

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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In re:)	
)	
rue21, inc., <i>et al.</i> , ¹)	Case No. 17-22045 (GLT)
)	
	Debtors.)	Chapter 11
)	(Joint Administration Requested)
rue21, inc., <i>et al.</i> ,)	
)	
	Movants,)	
)	
	v.)	
)	
No Respondent.)	
)	
	Respondent.)	
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**DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO ASSUME
THE CONSULTING AGREEMENT, (II) APPROVING PROCEDURES
FOR STORE CLOSING SALES, AND (III) GRANTING RELATED RELIEF**

rue21, inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"),² respectfully state the following:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: rue21, inc. (1645); Rhodes Holdco, Inc. (6922); r services llc (9425); and rue services corporation (0396). The location of the Debtors' service address is: 800 Commonwealth Drive, Warrendale, Pennsylvania 15086.

² A detailed description of the Debtors and their business, and the facts and circumstances supporting this Motion and the Debtors' chapter 11 cases, is set forth in greater detail in the *Declaration of Todd M. Lenhart, Acting Chief Financial Officer and Senior Vice President of Accounting of rue21, inc. in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), filed contemporaneously with the Debtors' voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), on May 15, 2017 (the "Petition Date"). The First Day Declaration is fully incorporated herein by reference.



Relief Requested³

1. By this motion (this “Motion”), the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and the “Final Order”): (a) authorizing the Debtors to assume the consulting agreement dated as of April 7, 2017, (as amended, revised, or supplemented from time to time, the “Consulting Agreement”) by and among rue21, inc. (the “Merchant”) and Gordon Brothers Retail Partners, LLC (the “Consultant”) (a copy of which is annexed as **Schedule 1** to **Exhibit A** attached hereto); (b) authorizing and approving store closings or similar themed sales in accordance with the terms of the store closing sale procedures (the “Store Closing Procedures”) annexed as **Schedule 2** to **Exhibit A** attached hereto, with such sales to be free and clear of all liens, claims, and encumbrances; (c) authorizing procedures to conduct Store Closing Sales in any Additional Closing Stores; and (d) granting related relief. In support of the relief requested herein, the Debtors submit the Declaration of Stephen Coulombe, a managing director at Berkeley Research Group, LLC (“BRG”), which has been filed contemporaneously herewith (the “Coulombe Declaration”).

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Western District of Pennsylvania (the “Bankruptcy Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Bankruptcy Court in connection with this Motion to the extent that it is later determined that the Bankruptcy Court, absent consent of the parties,

³ Capitalized terms used and not defined have the same meanings given to such terms elsewhere in this Motion, or in the First Day Declaration, as applicable.

cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

4. The bases for the relief requested herein are sections 105, 363, 365 and 554 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, and 6004, and rule 9013-1 of the Local Bankruptcy Rules for the Western District of Pennsylvania (the "W.P.A.LBR").

Background

5. rue21, inc. ("rue21") is a specialty fashion retailer of girls' and guys' apparel and accessories. As of the Petition Date, the Debtors had approximately 1,179 stores in various strip centers, regional malls, and outlet centers throughout the contiguous 48 states. The Debtors have various "core" rue21 brands in girls' apparel (*rue21*), intimate apparel (*true*), girls' accessories (*etc!*), girls' cosmetics (*ruebeauté!*), guys' apparel and accessories (*Carbon*), girls' plus-size apparel (*rue+*), and girls' swimwear (*ruebleu*). These rue21 brands focus on "Fashion Meets Value"—providing quality, yet affordable, young adult clothing. The Debtors sell their merchandise to customers in the contiguous United States through their online store as well as in typical "brick and mortar" locations. The Debtors are headquartered in Warrendale, Pennsylvania and have one distribution center located in Weirton, West Virginia.

6. On the date hereof, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated.

7. The Debtors have submitted various first day motions that seek to stabilize the Debtors' business operations and allow the Debtors to commence these chapter 11 cases in the

best position possible to maximize the value of their estates. The Debtors have also requested the Bankruptcy Court designate the chapter 11 cases as complex cases pursuant to W.PA.LBR 1002-2, and to jointly administer them pursuant to Bankruptcy Rule 1015(b).

I. The Store Closings

8. Recognizing the need to right-size their store footprint to align with industry conditions, prior to the Petition Date, the Debtors' management team and advisors, including BRG, undertook an extensive analysis of the Debtors' existing store footprint to determine if the Debtors should close stores in connection with their broader financial and operational restructuring initiatives. The Debtors' management team, in the exercise of their sound business judgment and in consultation with their advisors ultimately determined that it is appropriate to close (the "Store Closings") at least 396 underperforming brick and mortar store locations (the "Closing Stores").⁴ The list of Closing Stores attached to the Consulting Agreement as **Exhibit A** is currently under review by the Debtors. The Debtors reserve their rights to add or remove stores from that list in the exercise of their reasonable business judgment, subject to entry of the Interim Order or the Final Order, as applicable.

9. In formulating the list of Closing Stores, the Debtors considered, among other factors, historical store profitability, recent sales trends, the geographic market in which the store is located, the potential to realize negotiated rent reductions with applicable landlords, and specific circumstances related to a store's performance. The Closing Stores are either unprofitable, are significantly underperforming the Debtors' remaining portfolio, or are not a strategic fit with the Debtors' business going forward. Many of the Closing Stores are located in geographic markets that the Debtors have made a strategic decision to exit, have experienced

⁴ Seven additional stores were closed in the ordinary course of business prior to the Debtors' entry into the Consulting Agreement and commencement of the Store Closing Sales.

poor or negative sales trends, and no longer fit within the Debtors' business plan. In order to maximize the value of their estates, the Debtors may need to close additional stores during these chapter 11 cases (such stores, the "Additional Closing Stores," and together with the Closing Stores, the "Stores"). The Stores to be closed (following liquidation of their inventory) are predominantly standalone rue21-branded retail and clearance outlet stores.

10. The Debtors thereafter engaged the Consultant to begin liquidating: (a) the saleable inventory located in the Stores as of April 14, 2017 and certain inventory that was then located in the Debtors' distribution center (collectively, the "Merchandise"); and (b) the furniture, fixtures, and equipment (the "FF&E" and, together with the Merchandise, the "Store Closure Assets") located in the Stores, and otherwise preparing the Stores for turnover to the applicable landlords on the terms set forth in the Consulting Agreement. The liquidation of the Store Closure Assets is expected to yield approximately \$37 million in net proceeds. The Store Closings began on or about April 14, 2017 and are expected to continue until at least June 25, 2017. The Debtors seek to assume the Consulting Agreement and allow the Consultant to continue its work uninterrupted. The Debtors have determined that: (a) the services of the Consultant are necessary for a seamless and efficient large-scale store closing process, as is contemplated by this Motion, and to maximize the value of the assets being sold; and (b) the Consultant is capable of performing the required tasks on favorable financial terms. The Consultant's affiliate, Gordon Brothers Asset Advisors, has on prior occasions performed appraisals of the Debtors' assets on behalf of certain interest parties. The most recent such appraisal was completed in October 2016.

11. Assumption of the Consulting Agreement will allow the Debtors to use the experience and resources of the Consultant in performing large-scale liquidations at the Stores in

a format that allows the Debtors to retain control over the sale process and that will provide the maximum benefit to their estates. Prior to the Petition Date, the ability of the Debtors and the Consultant to advertise the sales at the Closing Stores as “store closing” sales was limited in some jurisdictions based on permitting requirements or by the terms of the Debtors’ leases. The ability to use the “store closing” message in advertising is critical to drive sales, and thus, the maximum possible recovery for the Debtors and their estates.

II. The Consulting Agreement

12. Pursuant to the Consulting Agreement, the Consultant will serve as the exclusive agent to the Debtors in connection with the sale of the Store Closure Assets (the “Store Closing Sales”). A summary of the salient terms of the Consulting Agreement is set forth below.⁵

TERM	CONSULTING AGREEMENT
<p>Services Provided by Consultant</p>	<p>The Consultant shall be retained as the Debtors’ exclusive, independent consultant to conduct the Store Closing Sales at the Stores during the Sale Term (as defined below), and in connection therewith, the Consultant shall, throughout the Sale Term: (a) recommend appropriate discounting to effectively sell all of the Merchant’s goods located at the Stores as of the Sale Commencement Date (as defined below) in accordance with a “store closing,” “everything must go,” “sale on everything,” and other mutually agreed upon themed sales, and recommend appropriate point-of-purchase, point-of-sale, and other internal and external advertising in connection therewith; (b) provide qualified supervision to oversee the conduct of the Store Closing Sales; (c) maintain focused and constant communication with Store-level employees and managers to keep them abreast of strategy and timing and to properly effect Store-level communications by Merchant’s employees to customers and others about the Store Closing Sales; (d) establish and monitor accounting functions for the Store Closing Sales, including evaluation of sales of Merchant’s goods located at the Stores by category, sales reporting, and expense monitoring; (e) recommend loss prevention strategies; (f) coordinate with Merchant so that the operation of the Stores is being properly maintained, including ongoing customer services and housekeeping activities; (g) recommend customized strategies</p>

⁵ The following summary chart is for the convenience of the Bankruptcy Court and parties in interest. To the extent there is any conflict between this summary and the Consulting Agreement, the Consulting Agreement shall govern in all respects.

TERM	CONSULTING AGREEMENT
	<p>to transition Merchant’s customers to Merchant’s ongoing retail stores and e-commerce platform; (h) recommend appropriate staffing levels for the Stores and appropriate bonus and/or incentive programs (to be funded by Merchant) for Store employees; and (i) assist Merchant to commence the Store Closing Sales as a “sale on everything,” “everything must go,” and such other themed sale approved by Merchant prior to any bankruptcy filing by Merchant, and transition later in the Sale Term after any bankruptcy filing by Merchant to a “store closing” or other themed sale approved by Merchant.</p>
<p>Sale Term; Vacating Stores</p>	<p>The “<u>Sale Term</u>” with respect to each respective Closing Store commenced on or about April 14, 2017 (the “<u>Sale Commencement Date</u>”) and shall end on June 25, 2017 (the “<u>Sale Termination Date</u>”), <i>provided, however</i>, that the Consultant and the Merchant may mutually agree upon an earlier or later Sale Termination Date with respect to any one or more of the Closing Stores (on a store-by-store basis). At the option of the Merchant, the Merchant may appoint the Consultant, and the Consultant has agreed to serve, as the Merchant’s exclusive independent consultant in connection with the conduct of sales at any Additional Closing Stores on the terms and conditions of the Consulting Agreement (subject only to appropriate adjustments to the Sale Commencement Date, the Sale Termination Date, and the Consultant Controlled Expenses), which Additional Closing Stores shall be set forth in a written supplement to <u>Exhibit A</u> to the Consulting Agreement provided by the Merchant to the Consultant. The addition of Additional Closing Stores shall be subject to the consent of (a) the agent under the Debtors’ proposed asset-based revolving debtor-in-possession credit facility (the “<u>DIP ABL Agent</u>”); (b) the agent and lenders under the Debtors’ term loan debtor-in-possession credit facility (the “<u>DIP Term Loan Parties</u>”); and (c) the group of lenders represented by Jones Day (the “<u>Term Loan Lender Group</u>”).</p> <p>Upon the conclusion of the Sale Term at each Store, the Consultant shall leave such Store in broom clean condition, subject to the Consultant’s right pursuant to Section 6 of the Consulting Agreement to abandon in a neat and orderly manner all unsold Offered FF&E and all Retained FF&E.</p>
<p>Expenses</p>	<p>All expenses incident to the conduct of the Store Closing Sales, and the operation of the Stores during the Sale Term (including without limitation all Consultant Controlled Expenses and all other store-level and corporate expenses associated with the Store Closing Sales) shall be borne by the Merchant, <i>except</i> solely for any of the specifically enumerated Consultant Controlled Expenses that exceed the aggregate budgeted amount (as provided in Section 3(B) of the Consulting Agreement) for such Consultant Controlled Expenses.</p> <p>Attached as <u>Exhibit B</u> to the Consulting Agreement is an expense budget for</p>

TERM	CONSULTING AGREEMENT
	<p>the “<u>Consultant Controlled Expenses</u>.” The Consultant will advance funds for the Consultant’s Controlled Expenses, and the Merchant shall reimburse the Consultant therefor (up to the aggregate budgeted amount) in connection with each weekly reconciliation contemplated by Section 5(B) of the Consulting Agreement upon presentation of reasonable documentation for such actually-incurred expenses. The parties to the Consulting Agreement may from time-to-time mutually agree in writing to increase the budget of Consultant Controlled Expenses based upon circumstances of the Store Closing Sales.</p>
<p>Compensation for Consultant</p>	<p>The Merchant shall pay the Consultant an “<u>Incentive Fee</u>” equal to one and a half percent (1.5%) of Gross Proceeds (as defined in the Consulting Agreement).</p> <p>On a weekly basis in connection with each weekly reconciliation contemplated by Section 5(B) of the Consulting Agreement, the Merchant shall pay the Consultant an amount equal to one and a half percent (1.5%) of Gross Proceeds on account of the prior week’s sales as an advance on account of the Incentive Fee. The parties shall determine the definitive Incentive Fee in connection with the Final Reconciliation. Immediately thereafter, the Merchant shall pay the Consultant any additional amount owed on account of the Incentive Fee.</p> <p>Merchant shall fund to Consultant \$245,000 (the “<u>Special Purpose Payment</u>”) which shall be held by Consultant until the Final Reconciliation (and Merchant shall not apply the Special Purpose Payment to, or otherwise offset any portion of the Special Purpose Payment against, any weekly reimbursement, payment of fees, or other amount owing to Consultant under the Consulting Agreement prior to the Final Reconciliation) and shall be available for application to all of Consultant’s fees and expenses, including without limitation for signage, supervision fees, travel, and any other out-of-pocket expenses incurred in connection with the Store Closing Sales and for any portion of the Incentive Fee not yet remitted to Consultant pursuant to the weekly reconciliation under Section 5(B) of the Consulting Agreement. Without limiting any of Consultant’s other rights, Consultant may apply the Special Purpose Payment to any unpaid obligation owing by Merchant to Consultant under the Consulting Agreement. Any portion of the Special Purpose Payment not used to pay amounts explicitly contemplated by the Consulting Agreement shall be returned to Merchant within three days following the Final Reconciliation and payment of all amounts owed by Merchant to Consultant under the Consulting Agreement.</p>
<p>Conduct of the Store Closing</p>	<p>The Merchant shall have control over the personnel in the Stores and shall handle the cash, debit, and charge card payments for all goods actually sold in the Stores during the Sale Term (the “<u>Sold Merchandise</u>”) in accordance</p>

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Sales	<p>with the Merchant’s normal cash management procedures, subject to the Consultant’s right to audit any such items. The Merchant (and not the Consultant) shall be responsible for ensuring that the Store Closing Sales, and the operation of the Stores (before, during and after the Sale Term) shall be conducted in compliance with all applicable laws and regulations.</p> <p>The Merchant and the Consultant will meet on each Wednesday during the Sale Term to review matters related to the Store Closing Sales reasonably requested by either party; and all amounts payable or reimbursable to the Consultant for the prior week (or the partial week in the case of the first and last weeks) shall be reconciled and paid immediately thereafter. No later than twenty (20) days following the end of the Store Closing Sales, the parties shall complete a final reconciliation and settlement of all amounts contemplated by the Consulting Agreement (the “<u>Final Reconciliation</u>”). From time to time upon request, each party shall prepare and deliver to the other party, such other reports as either party may reasonably request. Each party to the Consulting Agreement shall, at all times during the Sale Term and during the one (1) year thereafter, provide the other with access to all information, books, and records relating to the Store Closing Sales and to the Consulting Agreement. All records and reports shall be made available to the Consultant and the Merchant during regular business hours upon reasonable notice.</p> <p>The Merchant shall be solely responsible for computing, collecting, holding, reporting, and paying all sales taxes associated with the sale of all Sold Merchandise during the Sale Term, and the Consultant shall have absolutely no responsibilities or liabilities therefor.</p> <p>Although the Consultant shall undertake its obligations under the Consulting Agreement in a manner designed to achieve the desired results of the Store Closing Sales and to maximize the recovery to the Merchant, the Merchant expressly acknowledges that the Consultant is not guaranteeing the results of the Store Closing Sales.</p> <p>The Merchant acknowledges that (a) the parties are not conducting an inventory of the Merchant’s goods located at the Stores; (b) the Consultant has made no independent assessment of the beginning levels of such goods; and (c) the Consultant shall not bear any liability for shrink or other loss to the Merchant’s goods at the stores (including without limitation Sold Merchandise).</p> <p>All sales of Sold Merchandise in the Stores during the Store Closing Sales shall be made in the name, and on behalf, of the Merchant.</p> <p>All sales of Sold Merchandise in the Stores during the Sale Term shall be</p>

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	<p>“final sales” and “as is” and all advertisements and sales receipts will reflect the same.</p> <p>The Consultant shall, during the Sale Term at the Stores, cooperate with the Merchant in respect of the Merchant’s procedures governing returns of goods otherwise sold by the Merchant (<i>e.g.</i> not in the Stores during the Sale Term).</p> <p>Subject to compliance with any applicable laws, Merchant permits the Store Closing Sales to be, and shall ensure that the Store Closing Sales otherwise may be, advertised as a “store closing” or other mutually agreed upon handle throughout the term of the Store Closing Sales.</p>
FF&E	<p>Promptly following the Sale Commencement Date, the Merchant shall inform the Consultant of the FF&E located at the Stores which are not to be sold (because Merchant does not have the right to sell such items, because Merchant wished to retain such items for itself or otherwise) (collectively “<u>Retained FF&E</u>”).</p> <p>With respect to all FF&E at the Stores as of the Sale Commencement Date which is not Retained FF&E (collectively the “<u>Offered FF&E</u>”), the Consultant shall have the right to sell such Offered FF&E during the Sale Term on a commission basis equal to twenty percent (20%) of the gross sales of Offered FF&E, net only of sales tax (the “<u>FF&E Commission</u>”).</p> <p>The Merchant shall not reimburse the Consultant for its expenses associated with the sale of the Offered FF&E.</p> <p>The Consultant shall have the right to abandon any unsold Offered FF&E and all Retained FF&E at the Stores at the conclusion of the Sale Term without liability to the Merchant or any third party.</p>
Insurance; Risk of Loss	<p>During the Sale Term: (a) Merchant shall maintain (at its expense) insurance with respect to the Merchandise in amount and on such terms and conditions as are consistent with the Merchant’s ordinary course operations; and (b) each of the Merchant and Consultant shall maintain (at each party’s respective expense) comprehensive liability insurance covering injuries to persons and property in or in connection with the Stores, in such amounts as are reasonable and consistent with its ordinary practices, for bodily injury, personal injury, and/or property damage. Each party shall be added as an additional insured on all such insurance of the other party, all such insurance shall provide that it shall be non-cancelable and non-changeable except after 30 days’ prior written notice to the other party, and each party</p>

TERM	CONSULTING AGREEMENT
	<p>shall provide the other with certificates of all such insurance prior to the commencement of the Store Closing Sales.</p> <p>Notwithstanding any other provision of the Consulting Agreement, the Merchant and the Consultant agree that the Consultant shall not be deemed to be in possession or control of the Stores, or the Sold Merchandise, or other assets located therein or associated therewith, or of the Merchant's employees located at the Stores; and the Consultant does not assume any of the Merchant's obligations or liabilities with respect thereto.</p> <p>Notwithstanding anything to the contrary in the Consulting Agreement, including in Section 7 or Section 8 thereof, Merchant shall not indemnify consultant for any damages arising primarily out of the Consultant's fraud, willful misconduct, or gross negligence.</p>
<p>Indemnification by Consultant</p>	<p>Consultant shall indemnify and hold Merchant and its affiliates, and their respective officers, directors, employees, agents, and independent contractors (collectively the "<u>Merchant Indemnified Parties</u>") harmless from and against all claims, demands, penalties, losses, liability or damage, including, without limitation, reasonable attorney's fees and expenses, directly or indirectly asserted against, resulting from, or related to: (a) Consultant's material breach of or failure to comply with any of its agreements, covenants, representations, or warranties contained in the Consulting Agreement or in any written agreement entered into in connection therewith; (b) any harassment or any other unlawful, tortious, or otherwise actionable treatment of any employees or agents of Merchant by Consultant, its affiliates, or their respective officers, directors, employees, consultants, independent contractors, or representatives (including without limitation any supervisors); (c) any claims by any party engaged by Consultant as an employee or independent contractor (including without limitation any non-Merchant employee supervisor) arising out of such employment or engagement; or (d) the negligence, willful misconduct, or unlawful acts of Consultant, its affiliates, or their respective officers, directors, employees, consultants, independent contractors, or representatives.</p>
<p>Indemnification by Merchant</p>	<p>The Merchant shall indemnify and hold the Consultant, its affiliates, and their respective officers, directors, employees, consultants, and independent contractors (collectively the "<u>Consultant Indemnified Parties</u>") harmless from and against all claims, demands, penalties, losses, liability or damage, including, without limitation, reasonable attorney's fees and expenses, directly or indirectly asserted against, resulting from, or related to: (a) Merchant's material breach of or failure to comply with any of its agreements, covenants, representations, or warranties contained in the Consulting Agreement or in any written agreement entered into in</p>

TERM	CONSULTING AGREEMENT
	connection therewith; (b) any claims by any party engaged by Merchant as an employee or independent contractor arising out of such engagement; (c) any consumer warranty or products liability claims related to any Sold Merchandise; and/or (d) the negligence, willful misconduct, or unlawful acts of Merchant, its affiliates or their respective officers, directors, employees, agents, independent contractors, or representatives.

