

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11
Levitz Home Furnishings, Inc. *et al.*, : Case No. 05-45189 (BRL)
 : (Jointly Administered)
Debtors. :
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ORDER PURSUANT TO 11 U.S.C. §§ 105, 363 AND 365, AND FED. R. BANKR. P. 2002, 6004 AND 6006, (A) APPROVING SALE DOCUMENTS, (B) AUTHORIZING THE SALE OF CERTAIN ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS, (C) AUTHORIZING PURCHASER TO EXERCISE DESIGNATION RIGHTS OVER LEASES AND CONTRACTS, (D) APPROVING PROCEDURES RELATING TO THE PURCHASER'S EXERCISE OF DESIGNATION RIGHTS, (E) AUTHORIZING STORE CLOSING SALES AT CERTAIN LOCATIONS, AND (F) GRANTING RELATED RELIEF

Upon the motion, dated November 11, 2005 (the "Motion"),¹ of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), for entry of order pursuant to §§ 363, 365 and 1146 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006 for (I) an Order (a) establishing bidding procedures for the sale of assets, (b) approving certain bid protections, (c) scheduling auction and final sale hearing and (d) approving the form and manner of notice thereof (the "Sale Procedures Relief"); and (II) an Order authorizing and approving (a) the Debtors' entry into purchase agreement(s), (b) the sale of assets free and clear of liens and other interests and (c) assumption and assignment of executory contracts and leases (the "Sale Relief"); and a hearing having been held on November 22, 2005 with respect to the Sales Procedure Relief that the Debtors requested, including approval of certain auction and sale

procedures (the "Bidding Procedures Hearing"); and after the conclusion of the Bidding Procedures Hearing, the Court having entered an order (the "Bidding Procedures Order"), in which Order, the Court, among other things, (i) approved certain auction and sale procedures (the "Auction and Sale Procedures") and (ii) scheduled a hearing on the Sale Relief, including the Debtors' request to approve a sale to the bidder(s) submitting the highest or otherwise best offer(s) for the Debtors' assets (the "Assets") as determined in accordance with the Auction and Sale Procedures for December 6, 2005, further continued to December 7, 2005 (collectively, the "Sale Hearing"); and the Debtors having determined that the highest and otherwise best offer for the sale of Assets submitted at the Auction was made by PLVTZ, LLC and The Pride Capital Group, LLC (d/b/a Great American Group) (collectively, "Purchaser") in the form of the Asset Purchase Agreement, dated November 30, 2005 (the "Auction Asset Purchase Agreement") and the Agency Agreement dated November 30, 2005 (the "Auction Agency Agreement"); and the Court having held hearings on December 6 and 7, 2005 (the "Sale Hearing") on the approval of the sale of substantially all of the Debtors' assets pursuant to the terms and conditions of the Auction Asset Purchase Agreement and Auction Agency Agreement, as such Agreements were amended and modified pursuant to various agreements and settlements (as modified, the "Asset Purchase Agreement" and the "Agency Agreement" respectively), and the Court having considered (i) the Motion, (ii) the proposed sale of Assets by the Debtors to the Purchaser (the "Sale") pursuant to the Asset Purchase Agreement, a copy of which is attached hereto as Exhibit A, the Agency Agreement, a copy of which is attached to the Approval Order, the Transition Service Agreement, and the exhibits and schedules thereto (collectively, the "Sale Documents");

(cont'd from previous page)

¹ Capitalized terms used but not defined in this Order shall have the meanings given to such terms in the Asset Purchase Agreement.

(iii) the objections to the Sale, including the objection of the Indenture Trustee for the Secured Notes and the objection of the Ad Hoc Committee (the "Indenture Objections") (collectively, the "Sale Objections"), (iv) the arguments of counsel made, and the evidence submitted, proffered or adduced, at the Sale Hearing, (v) the record in these Cases, of which the Court took judicial notice, at the Sale Hearing and (vi) the responses to the Objections; and the Court having determined that the relief requested in the Motion and the Sale to the Purchaser in accordance with the Sale Documents and the provisions of this Order are in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that reasonable and adequate notice of the Motion, the Bidding Procedures Order, the Sale and the Sale Hearing having been provided to all persons required to be served in accordance with 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code"), the Federal Rules of Bankruptcy Procedure, and the Local Rules and orders of this Court; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

FOUND, CONCLUDED AND DECLARED THAT:²

A. This Court has jurisdiction over this matter and over the property of the Debtors, including the Assets to be sold, transferred and conveyed pursuant to the Sale Documents, and their respective bankruptcy estates pursuant to 28 U.S.C. §§ 157(a) and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

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* Fed. R. Bankr. P. 7052.

B. The statutory predicates for the relief sought in the Motion and the basis for the approvals and authorizations herein are Bankruptcy Code sections 105, 363, and 365 and Fed. R. Bankr. P. 2002, 6004 and 6006.

C. On October 11, 2005 (the "Petition Date"), the Debtors filed voluntary petitions for reorganization under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued in possession and management of their businesses and properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

D. As evidenced by the affidavits of service and publication previously filed with the Court, and based on the representations of counsel at the Sale Hearing: (i) proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, and the Sale has been provided in accordance with 11 U.S.C. §§ 102(l), 105, 363 and 365 and Fed. R. Bankr. P. 2002, 6004, 6006 and 9014 and in compliance with the Bidding Procedures Order; (ii) such notice was good and sufficient, and appropriate under the particular circumstances; and (iii) no other or further notice of the Motion, the Auction, the Sale Hearing, or the Sale is or shall be required.

E. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, through marketing efforts and a competitive sale process conducted in accordance with the Bid Procedures Order, the Debtors afforded interested potential purchasers a full, fair and reasonable opportunity to qualify as bidders and submit their highest or otherwise best offer to purchase all or substantially all of the Assets.

F. The Debtors and their professionals have complied in all respects with the Bid Procedures Order. In that regard, the Debtors (i) considered all bids submitted on or before

the date hereof; (ii) negotiated with all bidders, whether a Qualified Bidder or not, up to and including the Sale Hearing; (iii) considered and evaluated any bids submitted pursuant to Section 363(k) of the Bankruptcy Code; and (iv) commenced the auction on November 30, 2005 and concluded that auction on December 1, 2005 (the "Auction").

