

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

In re:

RMH FRANCHISE HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-11092 (BLS)

(Jointly Administered)

Objection Deadline: May 30, 2018 at 4:00 p.m. (ET)

Hearing Date: June 6, 2018 at 10:30 a.m. (ET)

**DEBTORS' MOTION FOR AN ORDER
(A) AUTHORIZING THE DEBTORS TO SELL CERTAIN
REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS,
AND ENCUMBRANCES; AND (B) GRANTING RELATED RELIEF**

RMH Franchise Holdings, Inc. and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) hereby move the Court (this “Motion”) for entry of an order, in substantially the form attached hereto as Exhibit A (the “Proposed Order”), pursuant to sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 9013 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (a) approving the sale of the Property (as defined below) free and clear of liens, claims, and encumbrances on the terms of the Proposed Order and that certain *Contract for Purchase of Real Estate* by and between the Debtors and Mishiwaka Retail LLC (as assignee of Noblesville Retail LLC) (“Buyer”), a copy of which is attached hereto as Exhibit 1 to the Proposed Order (including any and all amendments, addenda, exhibits, and assignments thereto, the “Sale Agreement”); and (b) granting related relief. In support of the Motion, the Debtor respectfully states as follows:

¹The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: RMH Franchise Holdings, Inc. (7150); NuLnk, Inc. (7381); RMH Illinois, LLC (0696); RMH Franchise Corp. (1807); Contex Restaurants, Inc. (0710). The headquarters for the above-captioned Debtors is located at One Concourse Parkway, N.E., Suite 600, Atlanta, GA 30328.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the “Amended Standing Order”). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and pursuant to Local Rule 9013-1(f) the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are sections 105(a), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, and 9013.

BACKGROUND

A. General Background

2. On May 8, 2018 (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession.

3. The Debtors’ chapter 11 cases (collectively, the “Chapter 11 Cases”) are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Chapter 11 Cases.

4. Additional information regarding the Debtors’ history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of the Chapter 11 Cases can be found in the *Declaration of Mitchell S. Blocher*

in Support of Debtors' Chapter 11 Petitions and First Day Motions [Docket No. 24] (the "First Day Declaration"), which is incorporated herein by reference.

B. The Transaction with Buyer

5. From 2015 to August, 2017, the Debtors operated an Applebee's franchise at 4515 Lincolnway East, Mishawaka, Indiana 46561 on approximately 2.94 acres of owned real property (the "Property"). In August 2017, however, the Debtors closed the location after determining, in their business judgment, to cease operations at the location and sell the Property.

6. Prior to closing their franchise located at the Property, the Debtors engaged Jones Lang Lasalle ("JLL") as their broker for the Property to assist with the marketing and sale of the Property. JLL's marketing process was the second marketing process of the Property in as many years. In 2016, the Debtors marketed the Property with the assistance of another broker, but elected not to proceed with a sale of the Property at that time. JLL began marketing the Property in July 2017, and as a result of these marketing efforts and discussions with multiple parties, received two offers for the Property.

7. Thereafter, the Debtors, with the assistance of JLL, entered into negotiations with Noblesville Retail LLC ("Noblesville"), the predecessor in interest to the Buyer, for the sale of the Property. These negotiations were done at arms' length, and, to the best of the Debtors' knowledge, neither the Debtors nor any of its members or officers have any relationship with Noblesville or Buyer.

8. These negotiations ultimately resulted in the execution of the Sale Agreement on or about September 12, 2017. Pursuant to the Sale Agreement, Buyer will acquire the Property from the Debtors for a purchase price of \$600,000.00, subject to certain adjustments set forth in the Sale Agreement, including for a portion of certain current year assessments and taxes, that are believed to aggregate to less than \$30,000.00 (collectively, the "Purchase Price").

The Purchase Price is substantially the same as the assessed value of the Property and its improvements for real property tax purposes, which the Debtors understand was last assessed at \$643,400 in the aggregate.

9. The Buyer's offer to purchase the Property is firm. In fact, through an amendment to the Sale Agreement dated April 10, 2018, the Buyer has agreed that all conditions to close, other than the transfer of the Property at closing, have been met. Pursuant to this same amendment, closing was scheduled for May 14, 2018, and would have occurred but for the delay caused by the filing of these Chapter 11 Cases.

10. Pursuant to section 108(b) of the Bankruptcy Code, the deadline to close the sale contemplated by the Sale Agreement has been extended until Monday, July 9, 2018, the first business day that is sixty (60) days after the Petition Date. If authorized to consummate the Sale Agreement and close with respect to the sale of the Property, the Debtors will receive the Purchase Price, less certain broker's fees.² Thus, the Debtors now seek authority to sell the Property to Buyer pursuant to the Sale Agreement and the Proposed Order.

RELIEF REQUESTED

11. By this Motion, the Debtors respectfully requests the entry of an order (a) authorizing the sale of the Property free and clear of liens, claims, and encumbrances on the terms of the Proposed Order and the Sale Agreement; and (b) granting related relief. As set forth more fully below, the Debtors believe that the relief requested herein is in the best interests of the Debtors, their estates, and all creditors.

² Under the terms of the Sale Agreement, the Debtors are obligated to pay a 6%, or \$36,000, broker commission at closing (the "Broker's Commission"). The Sale Agreement requires the Broker's Commission to be split evenly between JLL, which is entitled to a commission of \$18,000, and the Buyer's broker, Mid-America Real Estate-Indiana LLC ("Mid-America"), which also is entitled to a commission of \$18,000. To the extent necessary, the Debtors seek authority to pay JLL and Mid-America their respective shares of the Broker's Commission under the Proposed Order.