III. The Store Closing Procedures

13. The Debtors seek approval of the Store Closing Procedures, to sell the Store Closure Assets, in each case free and clear of liens, claims, or encumbrances. The Debtors also seek approval of the Store Closing Procedures to provide newspapers and other advertising media in which the Store Closing Sales may be advertised with comfort that the Debtors are conducting the Store Closing Sales in compliance with applicable law and with the Bankruptcy Court’s approval. The Debtors seek interim approval of the Store Closing Procedures in light of the significant operating losses generated by the Closing Stores, the Debtors’ liquidity constraints, the need to continue the already underway Store Closing Sales, and the budget set forth in the Debtors’ proposed debtor-in-possession financing facility. The Debtors also seek approval of procedures for noticing interested parties of the Store Closing Sales to be conducted at Additional Closing Stores, should the Debtors determine in their business judgment that such Store Closing Sales are necessary.

14. The Debtors have determined, in the exercise of their business judgment and in consultation with their advisors, that the Store Closing Procedures provide the best and most efficient means of selling the Store Closure Assets to maximize the value to their estates. The Debtors estimate that consummation of the Store Closing Sales will take until approximately June 25, 2017 (which date may be extended for any Closing Stores or Additional Closing Stores in the Debtors’ discretion).

IV. Liquidation Sale Laws and Dispute Resolution Procedures

15. Certain states in which the Debtors operate stores have or may have licensing or other requirements governing the conduct of store closing, liquidation, or other inventory clearance sales, including (but not limited to) state and local laws, statutes, rules, regulations, and ordinances (the “Liquidation Sale Laws”). Liquidation Sale Laws may establish licensing requirements, permitting requirements, bonding requirements, waiting periods, time limits, bulk sale restrictions, and augmentation limitations that would otherwise apply to the Store Closing Sales. Prior to the Petition Date, the ability of the Debtors and the Consultant to advertise the sale at the Closing Stores as “store closing” sales was limited in some jurisdictions based on permitting requirements or by the terms of the Debtors’ leases. Such requirements hamper the Debtors’ ability to maximize value in selling their inventory. Subject to the Bankruptcy Court’s approval, the Debtors intend to conduct the Store Closing Sales in accordance with the Store Closing Procedures without complying with the Liquidation Sale Laws.

16. For the purpose of orderly resolving any disputes between the Debtors and any Governmental Units (as defined in Bankruptcy Code section 101(27)) arising due to the Store Closing Procedures and the alleged applicability of any Liquidation Sale Laws, the Debtors respectfully request that the Bankruptcy Court authorize the Debtors to implement the following dispute resolution procedures (the “Dispute Resolution Procedures”), as set forth in the Interim Order and the Final Order:

- (i) Provided that the Store Closing Sales are conducted in accordance with the terms of the Interim Order, or the Final Order, as applicable, and the Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units that exempt court-ordered sales from their provisions, the Debtors and the Consultant will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of the Interim Order, or the Final Order, as applicable, and the Store Closing Procedures without the necessity of further showing compliance with any Liquidation Sale Laws.

- (ii) Within three business days after entry of the Interim Order, the Debtors will serve by first-class mail, copies of the Interim Order, the proposed Final Order, the Consulting Agreement, and the Store Closing Procedures on the following: (A) the Attorney General's office for each state where the Store Closing Sales are being held, (B) the county consumer protection agency or similar agency for each county where the Store Closing Sales are being held, (C) the division of consumer protection for each state where the Store Closing Sales are being held, (D) the chief legal counsel for the local jurisdiction, and (E) the landlords for the Stores (collectively, the "Dispute Notice Parties").
- (iii) With respect to any Additional Closing Stores, within three business days after filing any Additional Closing Store List with the Bankruptcy Court, the Debtors will serve by first-class mail, copies of the Interim Order or Final Order, as applicable, the Consulting Agreement, and the Store Closing Procedures on the Dispute Notice Parties.
- (iv) To the extent that there is a dispute arising from or relating to the Store Closing Sales, the Interim Order, or the proposed Final Order, as applicable, the Consulting Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a "Reserved Dispute"), the Bankruptcy Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of the Interim Order, or service of an Additional Store Closing List, as applicable, any Governmental Unit may assert that a Reserved Dispute exists by serving written notice of such Reserved Dispute to counsel for the Debtors and counsel for the Consultant so as to ensure delivery thereof within one business day thereafter. If the Debtors and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the notice, the Governmental Unit may file a motion with the Bankruptcy Court requesting that the Bankruptcy Court resolve the Reserved Dispute (a "Dispute Resolution Motion").
- (v) In the event that a Dispute Resolution Motion is filed, nothing in the Interim Order, or the Final Order, as applicable, shall preclude the Debtors, a landlord, or any other interested party from asserting (A) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (B) that neither the terms of the Interim Order or the Final Order nor the conduct of the Debtors pursuant to the Interim Order or the Final Order, violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of any Interim Order or Final Order or to limit or interfere with the Debtors' or the Consultant's ability to conduct or to continue to conduct the Store Closing Sales pursuant to the Interim Order or the Final Order, absent further order of the Bankruptcy Court. Upon the entry of the Interim Order or the Final Order, as applicable, the Bankruptcy Court grants authority for the Debtors and the Consultant to conduct the Store Closing Sales pursuant to the terms of the Interim Order or the Final Order, as applicable, the Consulting Agreement, and/or the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to assert

any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in the Interim Order or the Final Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.

- (vi) If, at any time, a dispute arises between the Debtors and/or the Consultant and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in the Interim Order or the Final Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (ii) and (iii) above by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

V. Fast Pay Laws

17. Many states in which the Debtors operate have laws and regulations that require the Debtors to pay an employee substantially contemporaneously with his or her termination (the “Fast Pay Laws” and together with the Liquidation Sale Laws, the “Restrictive Laws”). These laws often require payment to occur immediately or within a period of only a few days from the date such employee is terminated.

18. The nature of the Store Closings contemplated by this Motion will result in a substantial number of employees being terminated during the Store Closing Sales. To be clear, the Debtors intend to pay their terminated employees as expeditiously as possible and under normal payment procedures. However, the Debtors’ payroll systems will simply be unable to process the payroll information associated with these terminations in a manner that will be compliant with the Fast Pay Laws. Under ordinary circumstances, the Debtors’ payroll department is able to coordinate delivery of final checks to coincide with an employee’s final day of work where required by state law. This process requires the Debtors’ payroll department to calculate individual termination payments, prepare each termination payment check, obtain authorization for each such check and then prepare each such check for mailing. Given the

number of employees who will likely be terminated during the Store Closing Sales, this process could easily take several days, making compliance with the Fast Pay Laws burdensome to the Debtors' estates, if not impossible.

VI. Lease Restrictions

19. The Debtors also respectfully request a waiver of any contractual restrictions that could otherwise inhibit or prevent the Debtors from maximizing value for creditors through the Store Closings and Store Closing Sales. In certain cases, the contemplated Store Closings and Store Closing Sales may be inconsistent with certain provisions of leases, subleases, or other documents with respect to the premises in which the Debtors operate, including (without limitation) reciprocal easement agreements, agreements containing covenants, conditions, and restrictions (including, without limitation, "go dark" provisions and landlord recapture rights), or other similar documents or provisions. Such restrictions would also hamper the Debtors' ability to maximize value in selling their inventory.

20. The Debtors also request that no entity, including, without limitation, utilities, landlords, shopping center managers and personnel, creditors, and all persons acting for or on their behalf shall interfere with or otherwise impede the conduct of the Store Closings, the Store Closing Sales or institute any action against the Debtors in any court (other than in the Bankruptcy Court) or before any administrative body that in any way directly or indirectly interferes with, obstructs, or otherwise impedes the conduct of the Store Closings, the Store Closing Sales or the advertising and promotion (including through the posting of signs) of the Store Closing Sales.

Basis for Relief Requested

I. The Bankruptcy Court Should Authorize the Assumption of the Consulting Agreement

21. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession “subject to the court’s approval, may assume or reject any executory contract or [unexpired] lease of the debtor.” 11 U.S.C. § 365(a). The standard governing bankruptcy court approval of a debtor’s decision to assume or reject an executory contract or unexpired lease is whether the debtor’s reasonable business judgment supports assumption or rejection. *See, e.g., In re Tayfur*, 505 B.R. 673, 677 (Bankr. W.D. Pa. 2014) (J. Deller) (“The Bankruptcy Code does not set forth a standard for making a determination as to whether assumption or rejection should be authorized, however courts have adopted the standard of the business judgment test.”). Any more exacting scrutiny would slow the administration of the debtor’s estate and increase costs, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten the court’s ability to impartially control a case. *See Richmond Leasing Co. v. Capital Bank*, 762 F.2d 1303, 1311 (5th Cir. 1985).

22. The assumption of the Consulting Agreement represents a reasonable exercise of the Debtors’ business judgment. In consultation with their advisors, the Debtors determined that the Closing Stores are a burden to their estates, and that the Store Closure Assets should be liquidated for the benefit of the Debtors’ estates and their creditors. Further, after arms’-length negotiations, the Debtors believe that the Consulting Agreement contains the most favorable terms available under the circumstances.

23. The Consultant has extensive expertise in conducting liquidation sales and can oversee and assist in the management and implementation of the Store Closing Sales in an efficient and cost-effective manner. Assumption of the Consulting Agreement will enable the

Debtors to utilize the skills and resources of the Consultant to efficiently conduct the Store Closing Sales for the benefit of all stakeholders. If the Consulting Agreement is not assumed on an interim basis, there could be substantial harm to all stakeholders. For example, the estate would lose the benefit of the momentum and preparation that has already been started by the Consultant in commencing the Store Closing Sales prepetition. Finally, given the number of stores and the particular issues in administering the Store Closing Sales, it is not certain that the Debtors could retain a liquidator able to conduct the process as efficiently and effectively as the Consultant.

24. Courts hearing chapter 11 cases filed by retailers have recently approved the assumption of similar consulting agreements. *See, e.g., In re Sports Authority Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 3, 2016) (authorizing assumption of consulting agreement); *In re Quiksilver, Inc.*, No. 15-11880 (BLS) (Bankr. D. Del. Sept. 10, 2015) (same); *In re Radioshack Corp.*, No. 15-10197 (BLS) (Bankr. D. Del. Feb. 6, 2015) (same); *In re BCBG Max Azria Global Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 2, 2017) (same); *In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (same); *In re dELiA*s, Inc.*, No. 14-23678 (RDD) (Bankr. S.D.N.Y. Dec. 10, 2014) (same).⁶

II. The Bankruptcy Court Should Approve the Store Closing Procedures

25. The Bankruptcy Court may authorize the Debtors to consummate the Store Closings and Store Closing Sales pursuant to sections 105(a) and 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. §363(b)(1). Further, section 105(a) provides, in relevant part,

⁶ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

26. Pursuant to section 363(b) of the Bankruptcy Code, for the purpose of conducting the Store Closing Sales, the Debtors need only show a legitimate business justification for the proposed action. *See, e.g., In re Filene’s Basement, LLC*, 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) (holding that transactions under section 363 of the Bankruptcy Code must be based upon a debtor’s sound business justification, and that where a debtor articulates a reasonable basis for its business decisions, courts will generally not entertain objections to the debtor’s conduct); *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct”).

27. When a valid business justification exists, the law vests the debtor’s decision to use property out of the ordinary course of business with a strong presumption “that directors making a business decision, not involving self-interest, act on an informed basis, in good faith and in the honest belief that their actions are in the corporation’s best interest.” *In re Tower Air, Inc.*, 416 F.3d 229, 234 (3d Cir. 2005). Accordingly, parties challenging a debtor’s decision must make a showing of bad faith, self-interest, or gross negligence. *See Tower Air*, 416 F.3d at 238 (stating that overcoming the presumptions of the business judgment rule is a “near-Herculean task” and that in order to do so, the decision must “go so far beyond the bounds of reasonable business judgment that its only explanation is bad faith”); *In re Shubh Hotels*

Pittsburgh, LLC, 439 B.R. 637, 639 (Bankr. W.D. Pa. 2010) (J. Deller) (“[c]ourts have also held that a court should accept a debtor’s business judgment unless there is evidence of bad faith”); *In re Wheeling-Pittsburgh Steel Corp.*, 72 B.R. 845, 849 (Bankr. W.D. Pa. 1987) (J. Bentz) (“the court should not interfere or second guess the debtor’s sound business judgment unless and until evidence is presented that establishes that the debtor’s decision was one taken in bad faith or in gross abuse of its retained business discretion”).

28. In addition, the Bankruptcy Court may authorize the Store Closings and Store Closing Sales based on section 105(a) of the Bankruptcy Code. Section 105(a) codifies the Bankruptcy Court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Under section 105(a), courts may authorize actions that are essential to the continued operation of a debtor’s business. *See In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1999) (noting that in the Third Circuit, debtors may pay pre-petition claims that are essential to continued operations); *see also In re Fin. News Network Inc.*, 134 B.R. 732, 735-36 (Bankr. S.D.N.Y. 1991) (holding that the “doctrine of necessity” stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor’s reorganization).

29. The relief requested by this Motion represents a sound exercise of the Debtors’ business judgment, is necessary to avoid immediate and irreparable harm to the Debtors’ estates, and is justified under sections 105(a) and 363(b) of the Bankruptcy Code. The Debtors and their advisors believe that the Store Closing Procedures represent the most efficient and appropriate means of maximizing the value of the Store Closure Assets, while balancing the potentially competing concerns of landlords and other parties in interest.

30. Furthermore, ample business justification exists to conduct the Store Closing Sales. Prior to the Petition Date, the Debtors, with the assistance of their advisors, engaged in a review of each of their stores to: (a) identify underperforming and unprofitable stores; (b) consider whether the store's performance can be improved by various initiatives, including through the negotiation of lease concessions with landlords; and (c) determine what stores should be promptly closed to eliminate their ongoing negative effect on the Debtors' financial performance and to improve the Debtors' liquidity. This process resulted in the Debtors' identification of the Closing Stores.

31. In addition, delay in consummating the Store Closings and Store Closing Sales would diminish the recovery tied to monetization of the Store Closure Assets for a number of reasons. Many of the Closing Stores fail to generate positive cash flow and therefore are a drain on liquidity. Thus, the Debtors will realize an immediate benefit in terms of financial liquidity upon the sale of the Store Closure Assets and the termination of operations at the Closing Stores. Further, the swift and orderly commencement of Store Closing Sales will allow the Debtors to timely reject the applicable Store leases, and therefore avoid the accrual of unnecessary administrative expenses for rent payment. Delaying the Store Closings and Store Closing Sales may cause the Debtors to pay additional postpetition rent at many of these stores, at a possible cost to the estate of up to \$3.5 million per month.

32. Courts hearing chapter 11 cases filed by retailers have recently approved store closing procedures in chapter 11 cases on an interim basis, and numerous courts have granted retail debtors first-day authority to implement such procedures. *See, e.g., In re Sports Authority Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 3, 2016) (granting first-day relief); *In re Quiksilver, Inc.*, No. 15-11880 (BLS) (Bankr. D. Del. Sept. 10, 2015) (same); *In re*

Radioshack Corp., No. 15-10197 (BLS) (Bankr. D. Del. Feb. 6, 2015) (same); *In re BCBG Max Azria Global Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 2, 2017) (same); *In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (same); *In re dELiA*s, Inc.*, No. 14-23678 (RDD) (Bankr. S.D.N.Y. Dec. 10, 2014) (same).⁷ The store closing procedures approved in the foregoing cases are substantially similar to the Store Closing Procedures attached hereto.

III. The Bankruptcy Court Should Approve of the Sale of the Store Closure Assets Free and Clear of all Liens, Claims, Encumbrances, and Other Interests under Bankruptcy Code Section 363(f)

33. The Debtors request approval to sell the Store Closure Assets on a final “as is” basis, free and clear of any and all liens, claims, encumbrances, and other interests in accordance with section 363(f) of the Bankruptcy Code. A debtor in possession may sell property under sections 363(b) and 363(f) “free and clear of any interest in such property of an entity other than the estate” if any one of the following conditions is satisfied: (a) applicable non-bankruptcy law permits the sale of such property free and clear of such interest; (b) such entity consents; (c) 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; (d) such interest is in *bona fide* dispute; or (e) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f); *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290 (3d Cir. 2003) (holding that under section 363(f), a sale free and clear of interests can occur if any one of five conditions has been satisfied); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that since section 363(f) is written in the disjunctive, the court may approve a sale free and clear if any one subsection is met).

⁷ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

34. The Debtors anticipate that, to the extent there are liens on the Store Closure Assets, all holders of such liens will consent to the sales because the Store Closing Sales provide the most effective, efficient, and time-sensitive approach to realizing proceeds for, among other things, the repayment of amounts due to such parties, thereby satisfying section 363(f)(2) of the Bankruptcy Code. Moreover, any and all liens on the Store Closure Assets sold during the Store Closing Sales would attach to the proceeds of such sales with the same force, effect, and priority as such liens currently have on these assets, subject to the rights and defenses, if any, of the Debtors and of any party-in-interest with respect thereto.

35. Moreover, all identified lienholders will receive notice and will be given sufficient opportunity to object to the relief requested on a final basis. Any such entity that does not object to the sale should be deemed to have consented. *See Futuresource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (“[i]t is true that the Bankruptcy Code limits the conditions under which an interest can be extinguished by a bankruptcy sale, but one of those conditions is the consent of the interest holder, and lack of objection (provided of course there is notice) counts as consent. It could not be otherwise; transaction costs would be prohibitive if everyone that might have an interest in the bankrupt’s assets had to execute a formal consent before they could be sold.”) (internal citations omitted); *Hargrave v. Twp. of Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (finding failure to object to sale free and clear of liens, claims, and encumbrances satisfies section 363(f)(2)); *Citicorp Homeowners Serv., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same).