G. At the conclusion of the Auction, the Debtors in consultation with the Collateral Agent, the ad hoc committee of Senior Secured Noteholders (the "Ad Hoc Committee") and the Official Committee of Unsecured Creditors (the "Official Committee") announced that they had determined that the offer submitted by the Purchaser in the Sale Documents was the highest and otherwise best offer and that the Purchaser was the Successful Bidder in accordance with the Bid Procedures Order. The Debtors did not receive any Qualified Bid for the Indenture Collateral only and the only Qualified Bidder seeking to purchase the Indenture Collateral was the Purchaser who allocated \$1.0 million to the Indenture Collateral and the Collateral (the "Noteholder Collateral").

H. Upon entry of this Order, each of the Debtors (i) has full corporate power and authority to execute the Sale Documents, and the Sale by the Debtors has been duly and validly authorized by all necessary corporate action of each of the Debtors, (ii) has all of the corporate power and authority necessary to consummate the Sale contemplated by the Sale Documents, (iii) has taken all corporate action necessary to authorize and approve the Sale, Sale Documents and the consummation by the Debtors of the transactions contemplated thereby, and (iv) no consents or approvals, other than those expressly provided for in the Sale Documents, are required for the Debtors to consummate the Sale and such transactions.

I. The Debtors have exercised sound business judgment in deciding to enter into the Sale Documents and to sell the Assets to Purchaser pursuant to the Sale Documents,

including the facts that (a) the Sale Documents constitutes the highest and best offer for the Assets; (b) the Sale Documents and the Closing of the transactions contemplated thereby will present the best opportunity to realize the highest value of the Assets; (c) the consideration provided by Purchaser for the purchase of the Assets pursuant to the Sale Documents exceeds what Debtors would be able to realize in a separate liquidation of the Assets; and (d) without the Sale, there will likely be a substantial diminution in the value of the Assets to the detriment of the Debtors' estates, their creditors and parties in interest.

J. The Debtors are the sole and lawful owners of the Assets.

K. The Debtors have demonstrated both (i) good, sufficient and sound business purpose and justification for the Sale, and (ii) compelling circumstances for the Sale pursuant to 11 U.S.C. § 363(b) prior to, and outside of, a plan of reorganization in that, among other things:

(i) Given these circumstances, Purchaser is only willing to proceed with the Sale if the Sale is approved by the Bankruptcy Court before a further deterioration of the Assets.

(ii) The Debtors and their advisors diligently and in good faith marketed the Assets to secure the highest or otherwise best offer both prior to and after entry of the Bidding Procedures Order. Since the commencement of these cases, and even before, the Debtors sought, among other things, offers for all or part of their Assets. In addition, on November 12, 2005, the Debtors (or their agents) mailed the Bidding Procedures Order, the Motion, notice of the Auction, and the Auction and Sale Procedures to each of the entities known to the Debtors that had previously expressed an interest in the Assets. On November 16, 2005,

the Debtors caused the publication of a notice substantially in the form of the Sale Notice in the national edition of The New York Times.

(iii) The terms and conditions set forth in the Sale Documents, and the transfer to Purchaser of the Assets pursuant thereto, represent a fair and reasonable purchase price and constitute the highest and otherwise best offer obtainable for the Assets. A sale of the Assets at this time to Purchaser pursuant to 11 U.S.C. § 363(b) is the only viable alternative to preserve the value of the Assets, and maximizes the Debtors' estates for the benefit of all constituencies. Delaying approval of the Sale might result in Purchaser's termination of the Sale Documents and may result in an alternative outcome that will achieve less value for the Debtors estates and their creditors.

(iv) Time is of the essence because the Debtors lack the financial resources to continue to operate their businesses as a viable going concern and the value of the Assets is deteriorating daily.

L. A fair and reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein as well as the Sale has been afforded to all interested persons and entities, including: (i) the Office of the United States Trustee for the Southern District of New York, (ii) counsel for the Purchaser, (iii) counsel for the Official Committee, the Ad Hoc Committee and the Collateral Agent, (iv) all entities (or counsel therefor) known to have asserted any Interests or Claims (as defined below) in or upon the Assets, (v) all federal, state and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by the Motion, (vi) all parties known to have expressed a bona fide interest in acquiring the Assets, (vii) the Internal Revenue Service, (viii) all entities who have

filed a notice of appearance and request for service of papers in these cases, (ix) the Indenture Trustee, and (x) all other known prepetition creditors of the Debtor.

M. The Purchaser is not an "insider" of any of the Debtors, as that term is defined in 11 U.S.C. § 101.

N. The Debtors and Purchaser negotiated the Sale Documents in good faith, without collusion, and at arm's length within the meaning of 11 U.S.C. § 363(m). Purchaser is a good faith purchaser under 11 U.S.C. § 363(m), and, as such, is entitled to the protections of 11 U.S.C. § 363(m). Purchaser will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the Sale and the transactions contemplated by the Sale Documents at all times after the entry of this Order, and is entitled to the protection of 11 U.S.C. § 363(m).

O. Neither the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the Sale Documents or the or the transactions contemplated thereby to be avoided or otherwise challenged under 11 U.S.C. § 363(n). The sale process and the Auction conducted by the Debtors and their retained advisors was fair and reasonable and conducted in good faith and the outcome of such Auction was not the result of collusive or otherwise unlawful conduct on the part of the Purchaser or any other third party.

P. The offer of the Purchaser for the Assets is the highest and best offer received by the Debtors after a period in which third parties had sufficient opportunity to seek information and enter into discussions or negotiations with the Debtors and their retained advisors concerning a sale of the Assets. The consideration offered by the Purchaser is fair and reasonable and constitutes fair and adequate consideration and reasonably equivalent value for the Assets pursuant to the Bankruptcy Code, the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act. In that regard: (i) the only Qualified Bid for the Noteholder

Collateral was the offer of the Purchaser for \$1 million; (ii) the Debtors did not receive any Qualified Bid for the Noteholder Collateral pursuant to Section 363(k) of the Bankruptcy Code, and no motion to lift the automatic stay with respect to such Noteholder Collateral has been filed or is pending; (iii) the value of Inventory being sold under the Sale Documents exceeds the aggregate amount of (a) all obligations (the "GE DIP Obligations") the Debtors owe to General Electric Capital Corporation ("GECC") under the DIP Credit Agreement, (b) the Carve Out (as defined in the Final DIP Order), and (c) the amount of the projected sales taxes and employee wages in accordance with Paragraph 10 of the Final DIP Order; and (iv) upon the consummation of the Sale, the Debtors will hold additional cash proceeds to which liens and claims may attach (the "Cash Proceeds").

