referred to therein.

12. No person or entity including, without limitation, any federal, state or local governmental agency, department or instrumentality, shall assert against the Buyer or its successors in interest any liability, debt or obligation relating to or arising from the Assets or the Debtors' operations or use of the Assets including, without limitation, any executory contracts to be assumed or rejected, or any liabilities calculable by reference to the Debtors or their assets or

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operations, and all persons and entities are hereby forever barred, estopped and permanently enjoined from asserting or pursuing such Claims against Buyer, its Affiliates, successors or assigns, its property or the Assets, including, without limitation, taking any of the following actions with respect to a Claim (other than an Assumed Liability): (a) commencing or continuing in any manner any action or other proceeding against Buyer, its Affiliates, successors or assigns, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against Buyer, its Affiliates, successors or assigns, assets, or properties; (c) creating, perfecting, or enforcing any Claims against Buyer, its successors or assigns, assets or properties; (d) asserting a Claim as a setoff, right of subrogation or recoupment of any kind against any obligation due Buyer or its successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order or the agreements or actions contemplated or taken in respect thereof. No such Persons shall assert or pursue against Buyer or its Affiliates, successors or assigns any such Claim.

13. On and after the date of the Buyer's payment to the Debtor of the Purchase Price as required by the Asset Purchase Agreement (the "*Closing Date*"), each of the Debtor's creditors are authorized and directed to execute such documents and take all other actions as may be necessary to release its Liens on or Claims, if any, against the Assets, as such Liens or Claims may have been recorded or may otherwise exist.

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14. As to the Asset Purchase Agreement and the Assets transferred thereby, this Sale Order (a) is and shall be effective as a determination that, on the Closing Date, all Liens existing as to the Assets prior to the Closing Date have been unconditionally released, discharged and terminated, and that the conveyance described in Asset Purchase Agreement has been effected, and (b) is and shall be binding upon and 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, registrars of patents, trademarks or other intellectual property, 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 any of the Assets.

15. If any person or entity that has filed financing statements or other documents or agreements evidencing Liens on or interests in the Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Liens or other interests which the person or entity has with respect to the Assets, the Debtor is hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Assets.

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16. All entities who are presently, or on the Closing Date may be, in possession of some or all of the Assets are hereby directed to surrender possession of said Assets to the Buyer on the Closing Date.

17. Each and every federal, state, and local governmental agency or department hereby is directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement.

18. As of the Closing Date, all agreements of any kind whatsoever and all orders of this Court entered prior to the date hereof shall be deemed amended and/or modified to the extent required to permit the consummation of the transactions contemplated by the Asset Purchase Agreement including, without limitation, the transfer of the Assets to the Buyer.

19. By virtue of the Sale under the APA, Buyer shall not be deemed to: (a) be a legal successor, or otherwise be deemed a successor to the Debtor; (b) have, *de facto* or otherwise, merged with or into the Debtor; or (c) be a mere continuation or substantial continuation of the Debtor or the enterprise or operations of the Debtor.

20. The Debtor is hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign the Leases to Buyer free and clear of all Claims, and to execute and deliver to Buyer such documents or other instruments as may be necessary to assign and transfer the Leases to Buyer as provided in the APA. Upon the Closing, Buyer shall be fully and irrevocably vested with all right, title and interest of the Debtor under

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the Leases and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Leases. Buyer acknowledges and agrees that from and after the Closing, subject to and in accordance with the APA, it shall comply with the terms of each assumed and assigned Lease.

21. Payment of the Cure Amounts as set forth in the APA or as fixed by this Court shall be in full satisfaction and cure of any and all defaults under the Leases, whether monetary or non-monetary. Each non-debtor party to a Lease is forever barred, estopped and permanently enjoined from asserting against the Debtors or Buyer, their successors or assigns or the property of any of them, any default existing as of the date of the Sale Hearing if such default was not raised or asserted prior to or at the Sale Hearing.

22. An Adjourned Cure Objection may be resolved after the Closing Date provided that the Debtor shall maintain a reserve in the full amount of the Cure as set forth in the APA. The fact that the Cure Amount has not been finally resolved by the Closing Date shall not affect the validity of the assignment of the lease to Buyer under the APA and this Order.

23. The Leases shall be transferred to, and remain in full force and effect for the benefit of, Buyer in accordance with their respective terms, including all obligations of Buyer as the assignee of the Leases, notwithstanding any provision in any such Leases (including, without limitation, those of the type described in sections 365(e)(1) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. There shall be no rent

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accelerations, escalations, assignment fees, increases or any other fees charged to Buyer or the Debtor as a result of the assumption or assignment of the Leases.