BASIS FOR RELIEF

A. The Debtor Has Satisfied Section 363(b).

12. The Debtors have satisfied the requirements of section 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides: “The Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” Section 105(a) of the Bankruptcy Code provides in relevant part: “The Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

13. A sale of a debtor’s assets, other than in the ordinary course of business, should be authorized pursuant to section 363 of the Bankruptcy Code if a sound business purpose exists for doing so. *See, e.g., Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983); *In re Titusville Country Club*, 128 B.R. 396 (W.D. Pa. 1991); *In re Delaware & Hudson Railway Co.*, 124 B.R. 169, 176 (D. Del. 1991). The *Hudson Railway* court, noting that under pre-Bankruptcy Code law a pre-confirmation asset sale could be held only upon a showing of emergency or compelling circumstances, nonetheless found the “sound business purpose” standard applicable and, discussing the requirements of that test under *McClung* and *Lionel*, observed:

A non-exhaustive list of factors to consider in determining if there is a sound business purpose for the sale include: the proportionate value of the asset to the estate as a whole; the amount of elapsed time since the filing; the likelihood that a plan of reorganization will be proposed and confirmed in the near future; the effect of the proposed disposition of the future plan of reorganization; the amount of proceeds to be obtained from the sale versus appraised values of the property; and whether the asset is decreasing or increasing in value.

124 B.R. at 176. The *Hudson Railway* court further held that “[o]nce a court is satisfied that there is a sound business reason or an emergency justifying the pre-confirmation sale, the court

must also determine that the trustee has provided the interested parties with adequate and reasonable notice, that the sale price is fair and reasonable and that the purchaser is proceeding in good faith.” *Id.*

14. Ample business justification exists for the sale of the Property pursuant to the Sale Agreement. Prior to the Petition Date, the Property was marketed by the Debtors with the assistance of JLL, resulting in the Sale Agreement. The Sale Agreement was negotiated at arms’-length and reflects customary market terms that are inherently reasonable. The Debtors determined, in the exercise of their business judgment, that entry into the Sale Agreement was in the best interests of the Debtors and that the Purchase Price was the highest and best price that could be achieved for the Property, and the Debtors believe this continues to be the case.

15. Moreover, the transaction contemplated by the Sale Agreement was already significantly advanced as of the Petition Date. The Buyer has conducted its diligence with respect to the Property, and has agreed in writing that all conditions to closing have been met. Any additional marketing process for the Property will only deplete the estates’ limited resources without yielding a higher recovery. In fact, delaying receipt of the Purchase Price will also increase the Debtors’ pro-rata share of taxes in connection with the sale, thus decreasing the Purchase Price. Further, a failure to consummate the Sale Agreement expeditiously and close with respect to the Property before the 60-day tolling provided by section 108(b) expires may jeopardize the transaction with Buyer.

16. The Purchase Price is a fair and reasonable price for the Property and will infuse value into the Debtors’ estates by reducing the secured claims of the Senior Creditors. Said differently, consummating the Sale Agreement will maximize the value of the Debtors’ assets for the benefit of all stakeholders. Accordingly, the Debtors’ immediate consummation of

the sale of the Property to Buyer through the terms of the Sale Agreement and Proposed Order is the best way to maximize value of the Property and avoid the ramifications of the Debtors' otherwise potential failure to timely perform with respect to the Sale Agreement.

B. Sale Free and Clear Pursuant to Section 363(f).

17. Section 363(f) of the Bankruptcy Code provides:

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if –

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

18. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to warrant the Debtors' sale of the Property free and clear of all liens, claims, encumbrances. *See, e.g., Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that section 363(f) is written in the disjunctive; therefore, a court may approve a sale "free and clear," provided that at least one of the subsections is met).

19. The lien of the Senior Creditors on the Property, and any other lien, claim, or encumbrance to the extent it exists, it would fall into at least one of the five categories enumerated in section 363(f). The Debtors submit that any such lien, claim, or encumbrance will

be protected adequately by attachment to the net proceeds of the sale with the same force, effect, and priority that such lien, claim, or encumbrance has on the Property. In addition, the Debtors believe that any entity with an interest in the Property could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. Accordingly, the Debtors requests that the Property be transferred to Buyer free and clear of all liens, claims, and encumbrances other than those set forth in the Proposed Order, with such liens, claims, and encumbrances that will no longer remain on the Property to attach to the proceeds of the sale.

C. Good Faith Pursuant to Section 363(m).

20. Section 363(m) of the Bankruptcy Code provides:

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

11 U.S.C. §363(m). While the Bankruptcy Code does not define “good faith,” the Third Circuit in *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143 (3d Cir. 1986) has held that:

“[t]he requirement that a purchaser act in good faith . . . speaks to the integrity of his conduct in the course of the sale proceedings. Typically, the misconduct that would destroy a purchaser’s good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.”

788 F.2d at 147 (citations omitted). The Debtors submit that the Sale Agreement is an arms’-length, negotiated transaction between unrelated parties, in which Buyer has at all times acted in good faith under the *Abbotts Dairies* standards. The sale of the Property to Buyer is a true third-party transaction, as Buyer has no relationship to the Debtors—nor is Buyer an “insider” or “affiliate” of the Debtors (as each such term is defined in the Bankruptcy Code), and no

consideration is to be received by the Debtors' principals or shareholders from the sale. Accordingly, the Debtors request that the Court make a factual determination that Buyer will purchase the Property under the Sale Agreement in good faith as defined in section 363(m) of the Bankruptcy Code.

D. Waiver of the 14-Day Stay.

21. Finally, the Debtors request a waiver of the 14-day stay that would otherwise apply to the sale pursuant to Bankruptcy Rules 6004(h). A prompt closing of the sale will allow the Debtors to avoid the administrative expenses associated with maintaining the Property. Therefore, the Court should approve the waiver of the 14-day stay under Bankruptcy Rules 6004(h).