Q. Not selling the Assets free and clear of all encumbrances and interests would impact adversely on Debtors' estates, and a sale of Assets other than one free and clear of encumbrances and interests would be of substantially less benefit to the Debtors' estates.

R. Purchaser would not have entered into the Sale Documents and would not consummate the Sale or the transactions contemplated by the Sale Documents, thus adversely affecting the Debtors, their estates, and their creditors, if the Sale of the Assets to Purchaser were not free and clear of all Interests or Claims (as defined below), or if Purchaser would, or in the future could, be liable for any of the Interests or Claims.

S. The Debtors may sell their interests in the Assets free and clear of all Interests or Claims because, in each case, one or more of the standards set forth in 11 U.S.C. § 363(f)(1)-(5) has been satisfied. All holders of Interests or Claims that did not object to the Sale are deemed to have consented to the Sale, pursuant to 11 U.S.C. § 363(f)(2). Notwithstanding the objection filed by the Ad Hoc Committee, pursuant to the terms of that certain intercreditor

agreement, dated May 20, 2005 (the "Intercreditor Agreement"), each Noteholder and the Indenture Collateral Agent have authorized GECC to consent on their behalfs and are therefore also deemed to have consented to the sale.

T. In addition, all holders of Interests or Claims who did object fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Interests or Claims, if any, attach to the cash proceeds of the Sale. In that regard, the Court finds that even if each Noteholder and the Indenture Collateral Agent were not deemed to consent to the Sale, their interest in the Noteholder Collateral is adequately protected by the attachment of their lien to any Cash Proceeds that are not necessary to pay obligations of other Debtors entitled to a higher priority of payment.

U. The Debtors are authorized to sell, transfer, convey or assign to Purchaser, all of the Debtors' right, title and interest (including common law rights) to all of their intangible property included in the Assets to the broadest extent permitted by law and the terms of the Sale Documents, including the Avoidance Actions.

V. The parties have entered into a settlement (the "Noteholder Settlement") of the Indenture Objections in substantially the form set forth on the record of the Sale Hearing and the terms and conditions attached hereto as Exhibit B, and such settlement is fair and reasonable.

W. The parties have also entered into a settlement for the benefit of the general unsecured creditors pursuant to which a trust for the benefit of general unsecured creditors of the Debtors will be funded substantially in accordance with the terms set forth on the record of the hearing and outlined in Exhibit C hereto (the "GUC Trust").

X. The Sale, the funding of the GUC Trust, and the funding of the Noteholder Settlement, whether taken together or separately, do not constitute a sub rosa Chapter 11 plan for which approval has been sought without the protections a disclosure statement would afford.

Y. The Purchaser is not assuming any liabilities of the Debtors or their subsidiaries and affiliates other than the Assumed Liabilities expressly set forth in the Sale Documents.

Z. The Debtors have demonstrated that it is an exercise of sound business judgment to sell the Designation Rights with respect to the Leases and Contracts, and that the sale of the Designation Rights is in the best interests of the Debtors, their estates, and their creditors. The Designation Rights are an integral part of the Assets being purchased by Purchaser and, accordingly, the sale of the Designation Rights is reasonable, enhances the value of the Debtors' estates, and does not constitute unfair discrimination.

AA. The Designation Rights Procedures set forth below and in the Asset Purchase Agreement are fair and reasonable and provide interested parties with adequate notice and ample opportunity to protect their respective rights and interests in the Leases and Contracts.

BB. The Sale of Assets by the Debtors to Purchaser pursuant to the Sale Documents (a) is or will be legal, a valid and effective transfer of the Assets to Purchaser and (b) vests or will vest Purchaser with all right, title, and interest of the Debtors in the Assets on the closing of the Sale free and clear of any Interests or Claims (as defined below) pursuant to 11 U.S.C. §§ 105, 363(b) and 363(f), including, but not limited to encumbrances (A) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Debtors' or Purchaser's interest in the Assets, or any similar rights or (B)

relating to taxes arising under or out of, in connection with, or in any way relating to the operation of the business prior to the Closing Date, except as provided in the Sale Documents.

CC. All findings of fact and conclusions of law made or announced by the Court at the Sale Hearing or in the Store Closing Order or the Lease Extension Order are incorporated herein; and it is therefore

ORDERED, ADJUDGED AND DECREED THAT:

1. The Sale Relief requested in the Motion is GRANTED as set forth below.
 2. Any and all Objections and Responses concerning the Sale are resolved in accordance with the terms of this Order, as set forth in the record of the Sale Hearing or as agreed to in any letter agreement entered into between or among the Purchaser and any third party (the "Letter Agreements"). To the extent any Objection was not withdrawn, waived, or settled, such Objection, and all reservations of rights or relief requested, are hereby overruled on the merits and denied with prejudice except as set forth in any Letter Agreement. The objection of the Ad Hoc Committee is withdrawn and the objection of the Indenture Trustee is withdrawn and settled pursuant to the terms and conditions of the Noteholder Settlement .
 3. The terms and conditions of the Noteholder Settlement are found to be fair, reasonable, and in the interest of the estates and are hereby approved in all respects.
 4. The funding of the GUC Trust is fair and reasonable and is approved in all respects.
- Approval of Sale Documents**
5. Pursuant to 11 U.S.C. § 363(b), the Sale, the Sale Documents and the transactions contemplated thereby are approved in all respects.