36. Accordingly, the Debtors submit that the sale of the Store Closure Assets satisfies the statutory requirements of section 363(f) of the Bankruptcy Code and should be free and clear of any liens, claims, encumbrances, and other interests.

IV. The Bankruptcy Court Should Waive Compliance with the Restrictive Laws and Approve the Dispute Resolution Procedures

37. The Debtors' ability to conduct the Store Closing Sales in accordance with the Store Closing Procedures and without complying with Restrictive Laws is critical to the Store Closing Sales' success. Although the Debtors intend to comply with state and local health and safety laws and consumer protection laws in conducting the Store Closing Sales, many Liquidation Sale Laws require special and cumbersome licenses, waiting periods, time limits, and other procedures for store closing, liquidation, or similar sales. Additionally, compliance with Fast Pay Laws would require the Debtors to pay terminated employees within a time frame that would be detrimental to the conduct of these chapter 11 cases, if not impossible.

38. To eliminate the time, delay, and expense associated with the administrative procedures necessary to comply with the Restrictive Laws, the Debtors propose the Store Closing Procedures as a way to streamline the administrative burdens on their estates while still adequately protecting the broad and varied interests of both landlords and applicable governmental agencies charged with enforcing any Restrictive Laws that may apply to the Store Closing Sales. As such, the Debtors believe the Store Closing Procedures mitigate any concerns that their landlords or governmental agencies may raise with respect to the Store Closing Sales, and therefore, the below requested relief seeking the waiver of certain state and local laws and lease provisions is appropriate.

39. The Debtors submit that there is strong support for granting them the authority to not comply with the Liquidation Sale Laws. *First*, it is generally accepted that many state statutes and regulations provide that, if a liquidation or bankruptcy sale is court authorized, a company need not comply with the Liquidation Sale Laws. *See, e.g.*, Ark. Code Ann. § 4-74-103 (exempting from the provisions of the chapter sales pursuant to any court order); Fla.

Stat. Ann. 559.25(2) (same); Ga. Code Ann. § 10-1-393(b)(24)(C)(iv) (same); 815 ILCS 350/3 (same); La. Rev. Stat. Ann. § 51:43(1) (same); N.Y. Gen. Bus. Law § 584(a) (same); Or. Rev. Stat. Ann. § 646A.100(2)(b) (“‘Going out of business sale’ does not include a sale conducted by a bankruptcy trustee.”); Tex. Bus. & Com. Code Ann. § 17.91(3) (exempting from subchapter sales conducted pursuant to court order). *Second*, pursuant to section 105(a) of the Bankruptcy Code, the Bankruptcy Court has the authority to permit the Store Closing Sales to proceed notwithstanding contrary Restrictive Laws as it is essential to the continued operation of the Debtors’ business. *Third*, the Bankruptcy Court will be able to supervise the Store Closing Sales because the Debtors and their assets are subject to the Bankruptcy Court’s exclusive jurisdiction. *See* 28 U.S.C. § 1334. As such, creditors and the public interest are adequately protected by notice of this Motion and the ongoing jurisdiction and supervision of the Bankruptcy Court because the Debtors are only seeking interim relief at the outset of these cases, and parties in interest will be able to raise any further issues at the final hearing.

40. Further, bankruptcy courts have consistently recognized, with limited exceptions, that federal bankruptcy law preempts state and local laws that contravene the underlying policies of the Bankruptcy Code. *See Belculfine v. Aloe (In re Shenango Group, Inc.)*, 186 B.R. 623, 628 (Bankr. W.D. Pa. 1995) (“Trustees and debtors-in-possession have unique fiduciary and legal obligations pursuant to the bankruptcy code . . . [A] state statute . . . cannot place burdens on [a debtor] where the result would contradict the priorities established by the federal bankruptcy code.”), *aff’d*, 112 F.3d 633 (3d Cir. 1997). Specifically, courts have found that preemption is appropriate, where the only state laws involved concern economic regulation rather than the protection of public health and safety. *See In re Baker & Drake, Inc.*, 35 F.3d at 1353 (finding

that “federal bankruptcy preemption is more likely . . . where a state statute is concerned with economic regulation rather than with protecting the public health and safety”).

41. Under the circumstances of these chapter 11 cases, enforcing the strict requirements of the Liquidation Sale Laws would undermine the fundamental purpose of section 363(b) of the Bankruptcy Code by placing constraints on the Debtors’ ability to maximize estate assets for the benefit of creditors. Accordingly, authorizing the Store Closing Sales without the delays and burdens associated with obtaining various state and local licenses, observing state and local waiting periods or time limits, and/or satisfying any additional requirements with respect to advertising and similar items is necessary and appropriate. The Debtors do not seek a general waiver of all state and local law requirements, but only those that apply specifically to retail liquidation sales. Indeed, the requested waiver is narrowly tailored to facilitate the successful consummation of the Store Closing Sales. Moreover, the Debtors will comply with applicable state and local public health and safety laws, and applicable tax, labor, employment, environmental, and consumer protection laws, including consumer laws regulating deceptive practices and false advertising. Finally, the Dispute Resolution Procedures provide an ordered means for resolving any disputes arising between the Debtors and any Governmental Units with respect to the applicability of any Liquidation Sale Laws, and should therefore be approved.

42. Courts have granted similar relief from Liquidation Sale Laws in other bankruptcy cases under similar circumstances. *See, e.g., In re Sports Authority Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 3, 2016) (authorizing store closing sales without requiring compliance with laws affecting store closing or liquidation sales); *In re Quiksilver, Inc.*, No. 15-11880 (BLS) (Bankr. D. Del. Sept. 10, 2015) (same); *In re Radioshack Corp.*, No.

15-10197 (BLS) (Bankr. D. Del. Feb. 20, 2015) (same); *In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (same).

43. Courts have also granted similar relief from Fast Pay Laws in other bankruptcy cases under similar circumstances. *See, e.g., In re Golfsmith International Holdings, Inc.*, No. 16-12033 (Bankr. D. Del. Oct. 13, 2016) (granting relief from federal, state or local laws including “any fast pay laws” in connection with store closing sales); *In re Vestis Retail Grp, LLC*, No. 16-10971 (LSS) (Bankr. D. Del. May 16, 2016); *In re Hancock Fabrics*, No. 16-10296 (BLS) (Bankr. D. Del. Feb. 25, 2016); *In re Fresh & Easy, LLC*, No. 15-12220 (BLS) (Bankr. D. Del. Nov. 24, 2015); *In re Hagggen Holdings, LLC*, No. 15-11874 (KG) (Bankr D. Del. Oct. 15, 2015); *In re Coldwater Creek Inc.*, No. 14-10867 (BLS) (Bankr. D. Del. May 7, 2014) (ruling that “fast pay” laws and regulations were not enforceable against debtors in connection with store closing sales); *In re Filene’s Basement, LLC*, No. 11-13511 (KG) (Bankr. D. Del. Nov. 16, 2011) (same); *In re Linens Holding Co.*, No. 08-10832 (CSS) (Bankr. D. Del. Oct. 16, 2008) (same).

V. The Bankruptcy Court Should Waive Compliance with Any Restrictions in the Leases

44. Certain of the Debtors’ leases governing the premises of the stores that are subject to Store Closing Sales may contain provisions purporting to restrict or prohibit the Debtors from conducting store closing, liquidation, or similar sales. Such provisions have been held to be unenforceable in chapter 11 cases as they constitute an impermissible restraint on a debtor’s ability to properly administer its reorganization case and maximize the value of its assets under section 363 of the Bankruptcy Code. *See In re Ames Dep’t Stores, Inc.*, 136 B.R. 357, 359 (Bankr. S.D.N.Y. 1992) (deciding that enforcement of such lease restrictions would “contravene overriding federal policy requiring [a] debtor to maximize estate assets . . .”); *In re R. H. Macy*

and Co., Inc., 170 B.R. 69, 73–74 (Bankr. S.D.N.Y. 1994) (holding that the lessor could not recover damages for breach of a covenant to remain open throughout the lease term because the debtor had a duty to maximize the value to the estate and the debtor fulfilled this obligation by holding a store closing sale and closing the store.); *In re Tobago Bay Trading Co.*, 112 B.R. 463, 467–68 (Bankr. N.D. Ga. 1990) (finding that a debtor’s efforts to reorganize would be significantly impaired to the detriment of creditors if lease provisions prohibiting a debtor from liquidating its inventory were enforced); *In re Lisbon Shops, Inc.*, 24 B.R. 693, 695 (Bankr. E.D. Mo. 1982) (holding restrictive lease provision unenforceable in chapter 11 case where debtor sought to conduct a liquidation sale).

45. Store closing sales are a routine part of chapter 11 cases involving retail debtors. Such sales are consistently approved by courts, despite provisions in recorded documents or agreements purporting to forbid such sales. Indeed, courts have repeatedly deemed such restrictive contractual provisions unenforceable as impermissible restraints on a debtor’s ability to maximize the value of its assets under section 363 of the Bankruptcy Code. *See, e.g., In re Sports Authority Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 3, 2016) (authorizing store closing sales without requiring compliance with lease provisions affecting store closing or liquidation sales); *In re Radioshack Corp.*, No. 15-10197 (BLS) (Bankr. D. Del. Feb 20, 2015) (same); *In re Coldwater Creek Inc.*, No. 14-10867 (BLS) (Bankr. D. Del. May 7, 2014) (same); *In re Namco, LLC*, No. 13-10610 (PJW) (Bankr. D. Del. Apr. 12, 2013) (same); *In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (same); *In re Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y. Aug. 13, 2015) (same).

46. Thus, to the extent that such provisions or restrictions exist in any of the leases of the stores subject to the Store Closing Sales, the Debtors request that the Bankruptcy Court

authorize the Debtors and or the Consultant to conduct any liquidation sales without interference by any landlords or other persons affected, directly or indirectly, by the liquidation sales.

VI. The Bankruptcy Court Should Approve the Abandonment of Certain Property In Connection with Any Liquidation Sales

47. After notice and a hearing, a debtor “may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.” 11 U.S.C. §554(a); *see also Hanover Ins. Co. v. Tyco Indus., Inc.*, 500 F.2d 654, 657 (3d Cir. 1974) (stating that a trustee “may abandon his claim to any asset, including a cause of action, he deems less valuable than the cost of asserting that claim”).

48. The Debtors are seeking to sell certain owned FF&E remaining in the Stores. The Debtors may determine, however, that the costs associated with holding or selling certain property or FF&E exceeds the proceeds that will be realized upon its sale, or that such property is not sellable at all. In such event, the property is of inconsequential value and benefit to the estates and may be burdensome to retain.

49. To maximize the value of the Debtors’ assets and to minimize the costs to the estates, the Debtors respectfully request authority to abandon any of their remaining FF&E or other property located at any of the Stores without incurring liability to any person or entity. The Debtors further request that the landlord of each Store with any abandoned FF&E or other property be authorized to dispose of such property without liability to any third parties.

50. Notwithstanding the foregoing, the Debtors will utilize all commercially reasonable efforts to remove or cause to be removed any confidential or personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including, but not limited to, an individual’s name, social security number, date of birth, government-issued identification number, account number, and credit or

debit card number) in any of the Debtors' hardware, software, computers, or cash registers or similar equipment that are to be sold or abandoned.

VII. The Bankruptcy Court Should Approve the Procedures Relating to the Additional Closing Stores

51. The Debtors request that the Store Closing Procedures and the Interim Order or Final Order, as applicable, apply to any Additional Closing Stores. In order to provide landlords and other parties in interest with information regarding the ultimate disposition of the Stores, to the extent that the Debtors seek to conduct Store Closing Sales at any Additional Closing Store, the Debtors will (a) first consult with the DIP ABL Agent, the DIP Term Loan Parties, and the Term Loan Lender Group and, after obtaining their consent, (b) file a list of such Additional Closing Stores with the Bankruptcy Court (the "Additional Closing Store List"), and serve a notice of their intent to conduct Store Closing Sales at the Additional Closing Stores on the applicable landlords (the "Additional Closing Store Landlords") and interested parties, including the U.S. Trustee, the DIP ABL Agent, the DIP Term Loan Parties, any statutory committee of creditors appointed in the Merchant's bankruptcy case, the prepetition secured parties that comprise the Merchant's capital structure (including the Term Loan Lender Group), by email (to the extent available to the Debtors) or overnight mail. With respect to Additional Closing Store Landlords, the Debtors will mail such notice to the notice address set forth in the lease for such Additional Closing Store (or, if none, at the last known address available to the Debtors).

52. The Debtors propose that the Additional Closing Store Landlords (each of whom will have already been served with this Motion, the Interim Order and possibly the Final Order) and any interested parties have seven days after service of the applicable Additional Closing Store List to object to the application of the Interim Order or the Final Order to their Stores. If no timely objections are filed with respect to the application of the Interim Order or the Final

Order to an Additional Closing Store, then the Debtors should be authorized, pursuant to sections 105(a), and 363(b) and (f) of the Bankruptcy Code, to proceed with conducting a Store Closing Sale at the Additional Closing Store in accordance with the Interim Order or the Final Order, as applicable, the Store Closing Procedures, and the Consulting Agreement. If any objections are filed with respect to the application of the Interim Order or the Final Order, as applicable, to an Additional Closing Store, and such objections are not resolved, the objections and the application of the Interim Order or the Final Order, as applicable, to the Additional Closing Store will be considered by the Court at the next regularly scheduled omnibus hearing, subject to the rights of any party to seek relief on an emergency basis on shortened notice, to the extent necessary so that the Debtors can move promptly to maximize value and minimize expenses for the benefit of their creditors and stakeholders. *See In re APP Winddown, LLC (f/k/a American Apparel, LLC)*, No. 16-12551 (Bankr. D. Del. Dec. 19, 2016) (approving similar procedures for supplemental stores); *In re Golfsmith International Holdings, Inc.*, No. 16-12033 (LSS) (Bankr. D. Del. Oct. 13, 2016) (same); *In re Orchard Supply Hardware Stores Corp.*, No. 13-11565 (CSS) (Bankr. D. Del. June 28, 2013) (same); *In re Aeropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. Jun, 9, 2016) (same); *In re Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y. Aug. 11, 2015) (same).

VIII. Appointment of a Consumer Privacy Ombudsman is Unnecessary

53. Section 363(b)(1) of the Bankruptcy Code provides that a debtor may not sell or release personally identifiable information about individuals unless such sale or lease is consistent with its policies or upon appointment of a consumer privacy ombudsman pursuant to section 332 of the Bankruptcy Code. The Debtors will not be selling or releasing personally identifiable information in the course of the Store Closing Sales. Therefore, appointment of a consumer privacy ombudsman is unnecessary.

54. To the extent there is any personally-identifiable information in any FF&E that the Debtors seek to sell or abandon, the Debtors will utilize all commercially reasonable efforts to remove or cause to be removed any such confidential or personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including, but not limited to, an individual's name, social security number, date of birth, government-issued identification number, account number, and credit or debit card number).

Request for Waiver of Stay

55. The Debtors also seek a waiver of any stay of the effectiveness of the orders approving the relief requested in this Motion and the Order. Bankruptcy Rule 6003(b) provides, in relevant part, that “[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding . . . a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate.” Further, pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” As set forth above, the Debtors submit that ample cause exists to justify (a) the immediate entry of an order granting the relief sought herein and (b) a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

Motion Practice

56. This Motion is accompanied by a proposed Interim Order and a proposed Final Order attached hereto as **Exhibit A** and **Exhibit B**, respectively. Accordingly, the Debtors submit that this Motion satisfies W.P.A. LBR 9013-1(a) and 9013-4.

Request for Relief from Bankruptcy Rule 2002

57. Generally, pursuant to Bankruptcy Rule 2002, debtors are required to give parties in interest 21 days' notice of "a proposed use, sale, or lease of property of the estate other than in the ordinary course of business." However, Bankruptcy Rule 2002(a)(2) provides that the court may shorten this time for cause. As discussed more fully above and in the Coulombe Declaration, the Debtors and the Debtors' estates will suffer irreparable harm if the relief requested is not heard on an expedited basis and the proposed Interim Order is not entered as soon as possible.

58. For the foregoing reasons, the Debtors respectfully submit that cause exists to waive the 21 day notice requirement under Bankruptcy Rule 2002, to the extent applicable.⁸

Notice

59. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Western District of Pennsylvania (the "U.S. Trustee"); (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the ABL Agent and the DIP ABL Agent; (d) counsel to the Term Loan Agent and the DIP Term Loan Agent; (e) counsel to the Indenture Trustee; (f) counsel to Apax Partners, L.P.; (g) counsel to any appointed statutory committee; (h) the United States Attorney's Office for the Western District of Pennsylvania; (i) the Internal Revenue Service; (j) the office of the attorneys general for the states in which the Debtors operate; (k) the Securities and Exchange Commission; (l) all parties that are known by the Debtors to assert liens against the Store Closure Assets; (m) municipalities in which the Store Closure Assets are located; (n) all of the Debtors' landlords at the locations of the Stores; (o) all applicable county consumer protection agencies or similar

⁸ Prior to the Petition Date, the Debtors conducted liquidation sales in the ordinary course of business. The Debtors do not concede that the Store Closing Sales are anything other than ordinary course sales.

agency for each county where the Store Closing Sales are being held; (p) the division of consumer protection for each state where the Store Closing Sales are being held; (q) all applicable federal, state, and local taxing authorities; and (r) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

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

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Bankruptcy Court enter the Interim Order and the Final Order granting the relief requested herein and such other relief as the Bankruptcy Court deems appropriate under the circumstances.

Dated: May 15, 2017

Jonathan S. Henes, P.C. (*pro hac vice* admission pending)
Nicole L. Greenblatt, P.C. (*pro hac vice* admission pending)
Robert A. Britton (*pro hac vice* admission pending)
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/s/ Eric A. Schaffer

Eric A. Schaffer (PA I.D. #30797)
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225 Fifth Avenue
Pittsburgh, Pennsylvania 15222
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*Proposed Local Counsel to the
Debtors and Debtors in Possession*

*Proposed Counsel to the
Debtors and Debtors in Possession*

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:)	
)	
rue21, inc., <i>et al.</i> , ¹)	Case No. 17-22045 (GLT)
)	
Debtors.)	Chapter 11
)	(Joint Administration Requested)
rue21, inc., <i>et al.</i> ,)	
)	
Movants,)	
)	
v.)	
)	
No Respondent.)	
)	
Respondent.)	

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS
TO ASSUME THE CONSULTING AGREEMENT, (II) APPROVING PROCEDURES
FOR STORE CLOSING SALES, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing the Debtors to assume the Consulting Agreement; (b) authorizing and approving the Store Closing Procedures, with such sales to be free and clear of all liens, claims, and encumbrances; and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration and the Coulombe Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core matter pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: rue21, inc. (1645); Rhodes Holdco, Inc. (6922); r services llc (9425); and rue services corporation (0396). The location of the Debtors’ service address is: 800 Commonwealth Drive, Warrendale, Pennsylvania 15086.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor:

THE COURT HEREBY FINDS AND DETERMINES THAT:

1. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. The Debtors have advanced sound business reasons for seeking to assume the Consulting Agreement and adopt the Store Closing Procedures, on an interim basis subject to the Final Hearing, as set forth in the Motion and at the Hearing, and entering into the Consulting Agreement is a reasonable exercise of the Debtors' business judgment and in the best interests of the Debtors and their estates.