NOTICE

22. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the United States Securities and Exchange Commission; (iii) the Office of the United States Attorney General for the District of Delaware; (iv) the Internal Revenue Service; (v) counsel for Bank of America, N.A., as Administrative Agent, Collateral Agent and Letter of Credit Issuer; (vi) the Buyer; (vii) the St. Joseph County, Indiana Treasurer; (viii) those creditors holding the thirty (30) largest unsecured claims against the Debtors' estates (on a consolidated basis); and (ix) those parties, as of the filing of this Motion, requesting notice pursuant to Bankruptcy Rule 2002. Due to the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is necessary.

CONCLUSION

Based on the foregoing, the Debtors submit that the requirements of sections 105(a) and 363 of the Bankruptcy Code and Bankruptcy Rule 6004(h) have been satisfied and respectfully request that the Court enter the Proposed Order, in substantially the form attached hereto as Exhibit A, and grant such other relief as the Court deems just and proper.

Dated: Wilmington, Delaware
May 16, 2018

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Justin H. Rucki

M. Blake Cleary (No. 3614)
Kenneth J. Enos (No. 4544)
Robert F. Poppiti, Jr. (No. 5052)
Justin H. Rucki (No. 5304)
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*Proposed Counsel for the Debtors
and Debtors in Possession*

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

In re:

RMH FRANCHISE HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-11092 (BLS)

(Jointly Administered)

Hearing Date: June 6, 2018 at 10:30 a.m. (ET)

Objection Deadline: May 30, 2018 at 4:00 p.m. (ET)

NOTICE OF MOTION

TO: (I) THE U.S. TRUSTEE; (II) THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION; (III) THE OFFICE OF THE UNITED STATES ATTORNEY GENERAL FOR THE DISTRICT OF DELAWARE; (IV) THE INTERNAL REVENUE SERVICE; (V) COUNSEL FOR BANK OF AMERICA, N.A., AS ADMINISTRATIVE AGENT, COLLATERAL AGENT AND LETTER OF CREDIT ISSUER; (VI) THE BUYER; (VII) THE ST. JOSEPH COUNTY, INDIANA TREASURER; (VIII) THOSE CREDITORS HOLDING THE THIRTY (30) LARGEST UNSECURED CLAIMS AGAINST THE DEBTORS' ESTATES (ON A CONSOLIDATED BASIS); AND (IX) THOSE PARTIES THAT, AS OF THE FILING OF THIS MOTION, HAVE REQUESTED NOTICE IN THE CHAPTER 11 CASES PURSUANT TO BANKRUPTCY RULE 2002

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the "Debtors") have filed the attached **Debtors' Motion for an Order (A) Authorizing the Debtors to Sell Certain Real Property Free and Clear of Liens, Claims, and Encumbrances; and (B) Granting Related Relief** (the "Motion").

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed on or before **May 30, 2018 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 Market Street, Wilmington, Delaware 19801. At the same time, you must serve a copy of any objection upon the undersigned proposed counsel to the Debtors so as to be received on or before the Objection Deadline.

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: RMH Franchise Holdings, Inc. (7150); NuLnk, Inc. (7381); RMH Illinois, LLC (0696); RMH Franchise Corp. (1807); Contex Restaurants, Inc. (0710). The headquarters for the above-captioned Debtors is located at One Concourse Parkway, N.E., Suite 600, Atlanta, GA 30328.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON JUNE 6, 2018 AT 10:30 A.M. (ET) BEFORE THE HONORABLE BRENDAN LINEHAN SHANNON, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 6th FLOOR, COURTROOM NO. 1, WILMINGTON, DELAWARE 19801.

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

Dated: Wilmington, Delaware
May 16, 2018

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Justin H. Rucki

M. Blake Cleary (No. 3614)
Kenneth J. Enos (No. 4544)
Robert F. Poppiti, Jr. (No. 5052)
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*Proposed Counsel for the Debtors
and Debtors in Possession*

EXHIBIT A

Proposed Order

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

In re:

RMH FRANCHISE HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-11092 (BLS)

(Jointly Administered)

Ref. Docket No. _____

ORDER

**(A) AUTHORIZING THE DEBTORS TO SELL CERTAIN
REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS,
AND ENCUMBRANCES; AND (B) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² for entry of an order (a) approving the sale of the Property to Buyer free and clear of liens, claims, and encumbrances on the terms set forth herein and in the Sale Agreement with Buyer, and (b) granting related relief, pursuant to Bankruptcy Code sections 105(a) and 363 and Bankruptcy Rules 2002, 6004, and 9013; and upon consideration of the Motion and all pleadings related thereto; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and it appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interests of

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: RMH Franchise Holdings, Inc. (7150); NuLnk, Inc. (7381); RMH Illinois, LLC (0696); RMH Franchise Corp. (1807); Contex Restaurants, Inc. (0710). The headquarters for the above-captioned Debtors is located at One Concourse Parkway, N.E., Suite 600, Atlanta, GA 30328.

² All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Motion.

the Debtors, their estates, and creditors; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY FOUND AND DETERMINED THAT:**

1. The Debtors have articulated good, sufficient, and sound business purposes and justifications for the approval of the sale of the Property. The Debtors' entry into and performance under the Sale Agreement (i) is a result of due deliberation by the Debtors and constitutes a sound and reasonable exercise of the Debtors' business judgment consistent with their fiduciary duties, (ii) provides value to and is beneficial to the Debtors' estates, and is in the best interests of the Debtors and their estates, and (iii) is reasonable and appropriate under the circumstances.