6. Pursuant to 11 U.S.C. § 363(b), the Debtors are hereby authorized to and directed to sell the Assets to the Purchaser and consummate the Sale in accordance with and subject to the terms and conditions of the Sale Documents, and to transfer and assign all right, title and interest (including common law rights) to all property, licenses and rights to be conveyed in accordance with and subject to the terms and conditions of the Sale Documents, and are further authorized and directed to execute and deliver, and are empowered to perform under, consummate and implement, the Sale Documents, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Sale Documents, including without limitation the related documents, exhibits and schedules, and to take all further actions as may be reasonably requested by Purchaser for the purposes of assigning, transferring, granting, conveying and conferring to Purchaser or reducing to possession, the Assets, or as may be necessary or appropriate to the performance of the Debtors' obligations as contemplated by the Sale Documents.

Transfer of Assets

7. Pursuant to 11 U.S.C. §§ 363(b) and 363(f), upon the Closing Date, under the Asset Purchase Agreement, the Assets shall be transferred to the Purchaser free and clear of all mortgages, restrictions, hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, options, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens (including, without limitation, mechanics', materialmen's and other consensual and non-consensual liens and statutory liens), judgments, demands, encumbrances, rights of first refusal, offsets, contracts, recoupment, rights of recovery, claims for reimbursement, contribution, indemnity, exoneration, products liability, alter-ego, environmental, or tax, decrees of any Court or foreign or domestic governmental entity, 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, debts arising in any way in connection with any agreements, acts, or failures to act, of any of the Debtors or any of the Debtors' predecessors or affiliates, claims (as that term is defined in the Bankruptcy Code), reclamation claims, obligations, liabilities, demands, guaranties, options, rights, contractual or other commitments, restrictions, interests and matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, notices or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these bankruptcy cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under doctrines of successor liability (collectively, "Interests or Claims"), with all such Interests or Claims to attach to the Cash Proceeds in the order of their priority, with the same validity, force and effect which they now have as against the Assets, subject to any claims and defenses the Debtors may possess with respect thereto. Following the Closing Date, no holder of any Interests or Claims in the Assets shall interfere with Purchaser's use and enjoyment of the Assets based on or related to such Interests or Claims, or any actions that the Debtors may take in their chapter 11 cases and no person shall take any action to prevent, interfere with or otherwise enjoin consummation of the transactions contemplated in or by the Sale Documents or this Order. Notwithstanding the foregoing, and the payment by the Purchaser of the GE DIP Obligations, the DIP Liens shall not be released, terminated, and/or assigned, and shall attach to all proceeds of the Sale held by the Debtors as well as any Excluded Assets held by the Debtors, until Indefeasible Payment of all of the GE DIP Obligations in accordance with the DIP Credit Agreement and the Final DIP Order. Until the Indefeasible Payment of all of the

GE DIP Obligations, (a) the DIP Liens are first priority, continuing, valid, binding, enforceable, non-avoidable and automatically perfected, and are senior and superior to any security, mortgage, or collateral interest or lien or claim to any of the DIP Collateral, subject only to the Carve Out, the Prior Liens, the Indenture Liens of the Indenture Collateral Agent and the Noteholders in any Pre-Petition Indenture Collateral that does not constitute Pre-Petition Credit Collateral, and the liens granted to Bank of America, N.A. pursuant to paragraph 2(i) of the Final DIP Order, (b) GECC shall have a DIP Superpriority Claim (as defined in the Final DIP Order) for the GE DIP Obligations, (c) unless waived in writing by GECC, GECC shall not waive any Event of Default arising, or which may arise, under the DIP Credit Agreement or the Final DIP Order, and (d) GECC shall retain any and all rights, remedies, claims, privileges, liens or security interests granted in favor of, or conferred upon the DIP Agent and the DIP Lenders by the terms of the DIP Credit Agreement or the Final DIP Order.

8. Except as expressly provided in the Sale Documents, Purchaser is not assuming nor shall it or any affiliate of Purchaser be in any way liable or responsible, as a successor or otherwise, for any liabilities, debts, or obligations of the Debtors in any way whatsoever relating to or arising from the Debtors' ownership or use of the Assets prior to the consummation of the transactions contemplated by the Sale Documents, or any liabilities calculable by reference to the Debtors or their assets or operations, or relating to continuing or other conditions existing on or prior to consummation of the transactions contemplated by the Sale Documents, which liabilities, debts, and obligations are hereby extinguished insofar as they may give rise to liability, successor or otherwise, against Purchaser or any affiliate of the Purchaser.

9. All persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding interests or claims arising in any way in connection with any acts, or failure to act, of the Debtors or the Debtors' predecessors or affiliates, claims (as that term is defined in the Bankruptcy Code), obligations, demands, or guaranties of any kind and nature against or in the Debtors or the Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtors, the Assets, the operation of the Debtors' Business prior to the Closing Date, or the transfer of the Assets to the Purchaser and the subsequent assumption and assignment of the Leases, hereby are, and will be (upon consummation of an assumption and assignment of a Lease or Contract in accordance with this Order), forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, their property, or any designee, such persons' or entities' interests.

10. The transfer of the Assets to Purchaser pursuant to the Sale Documents does not require any consents other than as specifically provided for in the Sale Documents and constitutes a legal, valid, and effective transfer of the Assets, and shall vest Purchaser with all right, title, and interest of the Debtors in and to the Assets free and clear of all Interests of any kind or nature whatsoever (except for any Permitted Liens and the Assumed Liabilities).

Designation Rights and Procedures for Leases

11. The Debtors shall be, and hereby are, authorized and empowered to sell, transfer, and convey the Designation Rights to the Purchaser pursuant to the Asset Purchase Agreement.

12. The Purchaser shall have until May 31, 2006 (the "Designation Deadline") to designate any Lease that Purchaser desires to be assumed and assigned and to whom.

13. At any time prior to the expiration of the Designation Deadline, Purchaser shall have the right, which right may be exercised at any time and from time to time in Purchaser's sole and absolute discretion, to provide written notice to the Debtors (each such notice, a "Property Dropout Notice") of Purchaser's (or its designee's) election to discontinue its efforts to market and attempt to sell any Lease (each a "Dropout Property" and collectively, the "Dropout Properties"). Upon Debtors' receipt of a Property Dropout Notice, Purchaser's obligation to pay expenses for the Dropout Property described therein (including Real Estate Occupancy Expenses) shall continue ten (10) days after the Purchaser delivers the Property Dropout Notice for such Dropout Property. Upon Purchaser's delivery of a Property Dropout Notice, the affected Lease shall be deemed an Excluded Lease, and Debtors may dispose of such property in such manner as Debtors may elect, and all proceeds realized upon a disposition of same shall be the exclusive property of Debtors.