3. The conduct of the Store Closing Sales in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets.

4. The Consulting Agreement was negotiated, proposed, and entered into by the Consultant and the Debtors without collusion, in good faith, and from arms'-length bargaining positions.

5. The assumption of the Consulting Agreement, subject to the modifications set forth herein, on an interim basis is a sound exercise of the Debtors' business judgment.

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

7. The Store Closings and the Store Closing Sales are in the best interest of the Debtors' estates.

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

IT IS HEREBY ORDERED THAT:

9. The Motion is granted on an interim basis as provided herein.

10. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2017, at __: __ .m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _____, 2017, and shall be served on: (a) the Debtors, rue21, inc., 800 Commonwealth Drive, Warrendale, Pennsylvania 15086, Attn: Benjamin R. Gross; (b) proposed counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Ave., New York, New York 10022, Attn: Jonathan S. Henes, Nicole L. Greenblatt, Robert A. Britton, and George Klidonas; (c) proposed local counsel to the Debtors, Reed Smith LLP, 225 Fifth Avenue, Pittsburgh, Pennsylvania 15222, Attn: Eric A. Schaffer and Jared S. Roach; (d) counsel to any statutory

committee appointed in these cases; (e) counsel to the ABL Agent and the DIP ABL Agent, Morgan Lewis & Bockius LLP, One Federal Street, Boston, Massachusetts 02110, Attn: Julia Frost-Davies and Amelia C. Joiner, and Buchanan Ingersoll & Rooney PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219-1410, Attn: James D. Newell and Timothy Palmer; (f) counsel to the Term Loan Agent and the DIP Term Loan Agent, Jones Day, 250 Vesey Street, New York, New York 10281, Attn: Scott J. Greenberg and Michael J. Cohen; (g) counsel to Apax Partners, L.P., Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, Attn: Elisha D. Graff, Nicholas Baker, and Jonathan E. Endean; and (h) the Office of The United States Trustee, U.S. Federal Office Building, Liberty Center, 1001 Liberty Ave., Suite 970, Pittsburgh, Pennsylvania 15222, Attn: Heather Sprague. In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

11. The Debtors are authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Interim Order.

12. To the extent of any conflict between this Interim Order, the Store Closing Procedures, and the Consulting Agreement, the terms of this Interim Order shall control over all other documents and the Store Closing Procedures shall control over the Consulting Agreement.

13. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall take effect immediately upon its entry.

I. Authority to Assume the Consulting Agreement

14. The assumption of the Consulting Agreement, pursuant to this Interim Order, by the Debtors pursuant to section 365 of the Bankruptcy Code is approved on an interim basis. The Debtors are authorized to act and perform in accordance with the terms of the Consulting

Agreement, including making payments required by the Consulting Agreement to the Consultant without the need for any application of the Consultant or a further order of this Court.

15. Subject to the restrictions set forth in this Interim Order and the Store Closing Procedures, the Debtors and the Consultant hereby are authorized to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and the Store Closing Sales. Each of the transactions contemplated by the Consulting Agreement and any actions taken by the Debtors and the Consultant necessary or desirable to implement the Consulting Agreement and/or the Store Closing Sales prior to the date of this Interim Order, hereby are approved and ratified.

16. Subject to the consent of the DIP ABL Agent and DIP Term Loan Parties, the Debtors are authorized to amend the Consulting Agreement from time to time in accordance with its terms, including by adding Additional Closing Stores and/or extending the Sale Term.

17. Notwithstanding anything to the contrary in the Consulting Agreement, including in Section 7 or Section 8 thereof, the Debtors and their estates shall not indemnify the Consultant for any damages arising primarily out of the Consultant's fraud, willful misconduct, or gross negligence.

II. Authority to Engage in Store Closing Sales

18. The Debtors and the Consultant are authorized, on an interim basis pending the Final Hearing, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to immediately continue and conduct the Store Closing Sales in accordance with this Interim Order, the Store Closing Procedures, and the Consulting Agreement.

19. The Store Closing Procedures are approved in their entirety on an interim basis.

20. The Debtors are authorized to discontinue operations at the Stores, at the conclusion of the applicable Store Closing Sales, in accordance with this Interim Order and the Store Closing Procedures.

21. All entities that are presently in possession of some or all of the Merchandise or FF&E in which the Debtors hold an interest that are or may be subject to the Consulting Agreement or this Interim Order hereby are directed to surrender possession of such Merchandise or FF&E to the Debtors or the Consultant.

22. Neither the Debtors nor the Consultant nor any of their officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined in Bankruptcy Code section 101(27)) or landlord, to conduct the Store Closing Sales and to take the related actions authorized herein.

III. Conduct of the Store Closing Sales

23. All newspapers and other advertising media in which the Store Closing Sales may be advertised and all landlords are directed to accept this Interim Order as binding authority so as to authorize the Debtors and the Consultant to conduct the Store Closing Sales and the sale of Merchandise and FF&E pursuant to the Consulting Agreement, including, without limitation, to conduct and advertise the sale of the Merchandise and FF&E in the manner contemplated by and in accordance with this Interim Order, the Store Closing Procedures, and the Consulting Agreement.

24. The Debtors and Consultant are hereby authorized to take such actions as may be necessary and appropriate to implement the Consulting Agreement and to conduct the Store Closing Sales without necessity of further order of this Court as provided in the Consulting Agreement or the Store Closing Procedures, including, but not limited to, advertising the sale as a “store closing sale,” “sale on everything,” “everything must go,” or similar-themed sales

through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent the applicable closing location entrance does not require entry into the enclosed mall common area), and use of sign-walkers and street signage; *provided, however*, that only terminology approved by the Merchant will be used at each Closing Store in connection with the Store Closing Sales.

25. Notwithstanding anything herein to the contrary, and in view of the importance of the use of sign-walkers, banners, and other advertising to the sale of the Merchandise and FF&E, to the extent that, prior to the Final Hearing, disputes arise during the course of such sale regarding laws regulating the use of sign-walkers, banners, or other advertising and the Debtors and the Consultant are unable to resolve the matter consensually, any party may request a telephonic hearing with this Court pursuant to this Interim Order. Such hearing will, to the extent practicable, be scheduled initially no later than the earlier of (i) the Final Hearing or (ii) within three business days of such request. This scheduling shall not be deemed to preclude additional hearings for the presentation of evidence or arguments as necessary.

26. Except as expressly provided in the Consulting Agreement, any restrictive provision of any lease, sublease, restrictive covenant, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Store Closings or the Store Closing Sales (including the sale of the Merchandise and FF&E) the rejection of leases, abandonment of assets, or “going dark” provisions shall not be enforceable in conjunction with the Store Closing Sales or the Store Closings. Breach of any such provisions in these chapter 11 cases in conjunction with the Store Closings or the Store Closing Sales shall not constitute a default under a lease or provide a basis to terminate the lease; *provided*, the Store Closings and the Store Closing Sales are conducted in accordance with the terms of this Interim Order and the Store Closing

Procedures. The Debtors and landlords of the closing locations are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures without further order of this Court, and such Side Letters shall be binding as among the Debtors and any such landlords. In the event of any conflict between the Store Closing Procedures, this Interim Order, and any Side Letter, the terms of such Side Letter shall control.

27. Except as expressly provided for herein or in the Store Closing Procedures, and except with respect to any Governmental Unit (as to which paragraphs 38 and 39 herein shall apply), no person or entity, including, but not limited to, any landlord, shopping center manager, licensor, service provider, utility, or creditor, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of the Store Closings, the Store Closing Sales or the sale of Merchandise or FF&E, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign-walkers) of such Store Closing Sales, and all such parties and persons of every nature and description, including, but not limited to, any landlord, licensor, service provider, utility, or creditor and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closings or the Store Closing Sales and/or (b) instituting any action or proceeding in any court (other than in the Bankruptcy Court), or administrative body seeking an order or judgment against, among others, the Debtors, the Consultant, or the landlords, at the Closing Stores that might in any way directly or indirectly obstruct, otherwise interfere with, or adversely affect the conduct of the Store Closings, the Store Closing Sales or other liquidation sales at the Closing Stores, and/or seek to recover damages for breaches of covenants or other provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

28. In accordance with and subject to the terms and conditions of the Consulting Agreement, the Consultant shall have the right to use the Stores and all related Store services, furniture, fixtures, equipment, and other assets of the Debtors for the purpose of conducting the Store Closing Sales, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Interim Order.

29. All sales of Store Closure Assets shall be “as is” and final. However, as to the Stores, all state and federal laws relating to implied warranties for latent defects shall be complied with and are not superseded by the sale of said goods or the use of the terms “as is” or “final sales.”

30. The Consultant shall not be liable for sales taxes except as expressly provided in the Consulting Agreement and the payment of any and all sales taxes is the responsibility of the Debtors. The Debtors are directed to remit all taxes arising from the Store Closing Sales to the applicable Governmental Units as and when due, provided that in the case of a *bona fide* dispute the Debtors are only directed to pay such taxes upon the resolution of the dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Consultant shall collect, remit to the Debtors, and account for sales taxes as, and to the extent provided in, the Consulting Agreement. This Interim Order does not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state law, and does not constitute a declaratory judgment with respect to any party’s liability for taxes under state law.

31. Pursuant to section 363(f) of the Bankruptcy Code, the Consultant, on behalf of the Debtors, is authorized to sell the Store Closure Assets, and all sales of Store Closure Assets, whether by the Consultant or the Debtors, shall be free and clear of any and all liens, claims, encumbrances, and other interests; *provided, however*, that any such liens, claims, encumbrances, and other interests shall attach to the proceeds of the sale of the Store Closure Assets with the same validity, in the amount, with the same priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Store Closure Assets, subject to any claims and defenses that the Debtors may possess with respect thereto and the Consultant's fees and expenses (as provided in the Consulting Agreement).

32. To the extent that the Debtors propose to sell or abandon FF&E which may contain personal and/or confidential information about the Debtors' employees and/or customers (the "Confidential Information"), the Debtors shall remove the Confidential Information from such items of FF&E before such sale or abandonment.

33. The Debtors and/or the Consultant (as the case may be) are authorized and empowered to transfer Store Closure Assets among the Stores. The Consultant is hereby authorized to sell the Debtors' FF&E and abandon the same, in each case, as provided for and in accordance with the terms of the Consulting Agreement.

34. Notwithstanding this or any other provision of this Interim Order, nothing shall prevent or be construed to prevent the Consultant (individually, as part of a joint venture, or otherwise) or any of its affiliates from providing additional services to and/or bidding on the Debtors' assets not subject to the Consulting Agreement pursuant to an agency agreement or otherwise ("Additional Assets"). The Consultant (individually, as part of a joint venture, or otherwise) or any of its affiliates are hereby authorized to bid on, guarantee, or otherwise acquire

such Additional Assets, or offer to provide additional services, notwithstanding anything to the contrary in the Bankruptcy Code or other applicable law, *provided that* such services guarantee, transaction, or acquisition is approved by separate order of this Court.

IV. Procedures Relating to Additional Closing Stores

35. To the extent that the Debtors seek to conduct Store Closing Sales at any Additional Closing Store, the Store Closing Procedures and this Interim Order shall apply to the Additional Closing Stores.

36. Prior to conducting Store Closing Sales at any Additional Closing Store, the Debtors will (a) consult with the DIP ABL Agent, the DIP Term Loan Parties, and the Term Loan Lender Group and, after obtaining their consent, (b) file a list of such Additional Closing Stores with this Court (the “Additional Closing Store List”), and serve a notice of their intent to conduct Store Closing Sales at the Additional Closing Stores on the applicable landlords (the “Additional Closing Store Landlords”) and interested parties, including the U.S. Trustee, any DIP ABL Agent, DIP Term Loan Parties, any statutory committee of creditors appointed in the Merchant’s bankruptcy case, the prepetition secured parties that comprise the Merchant’s capital structure (including the Term Loan Lender Group), by email (to the extent available to the Debtors) or overnight mail. With respect to Additional Closing Store Landlords, the Debtors shall mail such notice to the notice address set forth in the lease for such Additional Closing Store (or, if none, at the last known address available to the Debtors).

37. The Additional Closing Store Landlords and any interested parties shall have seven days after service of the applicable Additional Closing Store List to object to the application of this Interim Order or the Final Order. If no timely objections are filed with respect to the application of this Interim Order or the Final Order to an Additional Closing Store, the Debtors should be authorized, pursuant to sections 105(a), and 363(b) and (f) of the Bankruptcy

Code, to proceed with conducting a Store Closing Sale at the Additional Closing Store in accordance with this Interim Order or the Final Order, as applicable, the Store Closing Procedures, and the Consulting Agreement. If any objections are filed with respect to the application of this Interim Order or the Final Order, as applicable, to an Additional Closing Store, and such objections are not resolved, the objections and the application of this Interim Order or the Final Order, as applicable, to the Additional Closing Store will be considered by the Court at the next regularly scheduled omnibus hearing, subject to the rights of any party to seek relief on an emergency basis on shortened notice, to the extent necessary so that the Debtors can move promptly to maximize value and minimize expenses for the benefit of their creditors and stakeholders.

V. Dispute Resolution Procedures with Governmental Units

38. Nothing in this Interim Order, the Consulting Agreement, or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a governmental unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Interim Order. Nothing contained in this Interim Order, the Consulting Agreement, or the Store Closing Procedures shall in any way: (a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with its rights and obligations as debtor in possession under the Bankruptcy Code. The Store Closings and the Store Closing Sales shall not be exempt from laws of general applicability, including, without limitation, public health and safety, criminal, tax, labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising (collectively, “General Laws”). Nothing in this Interim

Order, the Consulting Agreement, or the Store Closing Procedures, shall alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Interim Order shall be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtors' rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code, this Interim Order, or otherwise, pursuant to paragraph 39 herein. Notwithstanding any other provision in this Interim Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Interim Order and/or any applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Interim Order shall be deemed to have made any rulings on any such issues.

39. To the extent that the sale of Store Closure Assets is subject to any Liquidation Sale Laws, including any federal, state, or local statute, ordinance, or rule, or licensing requirement directed at regulating "going out of business," "store closing," similar inventory liquidation sales, or bulk sale laws, including laws restricting safe, professional, and non-deceptive, customary advertising such as signs, banners, posting of signage, and use of sign-walkers solely in connection with the Store Closing Sales and including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Store Closure Assets, the Dispute Resolution Procedures in this section shall apply.

- (i) Provided that the Store Closing Sales are conducted in accordance with the terms of this Interim Order and the Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units that exempt court-ordered sales from their provisions, the Debtors and the Consultant will be presumed to be

in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of this Interim Order and the Store Closing Procedures without the necessity of further showing compliance with any Liquidation Sale Laws.

- (ii) Within three business days after entry of this Interim Order, the Debtors will serve by first-class mail, copies of this Interim Order, the proposed Final Order, the Consulting Agreement, and the Store Closing Procedures on the following: (A) the Attorney General's office for each state where the Store Closing Sales are being held, (B) the county consumer protection agency or similar agency for each county where the Store Closing Sales are being held, (C) the division of consumer protection for each state where the Store Closing Sales are being held, (D) the chief legal counsel for the local jurisdiction, and (E) the landlords for the Closing Stores (collectively, the "Dispute Notice Parties").
- (iii) With respect to any Additional Closing Stores, within three business days after filing any Additional Closing Store List with the Court, the Debtors will serve by first-class mail, copies of this Interim Order or the Final Order, as applicable, the Consulting Agreement, and the Store Closing Procedures on the Dispute Notice Parties.
- (iv) To the extent that there is a dispute arising from or relating to the Store Closing Sales, this Interim Order, the proposed Final Order, the Consulting Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a "Reserved Dispute"), this Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of this Interim Order, or service of an Additional Store Closing List, as applicable, any Governmental Unit may assert that a Reserved Dispute exists by serving written notice of such Reserved Dispute to counsel for the Debtors and counsel for the Consultant so as to ensure delivery thereof within one business day thereafter. If the Debtors (and/or the Consultant) and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the notice, the Governmental Unit may file a motion with this Court requesting that this Court resolve the Reserved Dispute (a "Dispute Resolution Motion").
- (v) In the event that a Dispute Resolution Motion is filed, nothing in this Interim Order shall preclude the Debtors, the Consultant, a landlord, or any other interested party from asserting (A) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (B) that neither the terms of this Interim Order nor the conduct of the Debtors pursuant to this Interim Order, violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of any Interim Order or to limit or interfere with the Debtors' or the Consultant's ability to conduct or to continue to conduct the Store Closing Sales pursuant to this Interim Order, absent further order of this Court. Upon the entry of this Interim Order, this Court grants authority for the Debtors and the Consultant to conduct the Store Closing Sales pursuant to the terms of this Interim Order, the Consulting Agreement, and/or the

Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit shall be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in this Interim Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.

- (vi) If, at any time, a dispute arises between the Debtors and/or the Consultant and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in this Interim Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (ii) and (iii) above by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

40. Subject to paragraphs 38 and 39 above, each and every federal, state, or local agency, departmental or Governmental Unit with regulatory authority over the Store Closing Sales and all newspapers and other advertising media in which the Store Closing Sales are advertised shall consider this Interim Order as binding authority that no further approval, license, or permit of any Governmental Unit shall be required, nor shall the Debtors or the Consultant be required to post any bond, to conduct the Store Closing Sales.

41. Provided that the Store Closing Sales are conducted in accordance with the terms of this Interim Order, the Consulting Agreement, and the Store Closing Procedures, and in light of the provisions in the laws that exempt court-ordered sales from their provisions, the Debtors and the Consultant shall be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of this Interim Order and the Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.

42. Within three business days of entry of this Interim Order, the Debtors shall serve copies of this Interim Order, the Consulting Agreement and the Store Closing Procedures via e-

mail, facsimile or regular mail, on: (a) the Office of the United States Trustee for the Western District of Pennsylvania (the “U.S. Trustee”); (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the ABL Agent; (d) counsel to the Term Loan Agent; (e) counsel to the Indenture Trustee; (f) counsel to any appointed statutory committee; (g) the United States Attorney’s Office for the Western District of Pennsylvania; (h) the Internal Revenue Service; (i) the office of the attorneys general for the states in which the Debtors operate; (j) the Securities and Exchange Commission; (k) all parties that are known by the Debtors to assert liens against the Store Closure Assets; (l) municipalities in which the Store Closure Assets are located; (m) all of the Debtors’ landlords at the locations of the Stores; (n) all applicable county consumer protection agencies or similar agency for each county where the Store Closing Sales are being held; (o) the division of consumer protection for each state where the Store Closing Sales are being held; (p) all applicable federal, state, and local taxing authorities; and (q) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

VI. Other Provisions

43. The Consultant shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against the Consultant, in each case, other than as expressly provided for in the Consulting Agreement, as modified by this Interim Order.

44. To the extent the Debtors are subject to any state “fast pay” laws in connection with the Store Closing Sales, the Debtors shall be presumed to be in compliance with such laws to the extent, in applicable states, such payroll payments are made by the later of: (a) the Debtors’ next regularly scheduled payroll; and (b) seven calendar days following the termination

date of the relevant employee, and in all such cases consistent with, and subject to, any previous orders of this Court regarding payment of same.

45. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party-in-interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' rights or the rights of any other person under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtors and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

46. Notice of the Motion as provided therein is deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the local rules of this Court are satisfied by such notice.