2. To the extent any inconsistency arises between this Order and the Sale Agreement, this Order shall control.

3. Under the facts and circumstances of these chapter 11 cases, the Purchase Price for the Property is fair and reasonable and represents the highest and best value for the Property.

4. Buyer is a buyer in good faith with respect to the Property, as that term is used in section 363(m) on the Bankruptcy Code. Buyer meets the standards of "good faith" that were enumerated by the United States Court of Appeals for the Third Circuit in *In re Abbots Dairies of Pennsylvania, Inc.*, 788 F.3d 143 (3d Cir. 1986).

5. The Sale Agreement is an arms'-length negotiated transaction between unrelated parties, in which Buyer has at all times acted in good faith.

6. All the requirements of sections 363 of the Bankruptcy Code have been met with respect to the sale of the Property.

NOW, THEREFOR, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on the terms set forth herein.
2. The Sale Agreement attached hereto as Exhibit 1 is hereby approved as set forth herein, and the sale of the Property is approved as set forth herein.
3. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein.
4. Except as expressly set forth in this Order and the Sale Agreement, the Debtors are conveying their rights in the Property “as is.”
5. Pursuant to section 363(f) of the Bankruptcy Code, the sale of the Property to Buyer is free and clear of all liens, claims, interests, or encumbrances on the Property, except for (i) a lien for 2018 real estate taxes and (ii) that certain Reciprocal Easement Agreement by and between Curtis James Investments and Hook-SupeRx, L.L.C., recorded January 31, 2008, as Instrument Number 0803299 and re-recorded August 8, 2008, as Instrument Number 0826300, in the Office of the Recorder of St. Joseph County, Indiana and the terms and conditions contained therein. With respect to all other liens, claims, interests, or encumbrances on the Property, all such liens, claims, interests, and encumbrances shall attach to the proceeds of the sale with the same force, effect, and priority that such liens, claims, interests, and encumbrances had on the Property sold. In accordance with the foregoing, the proceeds of the sale after payment of the Broker’s Commission and any other deductions required at closing shall be payable to the Senior Creditors.
6. The Debtors’ performance pursuant to the Sale Agreement is hereby approved, and the Debtors are authorized to take any and all actions necessary or appropriate to consummate the Sale Agreement.

7. The Debtors are authorized to pay the Broker's Commission upon the closing of the transaction.

8. Pursuant to section 363(m) of the Bankruptcy Code, Buyer shall be, and hereby is, deemed to have purchased the Property in "good faith."

9. Notwithstanding the provisions of Bankruptcy Rule 6004 or any other provision of the Bankruptcy Code and Bankruptcy Rules, or any applicable provisions of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Code for the District of Delaware, this Order shall not be stayed for 14 days after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14 day stay provided in such rules is hereby expressly waived and shall not apply.

10. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: June __, 2018
Wilmington, Delaware

Brendan Linehan Shannon
Chief United States Bankruptcy Judge

EXHIBIT 1

Sale Agreement

CONTRACT FOR PURCHASE OF REAL ESTATE

Noblesville Retail LLC, an Indiana limited liability company or its assigns ("Purchaser"), hereby offers to purchase all of that certain real estate owned **by RMH Franchise Corporation** ("Seller"), located generally at **4515 Lincolnway East, Mishawaka, IN 46561** consisting of approximately **2.94 acres** (to be determined by an ALTA Survey) and generally described and/or depicted on Exhibit A attached hereto and incorporated herein (the legal description of such real estate will be subject to precise determination by survey as provided in Section 7.2 below), together with all improvements located thereon, all rights, privileges and appurtenances thereto, and Seller's interest in and to any and all leases and rents (collectively referred to as the "Real Estate") for **\$600,000.00 (Six Hundred Thousand Dollars)** ("Purchase Price") subject to and upon the following terms and conditions.

1. Payment of Purchase Price. On closing this transaction, Purchaser shall pay Seller an amount equal to **\$600,000.00**, less the Earnest Money and all other credits, reductions and prorations for which this Contract provides.

2. Earnest Money Deposit. Within five (5) business days after acceptance of this Offer by Seller (the "Acceptance Date"), Purchaser shall deposit **\$15,000.00 (Fifteen Thousand Dollars)** (the Earnest Money Deposit) with **First American Title Insurance Co.** (the "Title Insurer") with an address of *251 E. Ohio Street, Suite 555 in Indianapolis, IN 46204* as an earnest money deposit. The Earnest Money Deposit together with any and all interest accrued thereon is hereinafter referred to as the "Earnest Money." The Earnest Money shall be applied to the Purchase Price. **PURCHASER SHALL FORFEIT THE EARNEST MONEY TO SELLER IF PURCHASER FAILS OR REFUSES TO PERFORM ITS OBLIGATIONS HEREIN SPECIFIED AND ALL CONDITIONS AND REQUIREMENTS OF THIS CONTRACT HAVE BEEN SATISFIED.** Such forfeiture of Earnest Money shall constitute liquidated damages and shall be Seller's sole remedy at law or in equity. The Earnest Money otherwise shall be refunded or forfeited in accordance with the terms contained in this Contract, and, if all of the terms and conditions of this Contract are satisfied or waived and the transaction is closed, then the Earnest Money shall be applied to the Purchase Price.

3. Closing Date. Subject to all other terms and conditions set forth in this Contract, the transaction shall be closed not later than **thirty (30) business days** after the expiration of the Examination Period referred to in Section 7.1, with the exact date of closing (the "Closing Date") to be specified by Purchaser in a written notice delivered to Seller prior to the closing. The closing will take place at the office of the Title Insurer or such other place as the parties may mutually agree upon in writing.