14. Following the receipt of a Property Dropout Notice or the expiration of the Designation Deadline, the Debtors are authorized to enter into lease termination agreements with the landlords of the Store Closing Locations without further Court approval, provided that such agreements provide for such lessors to irrevocably waive or relinquish all rejection damage claims against the Debtors' estates in connection with such terminated lease(s). The Debtors shall seek separate Court approval of any such lease termination agreement that does not so provide for the lessor's waiver of its rejection damage claim against the Debtors' estates.

15. Following the receipt of a Property Dropout Notice or the expiration of the Designation Deadline, the Debtors are authorized to reject any lease for a Store Closing Location

upon five (5) days' written notice ("Rejection Notice") to the affected landlord(s) (at the addresses utilized for the service of the Sale Motion), which rejection (subject to 11 U.S.C. § 365(g)) will be effective on the later of (a) the fifth day following service of the Rejection Notice to the effected lessor or (b) the date of surrender of the leased premises to the lessor (delivery of the keys to the premises by hand delivery or overnight courier being deemed satisfactory for surrender hereunder) (the "Lease Rejection Effective Date") without the necessity of a further order of the Court; provided, however, the Debtors shall serve any such Rejection Notice by facsimile, e-mail, hand delivery or overnight delivery service.

16. At any time prior to the Designation Deadline, the Purchaser shall have the right, which right may be exercised at any time and from time to time in Purchaser's sole and absolute discretion, to provide written notice to the Debtors (each such notice, a "Lease Assumption Notice") of Purchaser's election to deem the Lease identified in the subject Lease Assumption Notice(s) a Designee Lease or a Purchased Lease and to require the Debtors to use commercially reasonable efforts to assume and assign such Lease(s) to Purchaser or Purchaser's designee. Within fifteen (15) business days after Purchaser's delivery of a Lease Assumption Notice to Debtors, the Debtors shall, at no additional cost or expense to Purchaser (other than payment of Cure Costs under the Lease), take all requisite actions (including actions required under 11 U.S.C. §§ 363 and 365, if necessary and as applicable) to assume and assign (or in the case of a fee interest, sell, transfer and convey without any representation or warranty of any kind) such Lease(s) to Purchaser or the designee identified by Purchaser in such Lease Assumption Notice(s).

17. For the purposes of Sections 363 and 365, the Debtors may seek to assume and assign a Lease to the Purchaser or its designee by either (i) filing an appropriate motion with

the Court or (ii) filing and serving a notice (the "Lease Designation Notice") on the counterparty on the Lease, and if applicable, any other Affected Party with an interest in such Lease (the "Affected Parties"). The Lease Designation Notice shall set forth (i) the identity of the proposed assignee; (ii) the proposed purpose for which the property subject to the Lease is to be used; (iii) the name and address of the person from whom information pertaining to adequate assurance of future performance may be obtained, and (iv) the amount of any cure payment that must be made by or on behalf of the Debtors to effect the assumption and assignment of the Lease pursuant to Sections 363 and 365 of the Bankruptcy Code (the "Cure Cost"). Any Affected Party shall have ten (10) days from the date of service of the Lease Designation Notice to serve an objection in writing to the proposed assumption and assignment of such Lease and/or to the Cure Cost amount set forth therein. Any objection to any assumption and assignment of a Lease shall be served by facsimile and either hand-delivery or overnight courier on the Purchaser, counsel for the Purchaser, the Debtors, counsel for the Debtors, counsel from the Debtors' secured lenders, counsel for the Official Committee, counsel for the ad hoc committee of the senior noteholders and the United States Trustee (collectively, the "Included Notice Parties").

18. If a timely written objection is made to the assumption and assignment of such Lease, and the objection is not consensually resolved within ten (10) days following service of the objection, the Debtors shall schedule a hearing with the Court to consider the objection. If the objection is upheld by the Court, Purchaser shall, at its option, retain the Designation Rights to such Lease or may designate such Lease an Excluded Lease. If the objection is overruled or withdrawn, or if no objection is timely filed and served, or if all Affected Parties consent in writing to the assumption and assignment, then the assumption and assignment at issue shall occur immediately upon such action or the passing of the deadline (without further court order

unless Purchaser requests an Assumption Order be entered), and the Affected Parties shall be deemed to have agreed to the Cure Cost amount set forth in the Lease Designation Notice and consented to the assumption and assignment and to have waived all objections. Moreover, if no objection is timely filed and served, or if such objection involves only a "cure issue" that will not affect the assignment of such Lease, the Purchaser may promptly file and serve on the Included Notice Parties a certificate of "no objection," and the assumption and assignment shall be deemed effective and binding (without further court order unless the Purchaser requests an additional Assumption Order be obtained) and the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections other than as to cure amounts.

19. From the Closing Date through the Designation Deadline, extension and renewal options contained in Leases which purport to be personal only to the Debtors or to be exercisable only by the Debtors constitute an enforceable restriction on assignment and may be freely exercised by the Purchaser to its full extent.

Designation Rights and Procedures for Contracts

20. Prior to the Designation Deadline, the Purchaser shall designate each Contract as an Excluded Contract, a Purchased Contract or a Designee Contract. The Purchaser shall act as the Debtors' agent-in-fact for the sole purpose of allowing Purchaser to continue to operate under the Contracts until such time as Purchaser either designates such Contract as a Purchased Contract or Designee Contract, or designates that it does not want to have such contract assumed and assigned to it or its designee; provided, however, during such period, Purchaser shall be responsible for all obligations arising from or in connection with such Contract(s).