47. Notwithstanding Bankruptcy Rules 6003(b) and 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

48. Cause exists to shorten the notice period set forth in Bankruptcy Rule 2002, to the extent possible.

49. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

50. This Court shall retain jurisdiction with regard to all issues or disputes relating to this Interim Order or the Consulting Agreement, including, but not limited to, (a) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being conducted in a safe, professional, and non-deceptive manner, (b) any claim of the Debtors, the landlords and/or the Consultant for protection from interference with the Store Closings or Store Closing Sales, (c) any other disputes related to the Store Closings or Store Closing Sales, and (d) protect the Debtors and/or the Consultant against any assertions of any liens, claims, encumbrances, and other interests. No such parties or person shall take any action against the Debtors, the Consultant, the landlords, the Store Closings, or the Store Closing Sales until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

Pittsburgh, Pennsylvania
Dated: May [●], 2017

THE HONORABLE
UNITED STATES BANKRUPTCY JUDGE

SCHEDULE 1

Consulting Agreement



May 14, 2017

To: rue21, inc. ("Merchant")
800 Commonwealth Drive
Warrendale, PA. 15086
Attn: ~~Mr. Keith McDonough~~ *Ms. Melanie Cox*

From: Gordon Brothers Retail Partners, LLC ("Consultant")
800 Boylston Street, 27th Floor
Boston, MA 02199

Re: Store Closing Program - Amended and Restated Consulting Agreement

Ladies and Gentlemen:

Consultant and Merchant are parties to that certain consulting agreement dated April 7, 2017. This letter shall serve as the amended and restated consulting agreement of Consultant and Merchant pursuant to which Consultant shall serve as the exclusive consultant to Merchant to conduct a "store closing," "everything must go," "sale on everything," and other mutually agreed upon themed sale ("Sale") at Merchant's retail stores identified on Exhibit A attached hereto (the "Initial Store Listing" and each such store, a "Store" and collectively the "Stores"), subject to the terms and conditions set forth herein.

1. RETENTION

(A) Merchant hereby retains Consultant as its exclusive, independent consultant to conduct the Sale at the Stores during the Sale Term, and in connection therewith, Consultant shall, throughout the Sale Term:

- (i) Recommend appropriate discounting to effectively sell all of Merchant's goods located at the Stores as of the Sale Commencement Date in accordance with a "store closing," "everything must go," "sale on everything," and other mutually agreed upon themed sale, and recommend appropriate point-of-purchase, point-of-sale, and other internal and external advertising in connection therewith.
- (ii) Provide qualified supervision to oversee the conduct of the Sale.
- (iii) Maintain focused and constant communication with Store-level employees and managers to keep them abreast of strategy and timing and to properly effect Store-

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level communication by Merchant's employees to customers and others about the Sale.

- (iv) Establish and monitor accounting functions for the Sale, including evaluation of sales of Merchant's goods located at the Stores by category, sales reporting and expense monitoring.
- (v) Recommend loss prevention strategies.
- (vi) Coordinate with Merchant so that the operation of the Stores is being properly maintained including ongoing customer service and housekeeping activities.
- (vii) Recommend customized strategies to transition Merchant's customers to Merchant's ongoing retail stores and e-commerce platform.
- (viii) Recommend appropriate staffing levels for the Stores and appropriate bonus and/or incentive programs (to be funded by Merchant) for Store employees.
- (ix) Assist Merchant to commence the Sale as a "sale on everything," "everything must go," and such other themed sale approved by Merchant prior to any bankruptcy filing by Merchant, and transition later in the Sale Term after any bankruptcy filing by Merchant to a "store closing" or such other themed sale approved by Merchant; and
- (x) Advise Merchant with respect to the legal requirements of affecting the Sale as a "store closing" or other mutually agreed upon theme in compliance with applicable state and local "going out of business" laws. In connection with such obligation, Consultant will (i) advise Merchant of the applicable waiting period under such laws, and/or (ii) prepare (in Merchant's name and for Merchant's signature) all permitting paperwork as may be necessary under such laws, deliver all such paperwork to Merchant, and file, on behalf of Merchant, all such paperwork where necessary, and/or (iii) advise where permitting paperwork and/or waiting periods do not apply.

2. SALE TERM; VACATING STORES

(A) The term "Sale Term" with respect to each respective Store shall commence on or about April 14, 2017 ("Sale Commencement Date") and shall end on the date identified on Exhibit B ("Sale Termination Date"); provided however, that Consultant and Merchant may mutually agree upon an earlier or later "Sale Termination Date" with respect to any one or more Stores (on a Store-by-Store basis). At the option of the Merchant, the Merchant may appoint the Consultant, and the Consultant hereby agrees to serve, as the Merchant's exclusive independent consultant in connection with the conduct of sales at additional stores on the terms and conditions of this



Agreement (subject only to appropriate adjustments to the Sale Commencement Date and the Sale Termination Date and the Consultant Controlled Expenses (each as defined herein)), which stores shall be set forth in a written supplement to the Initial Store Listing provided by Merchant to Consultant (any such supplement, a "Store Listing Supplement"). Any such additional stores included in the Sale and subject to a Store Listing Supplement shall be deemed to be Stores hereunder, effective upon the date mutually agreed by Merchant and Agent and set forth in such Store Listing Supplement.

(B) Upon the conclusion of the Sale Term at each Store, Consultant shall leave such Store in broom clean condition, subject to Consultant's right pursuant to Section 6 below to abandon in a neat and orderly manner all unsold Offered FF&E and all Retained FF&E.

3. EXPENSES

(A) All expenses incident to the conduct of the Sale and the operation of the Stores during the Sale Term (including without limitation all Consultant Controlled Expenses and all other store-level and corporate expenses associated with the Sale) shall be borne by Merchant; except solely for any of the specifically enumerated "Consultant Controlled Expenses" that exceed the aggregate budgeted amount (as provided in Section 3(B) below) for such Consultant Controlled Expenses.

(B) Attached hereto as Exhibit B is an expense budget for the "Consultant Controlled Expenses." Consultant will advance funds for the Consultant's Controlled Expenses, and Merchant shall reimburse Consultant therefor (up to the aggregate budgeted amount) in connection with each weekly reconciliation contemplated by Section 5(B) upon presentation of reasonable documentation for such actually-incurred expenses. The parties may from time to time mutually agree in writing to increase the budget of Consultant Controlled Expenses based upon circumstances of the Sale.

4. CONSULTANT COMPENSATION

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

(i) "Gross Proceeds" shall mean the gross proceeds of all sales of Merchandise during the Sale Term, net only of sales taxes.

(ii) "Merchandise" shall mean the goods actually sold in the Stores during the Sale Term, the aggregate amount of which shall be determined using the gross rings inventory taking method.

(B) Merchant shall pay Consultant an "Incentive Fee" equal to one and one half percent (1.5%) of Gross Proceeds.

(C) The parties acknowledge that the Incentive Fee has been established based upon Consultant's reliance that Merchant's personnel (including district, regional, and store managers, and Store-level personnel) will provide Consultant with reasonable and good faith cooperation



and support throughout the Sale Term in connection with the conduct of the Sale and that no Stores included in the Initial Store Listing will be removed from the Sale or, if so, an equitable adjustment shall be made to the Incentive Fee to compensate Consultant.

(D) On a weekly basis in connection with each weekly reconciliation contemplated by Section 5(B) below, Merchant shall pay Consultant an amount equal to one and one half percent (1.5%) of Gross Proceeds on account of the prior week's sales as an advance on account of the Incentive Fee payable hereunder. The parties shall calculate the definitive Incentive Fee due to Consultant in connection with the Final Reconciliation. Immediately thereafter (and as part of the Final Reconciliation), Merchant shall pay Consultant any additional amount owed on account of the Incentive Fee.

5. CONDUCT OF SALE; OTHER SALE MATTERS

(A) Merchant shall have control over the personnel in the Stores and shall handle the cash, debit and charge card payments for all Merchandise in accordance with Merchant's normal cash management procedures, subject to Consultant's right to audit any such items. Merchant (and not Consultant) shall be responsible for ensuring that the Sale, and the operation of the Stores (before, during, and after the Sale Term) shall be conducted in compliance with all applicable laws and regulations.

(B) The parties will meet on each Wednesday during the Sale Term to review any Sale matters reasonably requested by either party; and all amounts payable or reimbursable to Consultant for the prior week (or the partial week in the case of the first and last weeks) shall be reconciled and paid immediately thereafter. No later than twenty (20) days following the end of the Sale, the parties shall complete a final reconciliation and settlement of all amounts contemplated by this Agreement ("Final Reconciliation"). From time to time upon request, each party shall prepare and deliver to the other party such other reports as either party may reasonably request. Each party to this Agreement shall, at all times during the Sale Term and during the one (1) year period thereafter, provide the other with access to all information, books and records relating to the Sale and to this Agreement. All records and reports shall be made available to Consultant and Merchant during regular business hours upon reasonable notice.

(C) Merchant shall be solely responsible for the computing, collecting, holding, reporting, and paying all sales taxes associated with the sale of Merchandise during the Sale Term, and Consultant shall have absolutely no responsibilities or liabilities therefor.

(D) Although Consultant shall undertake its obligations under this Agreement in a manner designed to achieve the desired results of the Sale and to maximize the recovery to the Merchant, Merchant expressly acknowledges that Consultant is not guaranteeing the results of the Sale.

(E) Merchant acknowledges that (i) the parties are not conducting an inventory of Merchant's goods located at the Stores; (ii) Consultant has made no independent assessment of the beginning



levels of such goods; and (iii) Consultant shall not bear any liability for shrink or other loss to Merchant's goods located at the Stores (including without limitation Merchandise).

(F) All sales of Merchandise in the Stores during the Sale shall be made in the name, and on behalf, of Merchant.

(G) All sales of Merchandise in the Stores during the Sale Term shall be "final sales" and "as is," and all advertisements and sales receipts will reflect the same.

(H) Consultant shall, during the Sale Term at the Stores, cooperate with Merchant in respect of Merchant's procedures governing returns of goods otherwise sold by Merchant (e.g., not in the Stores during the Sale Term).

(I) Subject to compliance with any applicable laws, Merchant hereby permits the Sale to be, and shall ensure that the Sale otherwise may be, advertised as a "store closing" or other mutually agreed upon handle throughout the term of the Sale.

(J) Prior to the execution hereof, and as a condition to Consultant's obligations under this Agreement, Merchant funded to Consultant \$245,000 (the "Special Purpose Payment") which shall be held by Consultant until the Final Reconciliation (and Merchant shall not apply the Special Purpose Payment to, or otherwise offset any portion of the Special Purpose Payment against, any weekly reimbursement, payment of fees, or other amount owing to Consultant under this Agreement prior to the Final Reconciliation) and shall be available for application by Consultant for all of Consultant's fees and expenses, including without limitation for signage, supervision fees, travel, and any other out-of-pocket expenses incurred in connection with the Sale, and for any portion of the Incentive Fee not yet remitted to Consultant pursuant to the weekly reconciliation under Section 5(B) above. Without limiting any of Consultant's other rights, Consultant may apply the Special Purpose Payment to any unpaid obligation owing by Merchant to Consultant under this Agreement. Any portion of the Special Purpose Payment not used to pay amounts explicitly contemplated by this Agreement shall be returned to Merchant within three days following the Final Reconciliation and payment by Merchant to Consultant of all amounts payable hereunder.

6. FF&E

(A) Promptly following the Sale Commencement Date, Merchant shall inform Consultant of those items of furniture, fixtures, and equipment located at the Stores which are not to be sold (because Merchant does not have the right to sell such items, because Merchant wishes to retain such items for itself, or otherwise) (collectively, "Retained FF&E").

(B) With respect to all furniture, fixtures, and equipment located at the Stores as of the Sale Commencement Date which is not Retained FF&E (collectively the "Offered FF&E"), Consultant shall have the right to sell such Offered FF&E during the Sale Term on a commission



basis equal to twenty percent (20%) of the gross sales of Offered FF&E, net only of sales tax ("FF&E Commission").

(C) Merchant shall not reimburse Consultant for its expenses associated with the sale of the Offered FF&E.

(D) Consultant shall have the right to abandon any unsold Offered FF&E (and all Retained FF&E) at the Stores at the conclusion of the Sale Term without liability to Merchant or any third party.

7. INSURANCE; RISK OF LOSS

During the Sale Term: (a) Merchant shall maintain (at its expense) insurance with respect to the Merchandise in amounts and on such terms and conditions as are consistent with Merchant's ordinary course operations, and (b) each of Merchant and Consultant shall maintain (at each party's respective expense) comprehensive liability insurance covering injuries to persons and property in or in connection with the Stores, in such amounts as are reasonable and consistent with its ordinary practices, for bodily injury, personal injury and/or property damage. Each party shall be added as an additional insured on all such insurance of the other party, all such insurance shall provide that it shall be non-cancelable and non-changeable except after 30 days' prior written notice to the other party, and each party shall provide the other with certificates of all such insurance prior to the commencement of the Sale.

Notwithstanding any other provision of this Agreement, Merchant and Consultant agree that Consultant shall not be deemed to be in possession or control of the Stores, or the Merchandise or other assets located therein or associated therewith, or of Merchant's employees located at the Stores; and Consultant does not assume any of Merchant's obligations or liabilities with respect thereto.

Notwithstanding any other provision of this Agreement, Merchant and Consultant agree that Merchant shall bear all responsibility for liability claims (product liability and otherwise) of customers, employees and other persons arising from events occurring at the Stores, and Merchandise sold in the Stores, before, during and after the Sale Term.

8. INDEMNIFICATION

(A) Consultant shall indemnify and hold Merchant and its affiliates, and their respective officers, directors, employees, consultants, and independent contractors (collectively, "Merchant Indemnified Parties") harmless from and against all claims, demands, penalties, losses, liability or damage, including, without limitation, reasonable attorneys' fees and expenses, directly or indirectly asserted against, resulting from or related to:

- (i) Consultant's material breach of or failure to comply with any of its agreements, covenants, representations or warranties contained herein or in any written agreement entered into in connection herewith;



- (ii) any harassment or any other unlawful, tortious or otherwise actionable treatment of any employees or agents of Merchant by Consultant, its affiliates or their respective officers, directors, employees, agents, independent contractors or representatives (including without limitation any supervisors);
- (iii) any claims by any party engaged by Consultant as an employee or independent contractor (including without limitation any non-Merchant employee supervisor) arising out of such employment or engagement; or
- (iv) the negligence, willful misconduct or unlawful acts of Consultant, its affiliates or their respective officers, directors, employees, Consultants, independent contractors or representatives.

(B) Merchant shall indemnify and hold Consultant, its affiliates and their respective officers, directors, employees, consultants, and independent contractors (collectively, "Consultant Indemnified Parties") harmless from and against all claims, demands, penalties, losses, liability or damage, including, without limitation, reasonable attorneys' fees and expenses, directly or indirectly asserted against, resulting from or related to:

- (i) Merchant's material breach of or failure to comply with any of its agreements, covenants, representations or warranties contained herein or in any written agreement entered into in connection herewith;
- (ii) any claims by any party engaged by Merchant as an employee or independent contractor arising out of such engagement;
- (iii) any consumer warranty or products liability claims relating to any Merchandise; and/or
- (iv) the negligence, willful misconduct or unlawful acts of Merchant, its affiliates or their respective officers, directors, employees, agents, independent contractors or representatives.

9. MISCELLANEOUS

(A) In the event Merchant becomes subject to the jurisdiction of any United States Bankruptcy Court (the "Bankruptcy Court"), this Agreement, including retention of Consultant and conduct of the Sale as set forth herein, would be subject to the approval of such Bankruptcy Court. Merchant shall promptly, as part of its "first day" filings seek to have this Agreement, and the transactions contemplated by this Agreement assumed/approved by such Bankruptcy Court pursuant to an order and upon terms acceptable to both Merchant and Consultant.

(B) This Agreement constitutes the entire agreement between the parties with respect to the matters contemplated hereby. This Agreement may not be modified except in a written instrument executed by each of the parties hereto. No consent or waiver by any party, express or implied, to or of any breach or default by the other in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligation of such party. The failure on the part of any party to complain of any act or failure to act by the other party or



to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Nothing contained in this Agreement shall be deemed to create any relationship between Merchant and Consultant other than that of Consultant as an independent contractor of Merchant, and it is stipulated that the parties are not partners or joint venturers in any way. Unless expressly set forth herein to the contrary, to the extent that either party's consent is required/requested hereunder, such consent shall not be unreasonably withheld or delayed. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns; provided however, that this Agreement may not be assigned by either party without the prior written consent of the other. Written notices contemplated by this Agreement shall be sent by email (i) if to Merchant at the address set forth above; and (ii) if to Consultant c/o Mackenzie Shea at mshca@gordonbrothers.com.

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Very truly yours,

Gordon Brothers Retail Partners, LLC

By: 
Print Name and Title:

Rick Edwards, Co-President, Retail

Agreed and Accepted:
ruc21, inc.