4. Closing Documents. At Closing, Seller shall deliver: (a) a fully executed Warranty Deed conveying to Purchaser merchantable and marketable fee simple title to the Real Estate free of any and all liens, encumbrances, easements, restrictions, covenants or other title defects, except the lien of non-delinquent Real Estate taxes and other matters, if any, disclosed in the Title Commitment (as hereinafter defined) and approved by Purchaser as provided in Section 7.3; (b) a Vendor's Affidavit in form and substance satisfactory to Purchaser and the Title Insurer; (c) a non-foreign person affidavit in form and substance satisfactory to Purchaser and the Title Insurer; and (d) all other documents and/or funds, if any required from Seller to convey the Real Estate to Purchaser.

5. Date of Possession. Possession of the Real Estate shall be delivered to Purchaser at **Closing**, free and clear of all rights and claims of any other party to the possession, use or control of the Real Estate.

6. Taxes and Assessment. Purchaser assumes and agrees to pay all assessments for governmental and private improvements becoming a lien after the Closing Date and its pro rata portion of the real estate taxes assessed for and becoming a lien during the calendar year in which closing occurs (based upon the number of days remaining in such calendar year after the Closing Date). Seller shall pay all assessments for governmental and private improvements not assumed by Purchaser and both installments of real estate taxes payable during the calendar year in which closing occurs and its pro rata portion of the real estate taxes assessed for and becoming a lien during the calendar year in which closing

occurs (based upon the number of days in such calendar year prior to and including the Closing Date). The present tax rate and assessed values shall be used for the purposes of the prorations under this Section if the applicable tax rate and assessed values have not been set. Any taxes or assessments which are not assumed by Purchaser and which are not due and payable at the time of closing shall be allowed to Purchaser as a credit against the Purchase Price at closing, and Seller shall not be further liable for such taxes or assessments.

7. Conditions of Performance. Purchaser's obligations under this Contract are subject to the timely and complete satisfaction of the following conditions, unless waived in writing by Purchaser.

7.1 Condition of Real Estate. Upon full execution hereof, Seller shall provide Purchaser, to the extent they are available, with copies of its existing title insurance policy, exception documents, survey and Phase I Environmental Report for the Real Estate. Purchaser, at its cost and expense, and within **One Hundred Twenty (120)** days after receipt of title policy, exception documents, survey and environmental report, (said **120-day** period and any extension periods shall be referred to herein as the "Examination Period"), shall have determined, in its sole discretion, that: (a) the Real Estate enjoys rights of access to and from public ways, roads and streets which are adequate for Purchaser's intended use and development; (b) the demolition and/or removal of the buildings and/or other improvements located on or in the Real Estate, if any, will not violate any applicable laws, statutes, ordinances, rules or regulations or require extraordinary or unusually costly demolition and/or removal techniques or pose danger of damage to any other buildings or improvements in close proximity to the Real Estate; (c) the Real Estate (i) does not contain any subterranean or other defects or conditions which impair or adversely affect Purchaser's intended use or development of the Real Estate or require extraordinary or unusually costly development techniques or measures, (ii) Purchaser receives all necessary approvals from local municipalities and authorities including but not limited to one or multiple landscape variances the Purchaser will need, and (iii) the real estate is economically feasible for development at the sole discretion of the Purchaser, (d) the prospects for a rezoning of the Real Estate, if necessary, and the obtaining of all other permits and approvals, public and private, necessary for Purchaser's intended use and development, are satisfactory to Purchaser; (e) no tenant or any other party has any rights or claims to possession of the Real Estate; (f) the Real Estate is free and clear of any and all asbestos, toxic or hazardous material or contaminant and/or the material threat of contamination thereby or such is at a threat level of which the Purchaser is satisfied; and (g) all utilities necessary or appropriate for Purchaser's intended use and development of the Real Estate are available at the property lines in sufficient quantities, pressures and/or capacities for Purchaser's intended use and development, without hookup, tap in or other charges excepting only nominal charges normally incurred and charged by the applicable public utilities. In the event Purchaser fails to give Seller written notice of its disapproval of the condition of the Real Estate prior to the expiration of the Examination Period, Purchaser shall be deemed to have approved the condition of the Real Estate.

In the event Purchaser desires additional time to examine the Condition of Real Estate, Purchaser may extend the Examination Period by written notice to Seller and an additional **\$5,000 (Five Thousand Dollars)** deposit, which shall be nonrefundable but applicable to the purchase price at closing, for each of **two (2) thirty (30) day** extension periods ("Additional Time Period(s)"). Upon receipt of written notice and additional deposit for the first "Additional Time Period", the Earnest Money of **\$5,000 (Five Thousand Dollars)** shall become nonrefundable to the Purchaser but still applicable to the Purchase Price.

7.2 Survey. The Purchaser shall have the Examination Period and Additional Time Period if needed to obtain an ALTA Survey ("Survey") and fully approve the Survey showing no encroachments on the Real Estate, showing that the improvements, if any, are located entirely within the bounds of the Real Estate, showing all on and off-site easements affecting the Real Estate, certifying gross and net acreage of the Real Estate, and showing no matters which would adversely affect Purchaser's intended use or development of the Real Estate. The Survey shall establish the precise perimeter legal description of the Real Estate and the *gross* acreage of the Real Estate.

Purchaser shall have until fifteen (15) days after receipt of the Survey, Title Commitment and Title Documents to notify Seller of Purchaser's approval or disapproval of any matters indicated or disclosed on the Survey. In the event Purchaser fails to disapprove of any matters indicated or disclosed on the Survey prior to the expiration of said period, Purchaser shall be deemed to have approved the Survey. If Purchaser disapproves of any matters indicated or disclosed on the Survey prior to the expiration of said period, Seller shall have until the expiration of the Examination Period to resolve or alleviate any matters disapproved of by Purchaser; provided, however, that if Seller is unable to resolve or alleviate any such matters on or before the expiration of the Examination Period, Purchaser shall have the option to either waive its objection to such matters and consummate the purchase of the Real Estate or terminate this Contract by written notice thereof to Seller, in which latter event, this contract shall be null and void. Purchaser then shall be entitled to receive the Earnest Money and the parties hereto shall have no further obligations or liabilities to each other.