21. At any time prior to the expiration of the Designation Deadline, Purchaser shall have the right, which right may be exercised at any time and from time to time in Purchaser's sole and absolute discretion, to provide written notice to the Debtors (each such notice, an "Excluded Contract Notice") of Purchaser's (or its designee's) decision not to assume or assume and assign a Contract. Upon Debtors' receipt of an Excluded Contract Notice, Purchaser's obligation to pay expenses under the Excluded Contract described therein shall continue ten (10) days after the Purchaser delivers the Excluded Contract Notice. Upon Purchaser's delivery of an Excluded Contract Notice, the affected Contract shall be deemed an Excluded Contract, and Debtors may dispose of such Contract in such manner as Debtors may elect, and all proceeds realized upon a disposition of same shall be the exclusive property of Debtors.

22. At any time prior to the Designation Deadline, the Purchaser shall have the right, which right may be exercised at any time and from time to time in Purchaser's sole and absolute discretion, to provide written notice to the Debtors (each such notice, a "Contract Assumption Notice") of Purchaser's election to assume or assume and assign the Contract identified in the subject Contract, and to require the Debtors to use commercially reasonable efforts to assume and assign such Contract to Purchaser or Purchaser's designee. Within fifteen (15) business days after Purchaser's delivery of a Contract Assumption Notice to Debtors, the Debtors shall, at no additional cost or expense to Purchaser (other than payment of Cure Costs under the Lease), take all requisite actions (including actions required under 11 U.S.C. §§ 363 and 365, if necessary and as applicable) to assume and assign such Contract(s) to Purchaser or the designee identified by Purchaser in such Contract Assumption Notice(s).

23. For the purposes of Sections 363 and 365, the Debtors may seek to assume and assign a Contract to the Purchaser or its designee by either (i) filing an appropriate motion with the Court or (ii) filing and serving a notice (the "Contract Designation Notice") on the counterparty on the Contract, and if applicable, any other Affected Party with an interest in such Contract (the "Affected Parties"). The Contract Designation Notice shall set forth (i) the identity of the proposed assignee; (ii) the name and address of the person from whom information pertaining to adequate assurance of future performance may be obtained, and (iii) the amount of any Cure Cost payment that must be made by or on behalf of the Debtors to effect the assumption and assignment of the Contract pursuant to Sections 363 and 365 of the Bankruptcy Code. Any Affected Party shall have ten (10) days from the date of service of the Contract Designation Notice to serve an objection in writing to the proposed assumption and assignment of such Contract and/or to the Cure Cost amount set forth therein. Any objection to any assumption and assignment of a Contract shall be served by facsimile and either hand-delivery or overnight courier on the Purchaser, counsel for the Purchaser, the Debtors, counsel for the Debtors, counsel from the Debtors' secured lenders, counsel for the Official Committee, counsel for the Ad Hoc Committee and the United States Trustee (collectively, the "Included Notice Parties").

24. If a timely written objection is made to the assumption and assignment of a Contract, and the objection is not consensually resolved within ten (10) days following service of the objection, the Debtors shall schedule a hearing with the Court to consider the objection. If the objection is upheld by the Court, Purchaser shall, at its option, retain the Designation Rights to such Contract or may designate such Contract an Excluded Contract. If the objection is overruled or withdrawn, or if no objection is timely filed and served, or if all Affected Parties

consent in writing to the assumption and assignment, then the assumption and assignment at issue shall occur immediately upon such action or the passing of the deadline (without further court order unless Purchaser requests an Assumption Order be entered), and the Affected Parties shall be deemed to have agreed to the Cure Cost amount set forth in the Contract Designation Notice and consented to the assumption and assignment and to have waived all objections. Moreover, if no objection is timely filed and served, or if such objection involves only a "cure issue" that will not affect the assignment of such Contract, the Purchaser may promptly file and serve on the Included Notice Parties a certificate of "no objection," and the assumption and assignment shall be deemed effective and binding (without further court order unless the Purchaser requests an additional Assumption Order be obtained) and the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections other than as to cure amounts.

25. Upon the assumption and assignment of a Lease or Contract to the Purchaser or its Designee as provided herein, the Leases and Contracts shall be free and clear of any claims or defaults. In accordance with 11 U.S.C. §§ 363 and 365, the Purchaser or Designee shall be fully and irrevocably vested in all right, title, and interest of the Debtors in and to such Lease or Contract and shall be responsible for all obligations under such Lease or Contracts subsequent to the effective date of such assumption and assignment. Pursuant to the Asset Purchase Agreement, the Purchaser shall have the sole responsibility for pay any Cure Costs in connection with the assumption and assignment of the Leases and Contracts. The Debtors have no liability for any such losses.

26. The Debtors and the Purchaser, as well as their officers, employees, and agents, shall be, and hereby are, authorized to take any and all actions and/or execute any and all

documents as may be necessary or desirable to consummate the transactions contemplated by the Asset Purchase Agreement with respect to Designation Rights. Any actions taken by the Debtors and the Purchaser necessary or desirable to consummate such transactions prior to the entry of this Order are hereby ratified.

Store Closings

27. The Debtors and the Purchaser are authorized and empowered to conduct the Store Closing Sales pursuant to the terms of the Agency Agreement, this Order and the Store Closing Order.

Additional Provisions

28. The consideration provided by Purchaser for the Assets under the Asset Purchase Agreement is hereby deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

29. On the Closing Date, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of all of the Assets or a bill of sale transferring good and marketable title in such Assets to Purchaser, on the Closing Date pursuant to the terms of the Sale Documents.

30. Except as otherwise provided in the Sale Documents, on the Closing Date, each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release their respective Interests or Claims against the Assets, if any, as may have been recorded or may otherwise exist.

31. If any person or entity that has filed financing statement, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Interests or Claims against or 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 satisfactions, releases of all Interests or Claims that the person or entity has with respect to the Assets, or otherwise, the Debtors are 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.

32. All entities who are presently, or on the Closing may be, in possession of some or all of the Assets to be sold, transferred or conveyed pursuant to the Sale Documents are hereby directed to surrender possession of the Assets to the Purchaser on the Closing Date.

33. The transactions contemplated by the Sale Documents have been bargained for and undertaken by the Purchaser and the Debtors at arm's length, without collusion, and in good faith within the meaning of Bankruptcy Code section 363(m); the Purchaser and the Debtors have not engaged in any conduct that would cause or permit the Sale Documents to be avoided. Upon the granting of this Order by this Court with respect to the Sale Documents, Purchaser shall be entitled to the protection of section 363(m) of the Bankruptcy Code.