By: 
Print Name and Title:

Benjamin Gross
Vice President & General Counsel

Exhibits:

- A Initial Store Listing
- B Budget of Consultant Controlled Expenses



Proposed Closing Page 130 of 39

Store#	Center	Address	City	STATE	Zip
15	Olean Mall	400 N Union Street	Olean	NY	14760-2631
22	Fashion Outlets of Niagara Falls	1620 Military Road	Niagara Falls	NY	14304-1772
50	Memphis Commons	8065 Giacosa Place (Suite 810)	Memphis	TN	38133
76	Indiana Mall	2334 Oakland Avenue (suite # 245)	Indiana	PA	15701-3348
94	Factory Stores of America	401 Commercial Drive (suite# 150)	Georgetown	KY	40324-9065
106	Westfield Hawthorn	532 Hawthorn Center	Vernon Hills	IL	60061
113	Great Northern Mall	4081 RT 31	Clay	NY	13041-8762
121	Wilton Mall	3065 Rt 50 (sp# 22)	Saratoga Springs	NY	12866-2960
137	Southern Tier Crossing	1508 County RT 64 (unit D)	Horseheads	NY	14845
165	Tanger Outlet Center	D1400 Tuscola Blvd (suite# D14)	Tuscola	IL	61953-2066
179	Grove City Premium Outlets	1911 Leesburg Grove City Road (suite# 1130 & 1135)	Grove City	PA	16127-3356
182	Shenango Valley Mall	3415 East State Street	Hermitage	PA	16148-3427
188	Factory Stores at Batesville	325 Lakewood Drive (suite 5 & 6)	Batesville	MS	38606-3018
189	Ozark Center Place	5320 West Sunset (suite# 180)	Springdale	AR	72762-4415
192	Kingsport Town Center	2101 Fort Henry Dr. (suite# 107)	Kingsport	TN	37664
212	Osage Beach Premium Outlets	4540 Highway 54 (suite# M1)	Osage Beach	MO	65065
214	Tanger Outlet Center	283 US Route 1 (suite# 107)	Kittery	ME	03904-2505
218	Medford Outlet Center	6750 West Frontage Road (suite# 446)	Medford	MN	55049-8121
228	Outlets at Hillsboro	104 I Hwy 35 NE (suitses# 170 & 171)	Hillsboro	TX	76445-2715
233	Outlets at Vicksburg	4000 S Frontage Rd (suite# 108 A)	Vicksburg	MS	39180-4465
234	Las Vegas Outlet Center	7400 S Las Vegas Boulevard (sp# 151)	Las Vegas	NV	89123-1041
242	Tanger Outlet Center	150 Tanger Drive (suite# 122)	Williamsburg	IA	52361-9653
252	The Promenade at Casa Grande	1269 N Promenade Pkwy (suite 134)	Casa Grande	AZ	85194
255	Tanger Outlet Center	2990 Cook Road (Space 115)	West Branch	MI	48661-9389
257	Fairlane Village Mall	7155 Fairlane Village Route 61N (Sp #9)	Pottsville	PA	17901-4103
262	Outlets at Anthem	4250 W. Anthem Way (suite# 450)	Anthem	AZ	85086-7683
273	Prime Outlets at Jeffersonville	8130 Factory Shops Boulevard	Jeffersonville	OH	43128-9607
285	Rockwell Plaza	8325 N Rockwell Ave.	Oklahoma City	OK	73162-6009
300	Tanger Outlet Center	314 Flat Rock Place (sp# F145 & F150)	Westbrook	CT	06498-3533
303	Tanger Outlet Center	1414 Fording Island Road (suite# C150)	Bluffton	SC	29910-8629
313	Mesa Riverview	849 North Dobson Rd (sp# 103)	Mesa	AZ	85201
321	Vacaville Premium Outlets	331 N. Nut Tree Road	Vacaville	CA	95687-3241
322	Pismo Beach Premium Outlets	333 Five Cities Drive (suite#115)	Pismo Beach	CA	93449-5002
323	West Valley Mall	3200 North Naglee Rd.	Tracy	CA	95304
331	Hagerstown Premium Outlets	560 Premium Outlets Blvd	Hagerstown	MD	21740-9536
350	St Augustine Outlets	500 Outlet Mall Blvd. (sp# 90)	St. Augustine	FL	32084-5200
378	Spring Meadows Place	1510 Spring Meadows Drive	Holland	OH	43528
384	Folsom Premium Outlets	13000 Folsom Boulevard (sp# 201)	Folsom	CA	95630-8008
398	Ellenton Premium Outlets	5185 Factory Shops Boulevard (sp# 825)	Ellenton	FL	34222-4111
399	Wrentham Village Premium Outlets	1 Premium Outlets Boulevard (sp# 140)	Wrentham	MA	02093-1575
403	Berkshire Crossing	555 Hubbard Ave (Suite 170)	Pittsfield	MA	1201
408	Premiere Place Shopping Center	1919 Cobbs Ford Road	Prattville	AL	36066-7211
410	Viejas Outlet Center	5001 Willows Rd (sp# M401)	Alpine	CA	91901-1683
419	Macedonia Commons	8210 Macedonia Commons Blvd (suite# 38)	Macedonia	OH	44056-1861
421	Northpoint Plaza	108 Meadow Park Ave (Suite 1410)	Lewis Center	OH	43035
428	EastChase Plaza	2472 Berryh Rd	Montgomery	AL	36117-3586
429	Central Mall	2259 S 9th St (sp#40)	Salina	KS	67401-7313
430	The Mall at Hays	2918 Vine St (Suite 210)	Hays	KS	67601-1953
434	East Court Village	3510 Court St	Pekin	IL	61554-6211
435	Corinth Commons	2501 Virginia Lane (sp# G-1)	Corinth	MS	38834-6530
438	Dogwood Promenade	130 Promenade Blvd (suite# B-6)	Flowood	MS	39232-8017
442	Galleria at Pittsburgh Mills	375 Pittsburgh Mills Circle	Tarentum	PA	15084-3837
443	Bridgewater Falls	3425 Princeton Rd (suite# 131)	Hamilton	OH	45011-7956
445	Bradley Square Mall	200 Paul Huff Parkway (Box 67)	Cleveland	TN	37312-2966
453	Colonial Promenade	300 Colonial Promenade Parkway (suite# 700)	Alabaster	AL	35007-3137
457	Rver Bend Marketplace	129 Bleachery Blvd (suite# F & G)	Asheville	NC	28805-8212
461	Sunrise Mall	2370 N. Expressway	Brownsville	TX	78521
463	Saratoga Gateway Centre	960 Industrial Parkway	Saratoga	AL	36571
474	Dowlen Towne Center	4065 Dowlen Rd (suite A)	Beaumont	TX	77706-6850
475	Alcoa Exchange	7357 Alcoa Road (Suite 103)	Bryant	AR	72022-6204
478	Turtle Creek Crossing	6055 Highway 98 West (suite# 40)	Haltiesburg	MS	39402-4402
490	Stirling Covington Center	69292 Hwy 21 (sp# 100)	Covington	LA	70433-7238
492	Mullins Crossing	4217 Washington Rd (suite# 4 / 5)	Evans	GA	30809-3069
494	Maple Hill Pavilion	5040 West Main Street (tenant F)	Kalamazoo	MI	49009-1004
500	Pinnacle Hills Promenade	2203 Promenade Blvd (suite 4120)	Rogers	AR	72758
502	Sunset Plaza	4161 Sunset Drive (sp # 213)	San Angelo	TX	76904
505	Valley Bend at Jones Farm	2722 Carl T Jones Drive SE	Huntsville	AL	35806
507	West Volusia Towne Center	937 Harley Strickland Boulevard (suite 700)	Orange City	FL	32763
510	Wal Mart Plaza	929 Keyser Avenue (unit 1, suite E)	Natchitoches	LA	71457
514	Meridian Crossroads	133 South Frontage Road (suite #108)	Meridian	MS	39301
524	Hamilton Crossing	207 Hamilton Crossing Drive	Alcoa	TN	37701
528	Rio Grande Valley Premium Outlets	5001 East Expressway 83 (suite 317)	Mercedes	TX	78570
529	Colonial Promenade Fullondale	3477 Lowery Parkway (suite 107)	Fullondale	AL	35068
533	Heritage Crossing	3401 Raleigh Road Parkway W (suite 2D)	Wilson	NC	27896
534	Savannah Mall	14045 Abercom Street (sp #2616)	Savannah	GA	31419
536	University Plaza	1131 South Plaza Way	Flagstaff	AZ	86001
541	Rockwall Crossing	975 East I-30 (suite 115)	Rockwall	TX	75032
542	Gerry Centennial Plaza	1670 New Douglas Road	Oswego	IL	60543
543	Hanover Square North	7230 Bell Creek Road (suite E)	Mechanicsville	VA	23111
547	Waynesboro Town Center	831 F Town Center Drive	Waynesboro	VA	22980
552	Philadelphia Premium Outlets	18 Lightcap Rd (sp# 867)	Pottstown	PA	19464
553	Tanger Outlet Center	2200 Tanger Boulevard (suite 715)	Washington	PA	15301
557	The Promenade Bolingbrook	635 E Boughton Rd (Suite 120)	Bolingbrook	IL	60440
558	Gulf Coast Towne Center	9924 Gulf Coast Main Street (suite 100)	Fort Myers	FL	33913
565	Milledgeville Mall	2400 North Columbia Street	Milledgeville	GA	31061
568	Nogales Plaza Shopping Center	460 North Grand Court Plaza	Nogales	AZ	85621
570	Rincon South Shopping Center	410 S. Columbia Avenue (suite 1)	Rincon	GA	31326

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Store#	Center	Address	City	STATE	Zip
572	Alamance Crossing	1015 Boston Drive	Burlington	NC	27215
573	Eastwood Village	1624 Montclair Road (suite 100)	Irondale	AL	35210
576	Rivergate Shopping Center	14141 Steele Creek Road (suite 400)	Charlotte	NC	28273
578	Promenade of Tutwiler Farms	1616 Gadsden Highway (suite 100)	Birmingham	AL	35235
579	Luton Ranch West	3740 E Highway 377	Granbury	TX	76049
581	Commerce Square	529 A West Commerce Street (Sp 529 A)	Brownwood	TX	76801
582	The Marketplace at Milan	15423 South First Street (#108)	Milan	TN	38358
585	Shoppes at Moore	2500 S. Service Rd.	Moore	OK	73160
587	Oxford Galleria	2305 West Jackson Avenue (suite 209)	Oxford	MS	38655
588	Piazza Del Sol	2205 Veterans Boulevard (sp# G5 & 6)	Del Rio	TX	78840
594	Columbus Park Crossing	5550 Whitlesey Boulevard (suite 580)	Columbus	GA	31909
595	Greendale Mall	7 Neponset Street (sp# E200A)	Worcester	MA	1606
596	Medallion Center	144 Medallion Center	Dallas	TX	75214
598	Blue Ridge Mall	1800 Four Seasons Boulevard	Hendersonville	NC	28792
599	Wal-Mart Plaza	5993 Mer Rouge Road	Bastrop	LA	71220
602	Manhattan Plaza	1723 Manhattan Blvd (suite A)	Harvey	LA	70058
603	Forum Shoppes	2218 Highway 82 W (suite# 300-500)	Greenwood	MS	38930
604	Super Walmart Center	105 North Rosedale (suite E)	Silver City	NM	88061
606	Weatherford Ridge	225 Adams Drive (suite 255)	Weatherford	TX	76086
610	Jefferson Square	2319 N. Main St.	Liberty	TX	77575
616	White Oak Mall	2501 W. Wabash Ave. (Space C10A)	Springfield	IL	62704
619	Market Heights Shopping Center	201 East Central Texas Expressway (suite 1180)	Harker Heights	TX	76548
620	The Highlands	570 Cabela Drive	Tridelpia	WV	26059
621	Erskine Village	1290 East Ireland Road (suite G-1)	South Bend	IN	46614
626	Regal Court Shopping Center	7551 Youree Drive	Shreveport	LA	71105
628	French Farms Pavilion	229 French Farms Blvd. (suite G)	Athens	AL	35611
631	North Park Plaza Shopping Center	1806 East End Boulevard	Marshall	TX	75670
632	Houston Premium Outlets	29300 Hempstead Road (suite 210)	Cypress	TX	77433
633	Colonial Promenade Tannehill	4863 Promenade Parkway (suite 113)	Bessemer	AL	35022
634	Brownsburg Station	600 West Northfield Drive (suite 2000)	Brownsburg	IN	46112
635	Phoenix Center II	1925 Vernaci Drive	Washington	MO	63090
638	Central Valley Plaza	2225 Plaza Parkway (suite J-1/2)	Modesto	CA	95350
642	Valparaiso Marketplace	2410 Laporte Ave #150	Valparaiso	IN	46383
645	Dublin Mall	2005 Veterans Boulevard (suite A20)	Dublin	GA	31021
647	Winchester Center	1250 S. Rochester Rd (sp C-100)	Rochester Hills	MI	48307
648	Norton Commons	708 Commonwealth Dr. (sp# 20 - 21)	Norton	VA	24273
649	Yuba Sutter Mall	1201 Colusa Avenue (G719)	Yuba City	CA	95991
656	Heritage Square	7696 Highway 72 NW (suite 340)	Madison	AL	35757
657	Waterside Marketplace	50697 Waterside Drive	Chesterfield	MI	48051
658	The Shoppes at Havasu	5601 Highway 95 N (suite 906)	Lake Havasu	AZ	86404
659	Sooner Mall	3235 West Main Street	Norman	OK	73072
660	San Luis Shopping Center	582 E. Piceno Dr. (suite 801)	San Luis	AZ	85349
672	Cordele Square	1007 East 16th Avenue (suite B)	Cordele	GA	31015
674	Holly Springs Towne Center	132 Grand Hill Place (suite 215)	Holly Springs	NC	27540
676	Champlain Centre	60 Smithfield Blvd (suite 25)	Plattsburgh	NY	12901
680	Oakleaf Town Center	9651 Crosshill Boulevard (suite 104)	Jacksonville	FL	32222
681	Edgewood Mall	1722 Veterans Blvd. (suite A6)	McComb	MS	39648
682	Culiman Shopping Center	1200 Culiman Shopping Center NW	Culiman	AL	35055
684	Pineville Shopping Center	3740 Monroe Hwy (suite# 800)	Pineville	LA	71360
685	Southgate Center	2331 South Brahma Blvd. (sp# 22)	Kingsville	TX	78363
686	Legion Plaza	2500 7th St. (suite B)	Las Vegas	NM	87701
690	Santa Rosa Commons	4737 Highway 90	Pace	FL	32571
691	Palestine Plaza	2002 Crockett Rd	Palestine	TX	75801
698	Plaza Del Rienza	357-A N. Canal Blvd.	Thibodaux	LA	70301
699	Seminole Towne Center	160 Towne Center Circle (sp# B 05)	Sanford	FL	32771
711	Greenville Mall	1651 Highway 1 South. (sp# 26)	Greenville	MS	38701
714	The Mall at Sierra Vista	2200 El Mercado Loop (sp# 1158)	Sierra Vista	AZ	85635
717	League City Town Center	3010 Gull Freeway S. (suite G)	League City	TX	77539
718	Victory Square	1915 E. Victory Square (suite K)	Savannah	GA	31409
719	Foothills Mall	7401 N. LaCholla Blvd. (suite 103)	Tucson	AZ	85741
725	The Meadows	777 W. Grassland Dr.	American Fork	UT	84003
726	Orchard Crossing	1034 Thomas Road (Suite 104)	Fort Wayne	IN	46804
730	Summit at Gravois Bluffs	794 Gravois Bluffs Blvd. (suite M)	Fenton	MO	63026
733	Jersey Shore Premium Outlets	1 Premium Outlets Blvd. (suite 251)	Tinton Falls	NJ	7753
734	Tanglewood Pavilions	3850 Conlon Way (Suite Q)	Elizabeth City	NC	27909
740	Scottsboro Marketplace	24833 John T. Reid Pkwy. (sp# M)	Scottsboro	AL	35768
749	Cascade Village	63455 N Hwy 97 (suite 78)	Bend	OR	97701
750	Heritage Mall	2129 14th Ave SE	Albany	OR	97322
754	Everett Mall	1402 SE Everett Mall Way (suite 365)	Everett	WA	98208
756	Santa Rosa Mall	300 Mary Esther Blvd.	Mary Esther	FL	32569
759	Stadium Center	2236 Daniels St.	Manteca	CA	95337
760	College Mall	2874 East Third Street. (suite C01)	Bloomington	IN	47401
763	Wilkes Plaza	1815 A US Hwy 421 B	Wilkesboro	NC	28697
768	Bartow Marketplace	289 Marketplace Blvd	Cartersville	GA	30121
770	Pier Park	205 Bluefish Dr. (suite 100)	Panama City Beach	FL	32413
776	Valley Vista Mall	2020 S Expressway 83 (sp# B 11)	Harlingen	TX	78552
777	Riverlands Shopping Center	1422 W Airline Hwy (suite 2A)	LaPlace	LA	70068
783	Bouffe Plaza	12895 Hwy 90 (suite R)	Luling	LA	70070
784	Clinton Pines Shopping Center	1803 West 1800 North (sp# G-4)	Clinton	UT	84015
786	Nittany Mall	2901 E. College Ave. (sp# 312)	State College	PA	16801
790	Eastdale Mall	1015 Eastdale Mall (sp# A6 & A7)	Montgomery	AL	36117
791	Yukon Village Shopping Center	1652 Garth Brooks Blvd.	Yukon	OK	73099
792	Zebulon Crossings	877 E Gannon Ave. (suite 201)	Zebulon	NC	27597
796	Pavillion at Port Orange	5509 S. Williamson Blvd. (suite 105)	Port Orange	FL	32128
798	Shoppes at Reidsville Ridge	1660 NC Hwy 14 (sp# B)	Reidsville	NC	27320
803	Cypress Bay	5167 US Hwy 70 W (suite 110)	Morehead City	NC	28557
804	New Bern Mall	3134 Dr MLK Jr Blvd	New Bern	NC	28562

Store#	Center	Address	City	STATE	Zip
805	The Esplanade	1401 W Esplanade Ave (ste# 402)	Kenner	LA	70065
806	Plaza West Covina	542 Plaza Drive (Space #542)	West Covina	CA	91790
807	Sound of Freedom Shoppes	537 Hwy 70 W (suite 103)	Havelock	NC	28532
810	Providence Marketplace	401 S Mt Juliet Rd (suite 410)	Mt. Juliet	TN	37122
815	Vinter Square	2741 Queens Gate Dr	Richland	WA	99352
820	Greeneville Commons	1327 Tusculum Blvd	Greeneville	TN	37745
821	Brookhaven Plaza	956 Brookway Blvd (ste. B)	Brookhaven	MS	39601
831	Capitola Mall	1855 - 41st Ave	Capitola	CA	95010
835	Lakeside Marketplace	3384 North Cobb Parkway (suite 170)	Acworth	GA	30101
836	Century Plaza Shopping Center	4181 Century Blvd	Pittsburg	CA	94565
842	Cherry Hill Plaza	1132 E. Stuart Drive (suite #40)	Galax	VA	24333
848	Heritage Place	12545 Olive Blvd	Creve Coeur	MO	63141
852	Meriden Mall	470 Lewis Ave (sp# 31)	Meriden	CT	6451
854	Exton Square Mall	382 Exton Square Parkway (suite #2285)	Exton	PA	19341
867	Great Lakes Mall	7850 Mentor Ave (sp# 570)	Mentor	OH	44060
871	Danville Manor	1560 Hustonville Rd (suite 329 & 333)	Danville	KY	40422
872	Palouse Mall	2012 W Pullman Rd	Moscow	ID	83843
875	Queen Creek Marketplace	21506 S Ellsworth Loop Rd (suite 108)	Queen Creek	AZ	85142
877	Washington Park Mall	2350 SE Washington Blvd (sp# 122 & 124)	Bartlesville	OK	74006
883	Centerville Marketplace	156 N Frontage Rd	Centerville	UT	84014
887	West Towne Square	163 Hudson Drive	Elizabethton	TN	37643
901	New River Valley Mall	754 New River Rd	Christiansburg	VA	24073
906	The District at South Jordan	11534 South District Main Dr (suite #400)	South Jordan	UT	84095
907	Hamilton Mall	4403 Black Horse Pike (Suite 1003)	Mays Landing	NJ	8330
909	North Main Commons	2720 N. Main St	Altus	OK	73521
911	Square One Mall	1201 Broadway (sp# N231 A)	Saugus	MA	1906
912	The Marketplace at Hanford	212 N. 12th Ave (suits 101 & 107)	Hanford	CA	93230
914	Philadelphia Marketplace	211 Lewis Ave S (suite 10)	Philadelphia	MS	39350
920	Meridian Mall	1982 W Grand River Ave (Suite 225)	Okemos	MI	48864
926	Weatherford Shopping Center	310 N Washington (suite 1221)	Weatherford	OK	73096
937	Center at Preston Ridge	3333 Preston Ridge (suite 402)	Frisco	TX	75034
943	The Shoppes at Park Place	7328 US Hwy 19 N	Pinellas Park	FL	33781
953	Midland Mall	6800 Eastman Ave (sp# C 308)	Midland	MI	48640
962	Brass Mill Center	495 Union St (suite #1058)	Waterbury	CT	6706
964	Imperial Valley Mall	3451 S Dogwood Ave (sp# 1048)	El Centro	CA	92243
967	Poplar Creek Plaza	330 Leonardwood Dr	Frankfort	KY	40601
970	Walmart Shopping Center	723 Leonard Ave (suite G)	Albemarle	NC	28001
971	Westridge Shopping Center	35585 Warren Road (Suite 1)	Westland	MI	48185
982	Collin Creek Mall	811 N Central Expressway (sp 2455)	Plano	TX	75075
984	Mall at Grand Canyon	4205 S Grand Canyon Parkway	Las Vegas	NV	89147
1016	Security Square Mall	6901 Security Blvd. (sp# 219)	Baltimore	MD	21244
1021	Siegen Lane Marketplace	10511 South Mall Dr	Baton Rouge	LA	70809
1027	Harbour View East	6253 College Dr (suite 100)	Suffolk	VA	23435
1028	Southland Shopping Center	1820 South 4th St	Chickasha	OK	73018
1038	Crossroads Commons	1170 Meridian Dr	Plover	WI	54467
1055	Massillon Marketplace	17 Massillon Marketplace Dr	Massillon	OH	44646
1073	Dyersburg Mall	2700 Lake Rd (sp# 1)	Dyersburg	TN	38024
1079	Centennial Center	7981 W Tropical Pkwy	N Las Vegas	NV	89084
1080	Tygart Commons	201 Tygart Mall Loop (suite 206)	Whitehall	WV	26554
1082	Montclair Plaza	5060 Montclair Plaza Ln (suite #2141)	Montclair	CA	91763
1087	Plaza Camino Real	2525 El Camino Real (suite #161)	Carlsbad	CA	92008
1092	Aurora Commons	1266 N Lake St. Suite 104	Aurora	IL	60506
1095	Crossroads Village	47172 Michigan Ave	Canton	MI	48188
1100	Brickyard Square	11 Brickyard Square (suite #9)	Epping	NH	3042
1105	Bellis Fair Mall	One Bellis Fair Parkway (suite 104)	Bellingham	WA	98226
1108	Sunrise Mall	5932 Sunrise Mall (suite C6)	Citrus Heights	CA	95610
1116	River Hills Mall	1850 Adams Street	Mankato	MN	56001
1120	Woodbridge Crossing	3420 W FM 544 (suite 750)	Wylie	TX	75098
1121	Shoppes at Fox River	1160 West Sunset Drive (suite 128)	Waukesha	WI	53189
1126	Denton Crossing	West 1800 South Loop 288 (suite 205)	Denton	TX	76205
1130	Hickory Point Mall	1385 Hickory Point Mall	Forsyth	IL	62535
1133	Five Points	4101 IH 69 Access Rd. (Sp #B-4)	Corpus Christi Calallen	TX	78410
1140	Butte Plaza Mall	3100 Harrison Ave (suite C1)	Butte	MT	59701
1142	Richland Marketplace	626 N West End Blvd	Quakertown	PA	18951
1150	Stratford Square Mall	808 Stratford Square (sp H-08)	Bloomington	IL	61018
1157	Holiday Village Mall	1753 US Highway 2 NW	Havre	MT	59501
1158	Nolan River Mall	1663 W Henderson St (suite 30)	Cleburne	TX	76033
1159	Centerpointe Mall	3645 28th Street SE	Grand Rapids	MI	49512
1164	Tyler Shopping Center	6759 S. Broadway	Tyler	TX	75703
1168	Durango Mall	800 South Camino Del Rio (suite G5)	Durango	CO	81301
1169	Flint Hills Mall	1686 B Industrial Rd	Emporia	KS	66801
1171	Valley View	3168 South Western Ave 311-1	Marion	IN	46953
1176	Watertown Mall	1300 9th Ave SE (suite 78)	Watertown	SD	57201
1177	Jacksonville Shoppes	1931 W. Morion Ave	Jacksonville	IL	62650
1180	Platte River Mall	1000 S Dewey Street	North Platte	NE	69101
1184	North Fork Station Shopping Center	4231 Sam Walton Way	Knoxville	TN	37938
1188	South Boston Shopping Center	3601 Old Halifax Road (suite 100)	South Boston	VA	24592
1196	Buckland Hills Mall	194 Buckland Hills Dr (sp 2148)	Manchester	CT	6042
1199	End Crossing	3828 W Owen K Garriott Road (suite 200)	Enid	OK	73701
1202	Gallatin Mall	2825 W Main Street (sp 1K & 2K)	Bozeman	MT	59718
1203	Kirkwood Mall	862 Kirkwood Mall (Space 465)	Bismarck	ND	58504
1204	Lawrenceburg Center Shopping Center	2132 North Locust Avenue	Lawrenceburg	TN	38464
1206	Duncan Towne Square	1827 N Highway 81	Duncan	OK	73533
1213	Marinette Commons	2910 Roosevelt Road (suite D)	Marinette	WI	54143
1214	Delaware Center	1802 SE Delaware Ave	Ankeny	IA	50021
1216	Trumbull Mall	5065 Main Street (suite 1124)	Trumbull	CT	6611
1220	Teton River Village	485 N. 2nd East (sp# 104)	Rexburg	ID	83440