7.3 Title Insurance. Seller, at its cost and expense and within thirty (30) days after the Acceptance Date, shall procure (a) a title insurance commitment for the Real Estate issued by the Title Insurer, in which commitment the Title Insurer shall agree to (i) insure for the full amount of the Purchase Price merchantable and marketable fee simple title to the Real Estate in the name of Purchaser, free of all exceptions (including, without limitation, the standard exceptions), except only the lien of non-delinquent real estate taxes and assessments and such other matters that Purchaser may approve as hereinafter provided and (ii) issue such endorsements as Purchaser may reasonably request (including, without limitation, endorsements insuring access to the Real Estate from and to all adjacent streets and highways and zoning) (the "Title Commitment"); and (b) copies of all documents and matters disclosed or referred to in the Title Commitment (the "Title Documents"). Purchaser shall have until ten (10) days after receipt of the Survey, Title Commitment and Title Documents to notify Seller of Purchaser's disapproval of any matters indicated as an exception to the Title Commitment. In the event Seller fails to provide Purchaser with the Title Commitment as and when required under this Section 7.2, Purchaser shall have the right to either (a) terminate this contract with a return of the Earnest Money or (b) obtain the Title Commitment, at Seller's expense (or the cost thereof shall be credited against the Purchase Price at Closing), and the Examination Period shall be extended by the same time period required for Purchaser to obtain said Title Commitment. In the event Purchaser fails to disapprove of any matters indicated as an exception in the Title Commitment prior to the Expiration of said period, Purchaser shall be deemed to have approved the condition of title to the Real Estate. If Purchaser disapproves of any exception to the Title Commitment as herein provided prior to the expiration of said period, Seller shall have until the expiration of the Examination Period to remove all such exception(s) to which Purchaser has objected; provided, however, that if Seller is unable to remove all exceptions to which Purchaser has objected on or before the Expiration of the Examination Period, Purchaser shall have the option to either waive its objections to such exception(s) and consummate the purchase of the Real Estate or terminate this Contract by written notice thereof to Seller, in which latter event, this Contract shall be null and void. Purchaser shall then be entitled to receive the Earnest Money and the parties hereto shall have no further obligations or liabilities to each other. At closing, Seller, at its cost and expense, shall deliver to Purchaser an owner's policy of title insurance issued by the Title Insurer in conformity with the Title Commitment. Seller to pay for title insurance and Buyer to pay for any required title endorsements.

7.4 Litigation and Representation. As of the Closing Date, no action or proceeding before a court or other governmental agency or officer shall be pending (and to the best of either Seller's or Purchaser's knowledge, no such action or proceeding shall be threatened) that might impair the value of the Real Estate or prevent Purchaser from undertaking and completing Purchaser's intended use and development of the Real Estate. As of the Closing Date, the representation and warranties set forth in Section 9 shall be true and accurate.

7.5 Financing. None.

7.6 Rezoning and Permits. Intentionally deleted.

8. Nonperformance. In the event that one or more of the conditions set forth in Section 7 are not timely and completely satisfied, Purchaser, at its sole discretion, may grant additional time to Seller to remedy any defect or may cancel this Contract and all of its obligations hereunder by written notice to Seller, in which event all Earnest Money deposited shall be immediately refunded to Purchaser. If pursuant to any provision of this Contract the Purchaser elects to grant Seller additional time to remedy a defect or meet a condition of the Contract, all time limits effecting the Purchaser shall be extended by the amount of time given the Seller. The determination of whether the conditions in Section 7.1 through 7.6 have been met is in the sole discretion of the Purchaser.

9. Representations and Warranties. Seller, to the best of its knowledge, hereby represents and warrants to Purchaser (and shall be deemed to represent and warrant on the Closing Date) that (a) there is no condemnation or similar proceeding which is pending or threatened against the Real Estate or any part thereof; (b) Seller has not received any notification from any governmental agency authority or instrumentality of any pending or threatened assessments on or against the Real Estate for the cost of public improvements to be made with respect to the Real Estate or any part thereof; (c) after the Acceptance Date, Seller will not enter into any lease or other agreement affecting the Real Estate or the possession, use or control thereof; (d) after the Acceptance Date, Seller will not create, permit or suffer any lien or other encumbrance to attach to or affect the Real Estate and improvements thereon, if any, except for the lien of non-delinquent real estate taxes; (e) there are no underground fuel, chemical or other storage tanks located in the Real Estate; and (f) the Real Estate has not been used for the treatment, storage or disposal of or otherwise contaminated by any hazardous or special wastes, substances, materials, constituents, pollutants or contaminates (as defined by federal, state or local laws, statutes, ordinances, rules or regulations).

9.1 Environmental Conditions. If Seller is unable to give Purchaser the warranties contained in paragraphs 9(e) and 9(f), then Seller shall within thirty (30) days hereof make a full disclosure to Purchaser of any known or perceived environmental problems with the Real Estate. Seller shall, at its sole cost and expense, promptly remedy said environmental problems prior to the Closing Date.

10. Damage and Condemnation. If at any time after the Acceptance Date (a) improvements located on the Real Estate, if any, shall be damaged or destroyed; (b) the Real Estate shall be condemned, in whole or in part; or (c) any notice of condemnation shall be given, then Purchaser, at its sole option, may cancel the Contract or proceed with closing. If Purchaser elects to proceed with closing, then Purchaser may (a) apply the proceeds of any condemnation award or insurance policy to reduce the Purchase Price; or (b) accept an assignment of such proceeds. If Purchaser elects to cancel this Contract, as provided in this Contract, all Earnest Money deposited shall be immediately refunded to Purchaser. Likewise, Seller shall have the option to terminate the Agreement if in the event a notice of condemnation is received upon written notice of Purchaser to Seller and a refund of the Earnest Money Deposit.