34. Pursuant to Bankruptcy Code section 363(m), if any or all of the provisions of this Order are hereafter reversed, modified, or vacated by a subsequent order of this Court or any other court, such reversal, modification, or vacatur shall not affect the validity and enforceability of any transfer under the Sale Documents or obligation or right granted pursuant to the terms of this Order (unless stayed pending appeal), and notwithstanding any reversal, modification or vacatur shall be governed in all respects by the original provisions of this Order and the Sale Documents, as the case may be.

35. The consideration paid by Purchaser in the Sale for the Assets under the Sale Documents is fair and reasonable, and may not be avoided or otherwise challenged under 11 U.S.C. § 363(n).

36. Other than the Assumed Liabilities, the sale, transfer, assignment and delivery of the Assets pursuant to the Sale Documents shall not be subject to any Interests or Claims, and Interests or Claims of any kind or nature whatsoever shall attach only to the net proceeds of the Sale in their order of priority. All persons holding Interests or Claims against the Assets of any kind or nature whatsoever (other than persons holding Assumed Liabilities) shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Interests or Claims of any kind or nature whatsoever against Purchaser, its property, its successors and assigns, its affiliates or the Assets, with respect to any Interests or Claims of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtors, their estates, or the Assets. Following the Closing Date, no holder of an Interest or Claim (other than holders of Assumed Liabilities) against the Debtors shall interfere with Purchaser's title to or use and enjoyment of the Assets based on or related to such Interests or Claims and all such Interests and Claims, if any, shall be and hereby are channeled, transferred and attached solely and exclusively to the proceeds of the Sale in their order of priority.

37. Except as otherwise provided in the Sale Documents and documents executed in connection therewith, the Purchaser is not assuming nor shall it in any way whatsoever be liable or responsible, as a successor or otherwise, for any liabilities, debts, commitments or obligations (whether known or unknown, disclosed or undisclosed, absolute, contingent, inchoate, fixed or otherwise) of the Debtors or the Sellers or any liabilities, debts,

commitments or obligations in any way whatsoever relating to or arising from the Assets or the Sellers' operations or use of the Assets or Business on or prior to the Closing Date or any such liabilities, debts, commitments or obligations that in any way whatsoever relate to periods on or prior to the Closing Date or are to be observed, paid, discharged or performed on or prior to the Closing Date (in each case, including any liabilities that result from, relate to or arise out of tort or other product liability claims), or any liabilities calculable by reference to the Debtor or the Sellers or their assets or operations, or relating to continuing conditions existing on or prior to the Closing Date, which liabilities, debts, commitments 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, commitments or obligations has delivered to the Purchaser a release thereof. Without limiting the generality of the foregoing, except as provided in the Sale Documents and documents executed in connection therewith or by federal statute, the Purchaser shall not be liable or responsible, as a successor or otherwise, for the Debtors' or the Sellers' liabilities, debts, commitments or obligations, whether calculable by reference to the Debtors or the Sellers, arising on or prior to the Closing and under or in connection with (i) any employment or labor agreements, consulting agreements, severance arrangements, change-in-control agreements or other similar agreement to which any Debtor or Seller is a party, (ii) any pension, welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of the Debtors or the Sellers, (iii) the cessation of the Debtors' or Sellers' operations, dismissal of employees, or termination of employment or labor agreements or pension, welfare, compensation or other employee benefit plans, agreements, practices and programs, obligations that might otherwise arise from or pursuant to the Employee Retirement Income Security Act of 1974, as amended, the Fair Labor Standard Act, Title VII of

the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Federal Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, COBRA, or the Worker Adjustment and Retraining Notification Act, (iv) workmen's compensation, occupational disease or unemployment or temporary disability insurance claims, (v) environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to Closing (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., (vi) any bulk sales or similar law, (vii) any liabilities, debts, commitments or obligations of, or required to be paid by, the Debtors or Seller for any Taxes of any kind for any period, (viii) any liabilities, debts, commitments or obligations for any Taxes relating to the business of the Debtors or Sellers or the Assets for or applicable to the pre-closing period, including any property taxes, (ix) any litigation, and (x) any products liability or similar claims, whether pursuant to any state or any federal laws or otherwise.

38. The recitation, in the immediately preceding paragraph of this 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, commitments or obligations referred to therein.

39. Except as otherwise expressly provided in the Sale Documents, no person or entity, including, without limitation, any federal, state or local governmental agency, department or instrumentality, shall assert by suit or otherwise against the Purchaser or its successors in interest any claim that they had, have or may have against the Debtors or Sellers, or any liability, debt or obligation relating to or arising from the Assets, or the Debtors' operations

or the Seller's operations of the Business or use of the Assets, including, without limitation, any liabilities calculable by reference to the Debtors, or the Sellers or their respective assets or operations and all persons and entities are hereby enjoined from asserting against the Purchaser in any way any such claims, liabilities, debts or obligations.

40. Upon the closing of the transactions contemplated by the Sale Documents, Purchaser shall not be deemed to (i) be the successor of the Debtors, (ii) have, de facto, or otherwise, merged with or into the Debtors, or (iii) be a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors.

41. The Debtors, including but not limited to their respective officers, employees and agents, are hereby authorized to execute such documents and do such acts as are necessary or desirable to carry out the transactions contemplated by the terms and conditions of the Sale Documents and this Order. The Debtors shall be, and they hereby are, authorized to take all such actions as may be necessary to effectuate the terms of this Order.

42. The automatic stay pursuant to 11 U.S.C. § 362 is hereby lifted with respect to the Debtors to the extent necessary, without further order of the Court (i) to allow the Purchaser to give the Debtors any notice provided for in the Agreement, and (ii) to allow the Purchaser to take any and all actions permitted by the Sale Documents in accordance with the terms and conditions thereof.

43. All amounts, if any, to be paid by Debtors pursuant to the Sale Documents constitute administrative expenses under 11 U.S.C. §§ 503(b) and 507(a)(1) and are immediately payable if and when any Debtor's obligations arise under the Sale Documents without further order of the Court, including the full amount of any Post-Closing Purchase Price Adjustment payable pursuant to the Agreement, and any amounts that become payable by any Sellers

pursuant to the Agreement or any of the documents delivered by the Sellers pursuant to or in connection with the Agreement.