24. Upon the Debtor's assignment of Leases to Buyer under the provisions of this Order, no default shall exist under any Leases, and no counterparty to any Leases shall be permitted to declare a default by any Debtor or Buyer otherwise take action against Buyer as a result of any Debtor's financial condition, bankruptcy or failure to perform any of its obligations under the relevant Lease. Any provision in a Lease that prohibits or conditions the assignment or sublease of such Lease (including without limitation, the granting of a lien therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment or sublease, constitutes an unenforceable anti-assignment provision that is void and of no force and effect. The failure of the Debtor or Buyer to enforce at any time one or more terms or conditions of any Lease shall not be a waiver of such terms or conditions, or of the Debtor's and Buyer's rights to enforce every term and condition of the Lease.

25. Nothing contained in any potential or subsequent plan of liquidation confirmed in this case or the order of confirmation confirming any such plan of liquidation shall in any way conflict with or derogate from the provisions of the Asset Purchase Agreement or the terms of this Sale order.

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26. The Buyer is a buyer in good faith of the Assets and is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code.

27. In the absence of a stay pending appeal, if the Buyer elects or is required to close under the Asset Purchase Agreement at any time after entry of this Sale Order, then, with respect to the Asset Purchase Agreement, the Buyer shall be entitled to the protections of section 363(m) of the Bankruptcy Code if this Sale order or any authorization contained herein is reversed or modified on appeal.

28. The terms and provisions of the Asset Purchase Agreement, together with the terms and provisions of this Sale Order, shall be binding in all respects upon, and shall inure to the benefit of the Debtor, the estate and creditors, the Buyer, and their respective affiliates, successors and assigns, and any affected third parties including, but not limited to, persons asserting a claim against or interest in the Debtor's estate or any of the Assets to be sold to the Buyer pursuant to the Asset Purchase Agreement.

29. The failure specifically to include any particular provisions of the Asset Purchase Agreement in this Sale Order shall not diminish or impair the efficiency of such provision, it being the intent of the Court that the Asset Purchase Agreement be authorized and approved in its entirety.

30. The Asset Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in

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Debtor: Marburn Stores, Inc.,

Case No. 15-14411 (VFP)

Caption: ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365 AND BANKRUPTCY RULES 2002, 6004, 6006 AND 9019 AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES IN CONNECTION WITH THE SALE

accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement is not material.

31. The transfer of the Assets to the Buyer is not subject to taxation under any state or local law imposing a stamp, transfer or similar tax in accordance with section 1146(c) of the Bankruptcy Code.

32. As provided by Bankruptcy Rule 7062, this Sale Order shall be effective and enforceable immediately upon entry.

33. Except as provided in the Asset Purchase Agreement, the transfer of the Assets shall not subject the Buyer or Buyer to any debts, liabilities, obligation, commitments, responsibilities or claims of any kind or nature whatsoever, whether known or unknown, contingent or otherwise, existing as of the date hereof or hereafter arising, of or against the Debtor, any affiliate of the Debtor, or any other person by reason of such transfer, assignment and delivery under the laws of the United States, any state, territory or possession thereof or the District of Columbia applicable to such transactions.

34. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Any party objecting to this Order must exercise due diligence in filing an appeal and

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pursuing a stay within the time prescribed by law and prior to the Closing, or risk its appeal will be foreclosed as moot.

35. The terms and provisions of the APA and this Order shall be binding in all respects upon, or shall inure to the benefit of, the Debtor, its estates and its creditors, Buyer, and their respective Affiliates, successors and assigns, and any affected third parties, including all Persons asserting Claims, notwithstanding any subsequent appointment of any trustee, examiner or receiver under any chapter of the Bankruptcy Code or any other law, and all such provisions and terms shall likewise be binding on such trustee, examiner or receiver and shall not be subject to rejection or avoidance by the Debtor, its estates, its creditors or any trustee, examiner or receiver.

36. In the event that there is a direct and irreconcilable conflict between the terms of this Order and the terms of (a) the APA, or (b) any other order of this Court, the terms of this Order shall control.

37. The APA, and any related agreements, schedule, documents or other instruments, may be modified, amended or supplemented by the parties thereto, in a writing signed by each party, and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not materially change the terms of the APA or any related agreements, documents or other instruments.

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38. No bulk sales law, or similar law of any state or other jurisdiction shall apply in any way to the transactions contemplated by the APA, the Sale Motion or this Order.

39. This Court shall retain exclusive jurisdiction (i) to enforce and implement the terms and provisions of the Asset Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith, (ii) to compel delivery of the Assets to the Buyer, (iii) to compel delivery of the Purchase Price, (iv) to resolve any disputes arising under or related to the Asset Purchase Agreement, except as otherwise provided therein, (v) to interpret, implement and enforce the provisions of this Sale Order, and (vi) to enforce the injunctions set forth herein.