Store#	Center	Address	City	STATE	Zip
1222	U Square @ the Loop	223 Calhoun Street	Cincinnati (Clifton)	OH	45219
1223	Wal-Mart Supercenter Shopping Center	305 10th Street (suite 3)	Floresville	TX	78114
1224	ABC Warehouse Shopping Center	8795 E. 34 Boon Rd	Cadillac	MI	49601
1225	Lloyd Center	1020 Lloyd Center	Portland	OR	97232
1228	Pierre Mall	1615 North Harrison	Pierre	SD	57501
1229	The Crossings Shopping Center	114 N. Main St (sp# 30)	Crossville	TN	38555
1233	Hanover Mall	1775 Washington Street (suite 103)	Hanover	MA	2339
1236	La Grande Shopping Center	10303 South Walton Road (suite 1)	Island City	OR	97850
1237	Mall at St. Vincent	1133 St. Vincent Ave (sp# 120)	Shreveport	LA	71104
1240	Alexandria Village Gree	6831 Alexandria Pike	Alexandria	KY	41001
1242	Shoppes on South Main	1111 South Main Street (sp 120)	Bowling Green	OH	43402
1245	Sunland Park Mall	750 Sunland Park Drive (sp B-05A)	El Paso	TX	79912
1246	Mall of Monroe	2121 North Monroe St (sp# 0110)	Monroe	MI	48162
1252	Creekview Plaza	652 West Price River Drive	Price	UT	84501
1255	Westfield Vancouver Shopping Center	8700 NE Vancouver Mall Drive (Suite 104)	Vancouver	WA	98662
1261	Alice Center	2521 E. Main Street (suite 103)	Alice	TX	78332
1265	Mitchell Mentzer Retail Mall	2207 S. Mentzer Street (Suite 170)	Mitchell	SD	57301
1270	Galleria at White Plains	100 Main Street (sp# 449)	White Plains	NY	10601
1273	North Town Plaza	1397 Wagner Drive (Unit# 5A)	Greenville	OH	45331
1276	Nabraska Crossings Outlets	21355 Nebraska Crossing Drive (suite F153)	Gretna	NE	68028
1288	Mayo Plaza	321 N. Mayo Trail	Paintsville	KY	41240
1289	The Family Center at Fort Union	7212 South Union Park Avenue	Midvale	UT	84047
1290	Target Outlet Center	652 N. Edwards Blvd	Lake Geneva	WI	53147
1292	Lansing Mall	5330 West Signaw Hwy (space 316)	Lansing	MI	48917
1293	Shoppes at Cortland	834 Bennie Road	Cortland	NY	13045
1296	Mellor Park Mall	2113 Northwest Ave	El Dorado	AR	71730
1302	McCarty Crossing	1010 E. Main	Jackson	OH	45640
1309	Rigsby Road Shopping Center	2000 SE Loop 410 (suite 140)	San Antonio	TX	78220
1312	Broadway Mall	358 N Broadway (space 876)	Hicksville	NY	11801
1314	Fairview Park Plaza	1111 West Broadway	Centralia	IL	62801
1315	Elk Park Center	19160 Freeport Street NW (space B 121)	Elk River	MN	55330
1316	Lake Forest Mall	701 Russell Ave (suite E223)	Gaithersburg	MD	20877
1317	North Hills Shopping Center	605 US Hwy 62/65 (#4)	Harrison	AR	72601
1318	Highpoint Village	2111 South Main Street	Bellefontaine	OH	43311
1320	Tucson Spectrum	5373 South Calle Santa Cruz (suite 161)	Tucson	AZ	85706
1321	Westfield Sarasota Square	8201 South Tamiami Trail (Unit 42)	Sarasota	FL	34238
1322	Fairplain Plaza	964 E Napier Ave (sp# D 6)	Benton Harbor	MI	49022
1323	Columbia Mall	2800 Columbia Road (suite 342)	Grand Forks	ND	58201
1325	Eden Prairie Center	8251 Flying Cloud Drive (suite 2208)	Eden Prairie	MN	55344
1326	Old Capital Center	2363 Highway 135 NW (suite 112)	Corydon	IN	47112
1328	Towne West Square	4600 W Kellogg Dr (suite 914)	Wichita	KS	67209-2568
1336	Huck Finn Shopping Center	210 Huck Finn Shopping Center	Hannibal	MO	63401
1337	Market Place Shopping Center	1901 North Market St (suite T10)	Champaign	IL	61820
1338	Shoppes on 7th	3307 7th Ave SE Suite 102, 103, 104	Aberdeen	SD	57401
1342	Lauren Parc	3015 Veteran's Memorial Drive (Suite 102)	Abbeville	LA	70510
1344	Sugarland Marketplace	1842 Sugarland Drive (Suite 108)	Sheridan	WY	82801
1345	Bay City Shopping Center	4310 7th Street (Suite 600)	Bay City	TX	77414
1351	Oak Point Centre	1602 Ford Avenue (Suite F & G)	Effingham	IL	62401
1352	Westgate Commons	1500 13th Avenue East	West Fargo	ND	58076
1357	Columbia Corners Shopping Center	1005 Hwy 98 Bypass (Suite 6)	Columbia	MS	39429
1358	Festival Plaza	106 Shane Drive (Suite 50)	Glasgow	KY	42141
1364	Athens Mall	743 E State St (Suite K)	Athens	OH	45701
1367	The Landing in Renton	829 N. 10th St (Suite D)	Renton	WA	98057
1369	Beeville Corners	2400 North St. Mary's Street (Suite A)	Boeville	TX	78102
1374	Harte Haven Shopping Center	128 Harte Haven Plaza	Massena	NY	13662
1376	Viking Plaza Mall	3015 Hwy 29 South (Sp 4125)	Alexandria	MN	56308
1379	Pony Village Mall	1611 Virginia Ave (Suite 109)	North Bend	OR	97459
1382	Town Square Center	1512 North Main Street	Miami	OK	74354
1383	Gorman Plaza	2048 W Oaklawn Road (Suite 250)	Pleasanton	TX	78064
1387	Germantown Plaza III	N96W19140 County Ling Rd	Germantown	WI	53022
1389	Plainview Commons Shopping Center	1601 North I-27 (Unit F)	Plainview	TX	79072
1390	Shops at Boardwalk	8618 North Boardwalk Avenue (Suite 9)	Kansas City	MO	64154
1395	Timberhill Shopping Center	2479 NW Kings Blvd	Corvallis	OR	97330
1396	Middletown Commons	13401 Shelbyville Road Suite 116	Louisville	KY	40223
1397	Parker Pavilions	11183 S. Parker Road (Suite A)	Parker	CO	80134
1398	Big Spring Crossing	2503 South Gregg Street (Unit B)	Big Spring	TX	79720
1400	Green Oak Village Place Shopping Center	9490 Village Place Blvd	Brighton	MI	48116
1403	Cambridge Crossing	61269 Southgate Parkway	Cambridge	OH	43725
1406	Corporate Center	1331 W Paradise Dr	West Bend	WI	53095
1408	Lake Pleasant Town Center	25546 N. Lake Pleasant Pkwy	Peoria	AZ	85383
1409	Newport Towne Center	199 Connell Highway Space #7	Newport	RI	2840
1413	Yorktown Center	109 Yorktown Center	Lombard	IL	60148
1414	Times Square Mall	3917 Broadway Street (Suite 43)	Mount Vernon	IL	62864
1415	Seabrook Commons	700 Lafayette Road (Suite 207)	Seabrook	NH	3874
1419	Wilderness Hills S/C	2901 Crescent Drive (Suite 101)	Lincoln	NE	68516
1420	Uvalde Plaza Shopping Center	2260 East Main Street	Uvalde	TX	78801
1421	Palmhurst Village Shopping Center	228 East Mile 3 Road (Suite 140)	Palmhurst	TX	78573
1436	Richfield Plaza	1168 South Highway 118	Richfield	UT	84701
1441	St Charles Towne Center	11110 Mall Circle Drive (Suite G05A)	Waldorf	MD	20603
1442	Clovis Commons	625 W Herndon Ave (#200)	Clovis	CA	93612
1443	Quaker Crossing Retail Center	3445 Amelia Dr	Orchard Park	NY	14127
1444	Circleville Plaza	166 Summit Avenue	Circleville	OH	43113
1445	Deer Creek Shopping Center	3202 Laclede Station Road (Suite D-100)	Maplewood	MO	63143
1446	Potomac Mills	2700 Potomac Mills Circle (Suite 144)	Woodbridge	VA	22192
1448	St Mary's Plaza	861 Highway 90 East	Morgan City	LA	70380
1450	East Viking Plaza	406 Viking Plaza Dr (Suite 100)	Cedar Falls	IA	50613
1451	Riverdale Village	12690 Riverdale Blvd NW	Coon Rapids	MN	55448

Store#	Center	Address	City	STATE	Zip
1453	Riley Plaza	3530 W Shore Dr (Suite 30)	Holland	MI	49424
1463	Rim Country Mall	400 E. Highway 260 (Suite D)	Payson	AZ	85541
1465	The Center Pearland Parkway	2650 Pearland Parkway (Suite 132)	Pearland	TX	77581
1469	Francis Scott Key Mall	5500 Buckeystown Pike (Suite 886)	Frederick	MD	21703
1470	Midtown Center	4184 N 56th Street (Suite 38)	Milwaukee	WI	53216
1471	Eastland Towne Center	1590 Marion-Mt Gilead Rd	Marion	OH	43302
1474	The Forum at Olympia Parkwat	8352 Agora Parkway (Suite 100)	Selma	TX	78154
1476	Kissimmee West	4702 Target Blvd	Kissimmee	FL	34746
1477	Livingston Mall	112 Eisenhower Parkway (Space 1026)	Livingston	NJ	7039
1478	Ocean County Mall	1201 Hooper Ave (Space 1042A)	Toms River	NJ	8753
1480	Westminster Mall	2037A Westminster Mall	Westminster	CA	92683
1482	Bowie Town Center	15512 Emerald Way	Bowie	MD	20716
1485	Altamonte Mall	451 East Altamonte Drive (Suite 1385)	Altamonte Springs	FL	32701
1490	King George Gateway	16453 Merchants Lane	King George	VA	22485
1492	Catoosa Hills Shopping Center	19665 Haynes Road (Suite A)	Catoosa	OK	74015
1493	Plaza at Enchanted Hills	3575 NM Highway 528 NE (Building F Suite 112)	Rio Rancho	NM	87144
1494	Columbus Center	3059 Columbus Center	Columbus	IN	47203
1497	Coastland Center	1744 Tamiami Trail N. (Suite C-03)	Naples	FL	34102
1500	Cranberry Mall	20111 Route 19 (Suite 106)	Cranberry Township	PA	16066
1503	Ukiah Crossroads Shopping Center	1375 North State Street	Ukiah	CA	95482
1504	Auburn Crossroads	2580 Bell Road	Auburn	CA	95603
1505	River Oaks Shopping Center	1208 Huntsville Hwy (Suite 4)	Fayetteville	TN	37334
1513	Green River Plaza	399 Campbellsville Bypass (Space 20 and 21)	Campbellsville	KY	42718
1514	Lynnhaven Mall	701 Lynnhaven Parkway	Virginia Beach	VA	23452
1517	Bangor Mall	663 Stillwater Ave (Suite 1018)	Bangor	ME	4401
1518	Cary Towne Center	1105 Walnut Street (Suite G-0144)	Cary	NC	27511
1519	Miami International	1455 NW 107th Ave (Suite 116A)	Doral	FL	33172
1520	North Point Mall	1000 North Point Circle (Suite 1008)	Alpharetta	GA	30022
1537	Southwest Plaza	8501 West Bowels Avenue (Suite 2220)	Littleton	CO	80123
1543	Plaza Center	40 Plaza Way (Suite 40)	Mountain Home	AR	72653
1545	Mall St. Matthews	5000 Shelbyville Rd. (Suite 1110)	Louisville	KY	40207
1547	Inland Center	500 Inland Center Drive (Space 250)	San Bernardino	CA	92408
1548	Tucson Mall	4500 North Oracle Road (Suite 480)	Tucson	AZ	85705
1550	Westfield Wheaton	11160 Veers Mill Rd. (Suite 167)	Wheaton	MD	20902
1557	Oxford Valley Mall	2300 E Lincoln Hwy (Suite 156)	Langhorne	PA	19047
1558	Lakewood Center Mall	61 Lakewood Center	Lakewood	CA	90712
1561	Tanger Outlet Center	350 84th St SW (Suite 480)	Grand Rapids	MI	49315
1563	Mondawmin Mall	2401 Liberty Heights Ave. (Space 2296)	Baltimore	MD	21215
1571	Lapalco Village	5929 Lapalco Blvd	Marrero	LA	70072
1572	Canyon Place Shopping Center	3831 Southwest 117th Ave (Suite E)	Beaverton	OR	97005
1573	Springfield Town Center	6777 Springfield Mall	Springfield	VA	22150
1575	Hazel Dell Marketplace	628 NE B1st Street (Suite B)	Vancouver	WA	98665
1584	Bolivar Center	2520 S Springfield (Suite C)	Bolivar	MO	65613
1588	Ellsworth Place	8661 Colesville Road (Suite C-107)	Silver Spring	MD	20910
1596	Citadel Mall	2070 Sam Rittenberg Blvd (Suite B-304)	Charleston	SC	29407
1598	Liberty Tree Mall	100 Independence Way (Space E127A)	Danvers	MA	1923
1602	Hay Creek Shops	1439 East LaSalle Drive	Bismarck	ND	58503
1603	The Overlook	210 Line Creek Drive	Peachtree City	GA	30269

Exhibit B

**rue21
 Consultant Controlled Expenses**

# of Stores	396		
Sale Term	4/14/17-6/25/17		
# of Days	73		
# of Weeks	10.4		
# Store Weeks	3,941.7		
	\$	Per Store	
In store signage	\$ 594,000	1,500	(1)
Customer Transition program	TBD		(2)
Media & production	\$ 20,000	51	
Signwalkers	\$ 1,250,057	3,157	(3)
Subtotal Advertising	\$ 1,864,057	4,707	
Supervision	\$ 807,294	2,039	(4)
Miscellaneous	\$ 30,000	76	
Total Consultant Controlled Expenses	\$ 2,701,351	6,822	

Notes.

- If the sale term is extended by mutual agreement or the number of stores change the budget will need to be adjusted.

1 - In store signage includes all interior signage & exterior banner and shipping costs.

2 - Customer Transition budget will be determined with the marketing group what programs will be chosen by the company and what aspects we will need to produce if any

3 - Signwalking budget is based upon \$600 per store week for the 247 strip centers.

4 - Supervision is based upon 18 full time GB consultants & 1 Lead consultant located at rue21 HQ & a part time Financial Consultant. This includes their fees, lodging and travel expenses.