11. Inspection. Purchaser, its employees, agents and independent contractors shall have the right to enter upon the Real Estate and conduct all tests and examinations which Purchaser deems necessary. All such tests and examination are to be made at Purchaser's expense, and Purchaser shall be liable for any damage caused to the Real Estate or to any persons thereon during said tests which damage is caused as a result of such tests, and hereby agrees to indemnify and hold harmless Seller from and against any such damage or injury or claims and causes of action resulting therefrom. All service providers hired by Purchaser to provide testing, surveying, review or goods, services or materials of any kinds shall be specifically prohibited from asserting any liens or encumbrances or recoupment or security for their fees or expenses by filing a lien of any kind, statutory, equitable, constructive or any other kind against the Real Estate. All contracts between Purchaser and its service providers regarding the Real Estate shall be specifically "No Lien" and in the event any Lien is filed against the Real Estate by any agent of Purchaser, Seller may direct the Title Company to satisfy that Lien out of the Earnest Money Deposit and either demand that Purchaser replenish the Earnest Money Deposit to the amount required in the Contract or terminate the Contract and retain the balance of the Earnest Money Deposit.

12. Notices. All notices, demands, consents, statements, offers, and other communications required or permitted herein shall be delivered to the Parties hereto by United States registered or certified mail, return receipt requested, postage fully prepaid, or by an independent courier service; provided, however, that in the event such courier service is used, such service shall provide a receipt. Except as provided above, all such communications shall be deemed delivered when actually mailed or deposited with such courier service and shall be addressed to the intended recipient at the following address as either Party may specify in writing:

If to Purchaser: **Noblesville Retail LLC**
719 Virginia Ave, Suite 101
Indianapolis, IN 46203
Attn: Drew Warner, Member
dwarner@warnerretail.com

If to Seller: **RMH Franchise Corporation**
PO Box 21960
Lincoln, NE 68542
402-858-7880

13. Specific Performance. Seller agrees that money damages are not an adequate remedy for breach of this contract by Seller, and, in the event of a breach by Seller, Purchaser shall be entitled to (a) the remedy of specific performance to enforce the terms hereof; (b) cure Seller's breaches of any representation, warranty or other provision of this Contract and/or expend amounts or take any other action to cure and remove any title defect created, permitted, or suffered by Seller after the Acceptance Date and not permitted hereunder; and/or (c) cancel this Contract and all of its obligations hereunder by written notice to Seller, in which event all Earnest Money deposited shall be immediately refunded to Purchaser. Any and all reasonable and necessary amounts incurred by Purchaser to cure or remove Seller's breaches and/or title defects shall be credited against the Purchase Price at closing. In the event of a material breach of contract by Purchaser, the sole and exclusive remedy of Seller shall be to retain the Earnest Money provided by Purchaser as liquidated damages.

14. Brokers. Mid-America Real Estate-Indiana LLC is representing the Purchaser and Jones Lang Lasalle is representing the Seller in this transaction. At Closing, Seller shall pay a real estate commission equal to six percent (6%) of the sales price to be split equally between Mid-America Real Estate-Indiana LLC and JLL.

15. Nominee. On or before the Closing Date, Purchaser shall have the right to assign or transfer all or any portion of its rights under this Contract to any nominee or assignee of Purchaser; provided, however, that Purchaser shall remain liable to perform its obligations under this Contract.

16. Survival and Indemnity. All representations and warranties set forth in this contract, shall survive the closing, and Seller and Purchaser shall each indemnify and hold the other harmless from and against all costs and damages (including attorneys' fees and court costs) incurred as a result of any breach of any representation or warranty by Seller or Purchaser, respectively.

17. General. The terms and provisions of this Contract shall be governed and construed in accordance with the laws of the State of Indiana. The captions and section numbers shall not be considered in any way to affect the interpretation of this Contract. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs, and personal representatives. This contract is the final expression of the complete and exclusive agreement between Seller and Purchaser and supersedes all prior offers, negotiations and discussions. The term "Contract" as used herein means the contract arising between the parties on the terms of this Offer after acceptance by Seller.

18. Authority. Except as expressly provided otherwise herein, each undersigned person signing on behalf of any party that is a corporation, partnership or other entity certifies that (a) he is fully empowered and duly authorized by any and all necessary action or consent required under any applicable articles of incorporation, by-laws, partnership agreement or other agreement to execute and deliver this Contract for and on behalf of said party; (b) that said party has fully capacity, power and authority to enter into and carry out its obligations under this Contract; and (c) that this Contract has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms.

19. Recording. This Contract shall not be recorded. However, upon request by Purchaser, Seller shall execute and deliver to Purchaser duplicate originals of a memorandum of this Contract, in recordable form, satisfactory to Purchaser, in its sole discretion.

20. Attorneys' Fees. Either party to this Contract who is the prevailing party in any legal or equitable proceeding against any other party to this Contract brought under or with relation to the Contract or the transaction contemplated hereby shall, in addition to any other remedy at law or provided for herein, be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

21. Tax Free Exchange. Either party to this Contract may assign all or any portion of its rights and obligations under this Contract to any other person or entity for purposes of effectuating a like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended. The parties agree to cooperate with one another and execute such documents as are reasonably necessary to effectuate such like-kind exchange. The parties further agree that the representations, warranties, and indemnification obligations contained in this Contract shall extend to, insure to the benefit of, and be enforceable by the assignor notwithstanding any such assignment.