44. This Order, the Store Closing Order and the Sale Documents shall be binding in all respects upon all creditors (whether known or unknown) of any Debtor, all successors and assigns of the Purchaser, the Debtors and their affiliates and subsidiaries, and any subsequent trustees appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in these bankruptcy cases or the confirmation order confirming any such chapter 11 plan shall conflict with or derogate from the provisions of the Sale Documents or this Order. To the extent any provision of this Order is inconsistent with the terms of the Asset Purchase Agreement, the Asset Purchase Agreement shall govern.

45. Nothing contained in any of this Order, the Store Closing Order or the Sale Documents shall be deemed to limit the ability of Purchaser to grant to any lender to Purchaser, a lien on or security interest in any Designation Rights being conveyed or granted to Purchaser under any of this Order or the Sale Documents. Additionally, prior to the Designation Deadline any secured lender to Purchaser is hereby authorized, upon an event of default by Purchaser under any loan document entered into by the Purchaser and such secured lender (the "Purchaser Financing Documents"), and acceleration of the underlying loan(s), to access and occupy a Leased Real Property to realize upon any collateral securing the obligations of the Purchaser under the Purchaser Financing Documents located at such Leased Real Property Location upon 10 business days notice to the Debtors, the Official Committee, the United States Trustee and any landlord on the applicable Leased Real Property.

46. Transferred Employees shall not be entitled to any severance or similar payment from the Debtors on account of the termination of their employment by the Debtors prior to the Closing.

47. After payment in full in cash of GE DIP Obligations as is due at the closing (or as otherwise agreed to by GE and the Purchaser), GE, at the sole cost and expense of the Purchaser, (1) shall file releases of liens and security interests and terminations, if any, as the Debtors or the Purchaser may request in order to fully terminate all liens and security interests on the Assets existing in favor of GE and (2) shall execute and/or deliver any and all other documents and instruments as may be necessary or appropriate to more fully evidence the release or termination of any security interest, lien, encumbrance or collateral assignment claimed by GE in any of the Assets.

48. The terms and provisions of the Sale Documents and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, and their creditors, Purchaser, and its respective affiliates, successors, and assigns, and any affected third parties, including, but not limited to, all persons asserting an Interest in the Assets to be sold to Purchaser pursuant to the Sale Documents, notwithstanding any subsequent appointment of any trustee(s), party, entity, or other fiduciary under any section of any chapter of the Bankruptcy Code, as to which trustee(s), party, entity, or other fiduciary such terms and provisions likewise shall be binding; provided, however, that, if any terms and provisions of a Letter Agreement are inconsistent with this Order or the Sale Documents, the terms and provisions of the Letter Agreement shall govern.

49. Notwithstanding anything contained herein to the contrary; (1) the term "Assets" as defined herein does not include property that is not property of the estate, such as

funds that are trust funds under any applicable state lien laws; (2) nothing contained herein shall constitute a waiver of or prejudice to any rights or remedies that Racanelli Construction Corporation or its affiliate ("RCC") may have in connection with any funds that are determined to be trust fund assets; and (3) the automatic stay is hereby released to the extent necessary to permit any of the Debtors to be named as a nominal defendant in any action by RCC to foreclose its liens as against liable non-debtor property and entities.

50. To the extent permitted by Section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these Chapter 11 cases or the consummation of the Sale.

51. This Order and the Store Closing Order collectively constitute this Court's approval of the Sale Documents and the transactions contemplated thereby. Because the transactions contemplated by the Sale Documents are integrated, this Order and Store Closing Order are not divisible and may not be appealed separately. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

52. Any provision in any agreement to which any of the Sellers is a party that purports to declare a breach or default as a result of a change of control in respect of the sale or transfer of the Assets is hereby deemed unenforceable and all such agreements shall remain in full force and effect.

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

54. The Sale Documents and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court; provided that any such modification, amendment, or supplement does not have a material adverse effect on the Debtor's estates.

55. The provisions of this Order are nonseverable and mutually dependent.

56. Nothing in any order of this Court or contained in any plan of reorganization or liquidation confirmed in these chapter 11 cases, or in any subsequent or converted cases of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with or derogate from the provisions of the Sale Documents, the GUC Trust, the Noteholder Settlement or the terms of this Order.

57. Nothing in this Order shall alter or amend the Asset Purchase Agreement and the obligations of Sellers and Purchaser thereunder.

58. Notwithstanding anything in this Order, all rights of parties to Leases or Contracts subject to the Purchaser's Designation Rights regarding assumption and assignment, cure and adequate protection are hereby reserved until such time as the Purchaser exercises such Designation Rights with respect to a particular Lease or Contract, and to the extent such matters cannot be resolved consensually between or among the parties to such contract or Lease and the Purchaser or its designees, such matters shall be resolved by an order of the Court. Moreover, nothing in this Order shall preclude any third party to a Contract or Lease from asserting that a Lease or Contract cannot be assumed and assigned because of an existing breach that may not be cured.

59. This Court shall retain exclusive jurisdiction to enforce the terms and provisions of this Order, the Bidding Procedures Order, the Sale Documents in all respects and to

decide any disputes arising between the Debtors, the Purchaser, and/or their respective successors and assigns, with respect thereto, including, but not limited to, interpretation of the terms, conditions and provisions thereof, and the status, nature and extent of the Assets, and all issues and disputes arising in connection with the relief authorized herein, inclusive of those concerning the transfer of the Assets free and clear of Interests or Claims.

60. Notwithstanding Fed. R. Bankr. P. 6004(g), 6006(d) and 7062, this Order shall be effective and enforceable immediately upon entry.

61. Within two (2) business days of entry of this Order, the Debtor shall serve copies of this Order via e-mail, facsimile or overnight courier, on: (i) the Attorney General's office for each state where a Sale will be held, (ii) the city and/or county consumer protection agency or similar agency for each city and/or county where a Sale will be held, and (iii) the division of consumer protection for each state where a Sale will be held.

Dated: New York, New York
December 14, 2005

/s/Burton R. Lifland
Honorable Burton R. Lifland
United States Bankruptcy Judge