22. Duration of Offer. This Offer shall expire if written acceptance endorsed herein is not delivered to Purchaser at the address specified in Section 12 on or before September, 2017 at 5:00pm.

This Offer to Purchase Real Estate is hereby executed this 12 day of September 2017, as to Purchaser.

PURCHASER:
Noblesville Retail LLC or assigns

By: 
Drew Warner, Member

ACCEPTANCE OF OFFER

Seller hereby accepts the foregoing Offer to Purchase Real Estate on this _____.

SELLER: RMH Franchise Corporation


By: 

Exhibit A
Legal Description & Site Location

(To be determined by the ALTA Survey and inserted prior to Closing)

Property: 4515 Lincolnway East, Mishawaka, IN 46561

Parcel Number: 71-10-18-251-001.000-022



AMENDMENT TO CONTRACT FOR PURCHASE OF REAL ESTATE

THIS AMENDMENT (“Amendment”) is entered into by and between **NOBLESVILLE RETAIL LLC**, an Indiana limited liability company (“Purchaser”) and **RMH FRANCHISE CORPORATION**, a Kansas corporation (“Seller”) and is effective as of the 10th day of April, 2018.

WHEREAS, Purchaser and Seller entered into that certain Contract for Purchase of Real Estate dated September 12, 2017 (the “Agreement”) whereby Purchaser agreed to purchase from Seller and Seller agreed to sell to Purchaser certain real property located in Mishawaka, St. Joseph County, Indiana, more particularly described therein (the “Real Estate”); and

WHEREAS, Purchaser and Seller now desire to amend the Agreement as more particularly set forth herein.

NOW THEREFORE, in consideration of the foregoing and the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Defined Terms.** All capitalized terms used herein and not otherwise defined will have the meaning ascribed to them in the Agreement.
2. **Closing Date.** The Closing Date for this transaction will be on or before May 14, 2018.
3. **Additional Earnest Money.** In consideration of this Amendment, Purchaser agrees that it will deposit the sum of Ten Thousand and No/100 Dollars (\$10,000.00) as “Additional Earnest Money”. Such Additional Earnest Money will be deposited with the Title Insurer on or before April 11, 2018. Notwithstanding anything in the Agreement to the contrary, (i) both the Additional Earnest Money and the Twenty-Five Thousand and No/100 Dollars (\$25,000.00) that have already been deposited with the Title Insurer by Purchaser (together, with the Additional Earnest Money, the “Earnest Money”) are non-refundable to Purchaser, but will be applicable to the Purchase Price at Closing and (ii) if the Agreement is terminated for any reason (except due to Seller’s uncured material breach of the Agreement), Seller may notify the Title Insurer to deliver the Earnest Money to Seller, and all such money will be immediately delivered to Seller by the Title Insurer.
4. **Closing Conditions.** Other than delivery of the Real Estate at Closing, Purchaser agrees that all conditions and requirements for Closing in the Agreement (including, without limitation, such conditions and requirements in Section 7 of the Agreement) have been fully met and satisfied or are waived by Purchaser.
5. **Assignment of Contract.** Purchaser hereby assigns its entire right, title and interest, in and to the Agreement to Mishawaka Retail LLC, an Indiana limited liability company (“MR”). By its signature below, MR hereby acknowledges and accepts such assignment. Pursuant


to Section 15 of the Agreement, Purchaser shall remain liable for the performance of all of its obligations under the Agreement.

6. **Remainder of Agreement.** Except as otherwise amended herein, the Agreement will remain in full force and effect in accordance with its terms.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have set their names as of the date set forth above.

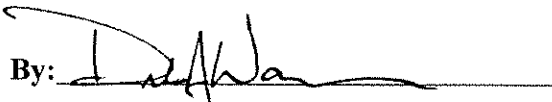
RMH FRANCHISE CORPORATION,
a Kansas corporation

By: 

Printed: Mitch Blocher

Title: Chief Financial Officer

NOBLESVILLE RETAIL LLC,
an Indiana limited liability company

By: 

Printed: Drew A. Warner

Title: Member

MISHAWAKA RETAIL LLC,
an Indiana limited liability company

By: 

Printed: Drew A. Warner

Title: Member

Assignment and Assumption of "Contract for Purchase of Real Estate"

This Assignment and Assumption of Contract for Purchase of Real Estate (this "Assignment") is made and entered into this 12th day of February 2018, by and between **Noblesville Retail LLC**, an Indiana limited liability company ("Assignor") and **Mishawaka Retail LLC**, an Indiana limited liability company ("Assignee").

Whereas Assignor, as Purchaser, entered into a certain Contract for Purchase of Real Estate dated September 12, 2017 with **RMH Franchise Corporation** as Seller, said Contract for Purchase of Real Estate being incorporated herein by reference; and

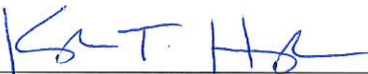
Whereas, Assignor wishes to assign all rights and interest in the Contract for Purchase of Real Estate to Assignee and Assignee wishes to assume all obligations of Assignor thereunder;

Now, therefore, in consideration of the aforesaid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:


1. Assignor hereby assigns all right title and interest in the Contract for Purchase of Real Estate to Assignee.
2. Assignee hereby assumes all rights and obligations of Assignor under the Contract for Purchase of Real Estate and agrees to perform thereunder.

IN WITNESS WHEREOF, the parties hereto have set-forth their hands and seals upon this Assignment as of the date first written above.

Assignor: Noblesville Retail LLC, an Indiana limited liability company

By: 
Kyle T. Hughes, Member

Assignee: Mishawaka Retail LLC, an Indiana limited liability company

By: 
Kyle T. Hughes, Member