SCHEDULE 2

Store Closing Procedures

Store Closing Procedures¹

1. The Store Closing Sales will be conducted during normal business hours or such hours as otherwise permitted by the applicable unexpired lease.
2. The Store Closing Sales will be conducted in accordance with applicable state and local “Blue Laws,” and thus, where such a law is applicable, no Store Closing Sales will be conducted on Sunday unless the Debtors have been operating such stores on Sundays.
3. On “shopping center” property, neither the Debtors nor the Consultant shall distribute handbills, leaflets, or other written materials to customers outside of any Stores’ premises, unless permitted by the applicable lease or if distribution is customary in the “shopping center” in which such Store is located; *provided* that the Debtors and the Consultant may solicit customers in the Stores themselves. On “shopping center” property, neither the Debtors nor the Consultant shall use any flashing lights or amplified sound to advertise the Store Closing Sales or solicit customers, except as permitted under the applicable lease or agreed in writing by the landlord.
4. The Debtors and the Consultant shall have the right to use and sell the FF&E. The Debtors and the Consultant may advertise the sale of the FF&E in a manner consistent with these Store Closing Procedures. The purchasers of any FF&E sold during the Store Closing Sales shall be permitted to remove the FF&E either through the back or alternative shipping areas at any time, or through other areas after Store business hours; *provided, however*, that the foregoing shall not apply to *de minimis* FF&E sales made whereby the item can be carried out of the Store in a shopping bag.
5. The Debtors and the Consultant may, but are not required to, advertise all of the Store Closing Sales as “store closing,” “sale on everything,” “everything must go,” or similarly themed sales. The Debtors and the Consultant may also have a “countdown to closing” sign prominently displayed in a manner consistent with these Store Closing Procedures.
6. The Debtors and the Consultant shall be permitted to utilize sign walkers, displays, hanging signs, and interior banners in connection with the Store Closing Sales; *provided* that such sign walkers, displays, hanging signs, and interior banners shall be professionally produced and hung in a professional manner. Neither the Debtors nor the Consultant shall use neon or day-glo on its sign walkers, displays, hanging signs, or interior banners if prohibited by the applicable lease or applicable law. Furthermore, with respect to enclosed mall locations, no exterior signs or signs in common areas of a mall shall be used unless otherwise expressly permitted in these Store Closing Procedures. In addition, the Debtors and the Consultant shall be permitted to utilize exterior banners at (a) non-enclosed mall Stores and (b) enclosed mall Stores to the extent the entrance to the applicable Store does not require entry into the enclosed mall common area; *provided, however*, that such banners shall be located or hung so as to make

¹ Capitalized terms used but not defined in these Store Closing Procedures have the meanings given to them in the Interim Order to which these Store Closing Procedures as attached as Schedule 2 or the Motion to which the Interim Order is attached as Exhibit A, as applicable.

clear that the Store Closing Sale is being conducted only at the affected Store, and shall not be wider than the storefront of the Store. In addition, the Debtors shall be permitted to utilize sign walkers in a safe and professional manner. Nothing contained in these Store Closing Procedures shall be construed to create or impose upon the Debtors or the Consultant any additional restrictions not contained in the applicable lease agreement.

7. Neither the Debtors nor the Consultant shall make any alterations to the storefront, roof, or exterior walls of any Stores or shopping centers, or to interior or exterior store lighting, except as authorized by the applicable lease. The hanging of in-Store signage shall not constitute an alteration to a Store.
8. Affected landlords will have the ability to negotiate with the Debtors, or at the Debtors' direction, the Consultant, any particular modifications to the Store Closing Procedures. The Debtors and the landlord of any Store are authorized to enter into Side Letters without further order of the Bankruptcy Court, *provided that* such agreements do not have a material adverse effect on the Debtors or their estates.
9. Conspicuous signs will be posted in each of the affected stores to the effect that all sales are "final."
10. The Debtors will keep store premises and surrounding areas clear and orderly, consistent with past practices.
11. An unexpired nonresidential real property lease will not be deemed rejected by reason of a Store Closing Sale, Store Closing or the adoption of these Store Closing Procedures.
12. The rights of landlords against the Debtors for any damages to a Store shall be reserved in accordance with the provisions of the applicable lease.
13. If and to the extent that the landlord of any Store contends that the Debtors or the Consultant is in breach of or default under these Store Closing Procedures, such landlord shall provide at least five (5) days' written notice, served by email or overnight delivery, on:

If to the Debtors:

rue21, inc.
800 Commonwealth Drive
Warrendale, Pennsylvania 15086
Attention: Benjamin R. Gross
E-mail address: bgross@rue21.com

with copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Ave.
New York, New York, 10022

Attention: Jonathan S. Henes
E-mail address: jhenes@kirkland.com
Attention: Nicole L. Greenblatt
E-mail address: ngreenblatt@kirkland.com
Attention: Robert A. Britton
E-mail address: robert.britton@kirkland.com
Attention: George Klidonas
E-mail address: george.klidonas@kirkland.com

and

Reed Smith LLP
225 Fifth Ave.
Pittsburgh, Pennsylvania 15222
Attention: Eric A. Schaffer
E-mail address: eschaffer@reedsmith.com
Attention: Jared S. Roach
E-mail address: jroach@reedsmith.com

If to the Consultant:

Gordon Brothers Retail Partners, LLC
800 Boylston Street, 27th Floor
Boston, Massachusetts 02199
Attention: Mackenzie Shea
E-mail address: mshea@gordonbrothers.com

with copies (which shall not constitute notice) to:

Greenberg Traurig, LLP
One International Place, Suite 200
Boston, Massachusetts 02110
Attention: Jeffrey M. Wolf
E-mail address: wolfje@gtlaw.com

If the parties are unable to resolve the dispute, either the landlord or the Debtors shall have the right to schedule a hearing before the Bankruptcy Court on no less than five (5) days' written notice to the other party, served by email or overnight delivery.

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<hr/>)	
In re:)	
)	
rue21, inc., <i>et al.</i> , ¹)	Case No. 17-22045 (GLT)
)	
	Debtors.)	Chapter 11
)	(Joint Administration Requested)
rue21, inc., <i>et al.</i> ,)	
)	
	Movants,)	
)	
	v.)	
)	
No Respondent.)	
)	
	Respondent.)	
<hr/>)	

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO ASSUME THE CONSULTING AGREEMENT, (II) APPROVING PROCEDURES
FOR STORE CLOSING SALES AND, (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of a final order (this "Order"): (a) authorizing the Debtors to assume the Consulting Agreement; (b) authorizing and approving the Store Closing Procedures, with such sales to be free and clear of all liens, claims and encumbrances; and (c) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration and the Coulombe Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core matter pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: rue21, inc. (1645); Rhodes Holdco, Inc. (6922); r services llc (9425); and rue services corporation (0396). The location of the Debtors’ service address is: 800 Commonwealth Drive, Warrendale, Pennsylvania 15086.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor:

THE COURT HEREBY FINDS AND DETERMINES THAT:

1. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. The Debtors have advanced sound business reasons for seeking to assume the Consulting Agreement and adopt the Store Closing Procedures, as set forth in the Motion and at the Hearing, and entering into the Consulting Agreement is a reasonable exercise of the Debtors' business judgment and in the best interests of the Debtors and their estates.

3. The conduct of the Store Closing Sales in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets.

4. The Consulting Agreement was negotiated, proposed and entered into by the Consultant and the Debtors without collusion, in good faith and from arms'-length bargaining positions.

5. The assumption of the Consulting Agreement, as modified herein, is a sound exercise of the Debtors' business judgment.

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

7. The Store Closings and Store Closing Sales are in the best interest of the Debtors' estates.

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

IT IS HEREBY ORDERED THAT:

9. The Motion is granted on a final basis as provided herein.

10. The Debtors are authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Order.

11. To the extent of any conflict between this Order, the Store Closing Procedures, and the Consulting Agreement, the terms of this Order shall control over all other documents and the Store Closing Procedures shall control over the Consulting Agreement.

12. Notwithstanding Bankruptcy Rule 6004(h), this Order shall take effect immediately upon its entry.

I. Authority to Assume the Consulting Agreement

13. The assumption of the Consulting Agreement, pursuant to this Order, by the Debtors pursuant to section 365 of the Bankruptcy Code is approved on a final basis. The

Debtors are authorized to act and perform in accordance with the terms of the Consulting Agreement, including making payments required by the Consulting Agreement to the Consultant without the need for any application of the Consultant or a further order of this Court.

14. Subject to the restrictions set forth in this Order and the Store Closing Procedures, the Debtors and the Consultant hereby are authorized to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and the Store Closing Sales. Each of the transactions contemplated by the Consulting Agreement, and any actions taken by the Debtors and the Consultant necessary or desirable to implement the Consulting Agreement and/or the Store Closing Sales prior to the date of this Order, hereby are approved and ratified.

15. Subject to the consent of the DIP ABL Agent, DIP Term Loan Parties, the Debtors are authorized to amend the Consulting Agreement from time to time in accordance with its terms, including by adding Additional Closing Stores and/or extending the Sale Term.

16. Notwithstanding anything to the contrary in the Consulting Agreement, including in Section 7 or Section 8 thereof, the Debtors and their estates shall not indemnify the Consultant for any damages arising primarily out of the Consultant's fraud, willful misconduct, or gross negligence.

II. Authority to Engage in Store Closing Sales

17. The Debtors and the Consultant are authorized pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to immediately continue and conduct the Store Closing Sales in accordance with this Order, the Store Closing Procedures and the Consulting Agreement.

18. The Store Closing Procedures are approved in their entirety on a final basis.

19. The Debtors are authorized to discontinue operations at the Closing Stores at the conclusion of the Store Closing Sales in accordance with this Order and the Store Closing Procedures.

20. All entities that are presently in possession of some or all of the Merchandise or FF&E in which the Debtors hold an interest that are or may be subject to the Consulting Agreement or this Order hereby are directed to surrender possession of such Merchandise or FF&E to the Debtors or the Consultant.

21. Neither the Debtors nor the Consultant nor any of their officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined in Bankruptcy Code section 101(27)) or landlord, to conduct the Store Closing Sales and to take the related actions authorized herein.

III. Conduct of the Store Closing Sales

22. All newspapers and other advertising media in which the Store Closing Sales may be advertised and all landlords are directed to accept this Order as binding authority so as to authorize the Debtors and the Consultant to conduct the Store Closing Sales and the sale of Merchandise and FF&E pursuant to the Consulting Agreement, including, without limitation, to conduct and advertise the sale of the Merchandise and FF&E in the manner contemplated by and in accordance with this Order, the Store Closing Procedures, and the Consulting Agreement.

23. The Debtors and Consultant are hereby authorized to take such actions as may be necessary and appropriate to implement the Consulting Agreement and to conduct the Store Closing Sales without necessity of further order of this Court as provided in the Consulting Agreement or the Store Closing Procedures, including, but not limited to, advertising the sale as a “store closing sale”, “sale on everything”, “everything must go”, or similar-themed sales through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent the applicable closing location entrance does not require entry into the enclosed mall common area), and use of sign-walkers

and street signage; *provided, however*, that only terminology approved by the Merchant will be used at each Closing Store in connection with the Store Closing Sales.

24. Except as expressly provided in the Consulting Agreement, any restrictive provision of any lease, sublease, restrictive covenant, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Store Closings or the Store Closing Sales (including the sale of the Merchandise and FF&E) the rejection of leases, abandonment of assets, or “going dark” provisions shall not be enforceable in conjunction with the Store Closings or the Store Closing Sales. Breach of any such provisions in these chapter 11 cases in conjunction with the Store Closings or the Store Closing Sales shall not constitute a default under a lease or provide a basis to terminate the lease; *provided*, the Store Closings and the Store Closing Sales are conducted in accordance with the terms of this Order and the Store Closing Procedures. The Debtors and landlords of the closing locations are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures without further order of this Court, and such Side Letters shall be binding as among the Debtors and any such landlords. In the event of any conflict between the Store Closing Procedures, this Order, and any Side Letter, the terms of such Side Letter shall control.

25. Except as expressly provided for herein or in the Store Closing Procedures, and except with respect to any Governmental Unit (as to which paragraphs 36 and 37 herein shall apply), no person or entity, including, but not limited to, any landlord, shopping center manager, licensor, service provider, utility, or creditor, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of the Store Closings, the Store Closing Sales or the sale of Merchandise or FF&E, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign-walkers) of such Store Closing Sales,

and all such parties and persons of every nature and description, including, but not limited to, any landlord, licensor, service provider, utility, or creditor and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closings or the Store Closing Sales, and/or (b) instituting any action or proceeding in any court (other than in the Bankruptcy Court), or administrative body seeking an order or judgment against, among others, the Debtors, the Consultant, or the landlords, at the Closing Stores that might in any way directly or indirectly obstruct, otherwise interfere with, or adversely affect the conduct of the Store Closings, the Store Closing Sales or other liquidation sales at the Closing Stores, and/or seek to recover damages for breaches of covenants or other provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

26. In accordance with and subject to the terms and conditions of the Consulting Agreement, the Consultant shall have the right to use the Stores and all related Store services, furniture, fixtures, equipment, and other assets of the Debtors for the purpose of conducting the Store Closing Sales, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Order.

27. All sales of Store Closure Assets shall be “as is” and final. However, as to the Stores, all state and federal laws relating to implied warranties for latent defects shall be complied with and are not superseded by the sale of said goods or the use of the terms “as is” or “final sales.”

28. The Consultant shall not be liable for sales taxes except as expressly provided in the Consulting Agreement and the payment of any and all sales taxes is the responsibility of the Debtors. The Debtors are directed to remit all taxes arising from the Store Closing Sales to the

applicable Governmental Units as and when due, provided that in the case of a *bona fide* dispute the Debtors are only directed to pay such taxes upon the resolution of the dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Consultant shall collect, remit to the Debtors, and account for sales taxes as and to the extent provided in the Consulting Agreement. This Order does not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state law, and does not constitute a declaratory judgment with respect to any party's liability for taxes under state law.

29. Pursuant to section 363(f) of the Bankruptcy Code, the Consultant, on behalf of the Debtors, is authorized to sell the Store Closure Assets and all sales of Store Closure Assets, whether by the Consultant or the Debtors, shall be free and clear of any and all liens, claims, encumbrances, and other interests; *provided, however*, that any such liens, claims, encumbrances, and other interests shall attach to the proceeds of the sale of the Store Closure Assets with the same validity, in the amount, with the same priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Store Closure Assets, subject to any claims and defenses that the Debtors may possess with respect thereto and the Consultant's fees and expenses (as provided in the Consulting Agreement).

30. To the extent that the Debtors propose to sell or abandon FF&E which may contain personal and/or confidential information about the Debtors' employees and/or customers (the "Confidential Information"), the Debtors shall remove the Confidential Information from such items of FF&E before such sale or abandonment.

31. The Debtors and/or the Consultant (as the case may be) are authorized and empowered to transfer Store Closure Assets among the Stores. The Consultant is authorized to sell the Debtors' FF&E and abandon the same, in each case, as provided for and in accordance with the terms of the Consulting Agreement.

32. Notwithstanding this or any other provision of this Order, nothing shall prevent or be construed to prevent the Consultant (individually, as part of a joint venture, or otherwise) or any of its affiliates from providing additional services to and/or bidding on the Debtors' assets not subject to the Consulting Agreement pursuant to an agency agreement or otherwise ("Additional Assets"). The Consultant (individually, as part of a joint venture, or otherwise) or any of its affiliates are hereby authorized to bid on, guarantee, or otherwise acquire such Additional Assets, or offer to provide additional services, notwithstanding anything to the contrary in the Bankruptcy Code or other applicable law, *provided that* such services, guarantee, transaction, or acquisition is approved by separate order of this Court.

IV. Procedures Relating to Additional Closing Stores

33. To the extent that the Debtors seek to conduct Store Closing Sales at any Additional Closing Store, the Store Closing Procedures and this Order shall apply to the Additional Closing Stores.

34. Prior to conducting Store Closing Sales at any Additional Closing Store, the Debtors will (a) consult with the DIP ABL Agent, DIP Term Loan Parties, and the Term Loan Lender Group and, after obtaining their consent, (b) file a list of such Additional Closing Stores with this Court (the "Additional Closing Store List"), and serve a notice of their intent to conduct Store Closing Sales at the Additional Closing Stores on the applicable landlords (the "Additional Closing Store Landlords") and interested parties, including the U.S. Trustee, the DIP ABL Agent, the DIP Term Loan Parties, any statutory committee of creditors appointed in the

Merchant's bankruptcy case, the prepetition secured parties that comprise the Merchant's capital structure (including the Term Loan Lender Group), by email (to the extent available to the Debtors) or overnight mail. With respect to Additional Closing Store Landlords, the Debtors shall mail such notice to the notice address set forth in the lease for such Additional Closing Store (or, if none, at the last known address available to the Debtors).

35. The Additional Closing Store Landlords and any interested parties shall have seven days after service of the applicable Additional Closing Store List to object to the application of this Order. If no timely objections are filed with respect to the application of this Final Order to an Additional Closing Store, the Debtors should be authorized, pursuant to sections 105(a), and 363(b) and (f) of the Bankruptcy Code, to proceed with conducting a Store Closing Sale at the Additional Closing Store in accordance with this Order or the Final Order, as applicable, the Store Closing Procedures, and the Consulting Agreement. If any objections are filed with respect to the application of this Order, to an Additional Closing Store, and such objections are not resolved, the objections and the application of this Order to the Additional Closing Store will be considered by the Court at the next regularly scheduled omnibus hearing, subject to the rights of any party to seek relief on an emergency basis on shortened notice, to the extent necessary so that the Debtors can move promptly to maximize value and minimize expenses for the benefit of their creditors and stakeholders.

V. Dispute Resolution Procedures with Governmental Units

36. Nothing in this Order, the Consulting Agreement, or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a governmental unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Order. Nothing contained in this Order,

the Consulting Agreement, or the Store Closing Procedures shall in any way: (a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with its rights and obligations as debtor in possession under the Bankruptcy Code. The Store Closings and the Store Closing Sales shall not be exempt from laws of general applicability, including, without limitation, public health and safety, criminal, tax, labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising (collectively, "General Laws"). Nothing in this Order, the Consulting Agreement, or the Store Closing Procedures, shall alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Order shall be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtors' rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code, this Order, or otherwise, pursuant to paragraph 37 herein. Notwithstanding any other provision in this Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Order and/or any applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Order shall be deemed to have made any rulings on any such issues.

37. To the extent that the sale of Store Closure Assets is subject to any Liquidation Sale Laws, including any federal, state, or local statute, ordinance, or rule, or licensing requirement directed at regulating "going out of business," "store closing," similar inventory liquidation sales, or bulk sale laws, including laws restricting safe, professional, and non-

deceptive, customary advertising such as signs, banners, posting of signage, and use of sign-walkers solely in connection with the Store Closing Sales and including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Store Closure Assets, the Dispute Resolution Procedures in this section shall apply.

- (i) Provided that the Store Closing Sales are conducted in accordance with the terms of this Order and the Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units that exempt court-ordered sales from their provisions, the Debtors and the Consultant will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of this Order and the Store Closing Procedures without the necessity of further showing compliance with any Liquidation Sale Laws.
- (ii) With respect to any Additional Closing Stores, within three business days after filing any Additional Closing Store List with the Court, the Debtors will serve by first-class mail, copies of this Order, as applicable, the Consulting Agreement, and the Store Closing Procedures on the Dispute Notice Parties.
- (iii) To the extent that there is a dispute arising from or relating to the Store Closing Sales, this Order, the Consulting Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a “Reserved Dispute”), this Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following service of an Additional Store Closing List, any Governmental Unit may assert that a Reserved Dispute exists by serving written notice of such Reserved Dispute to counsel for the Debtors and counsel to the Consultant so as to ensure delivery thereof within one business day thereafter. If the Debtors (and/or the Consultant) and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the notice, the Governmental Unit may file a motion with this Court requesting that this Court resolve the Reserved Dispute (a “Dispute Resolution Motion”).
- (iv) In the event that a Dispute Resolution Motion is filed, nothing in this Order shall preclude the Debtors, the Consultant, a landlord, or any other interested party from asserting (i) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (ii) that neither the terms of this Order nor the conduct of the Debtors pursuant to this Order, violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of any Order or to limit or interfere with the Debtors’ or the Consultant’s ability to conduct or to continue to conduct the Store Closing Sales pursuant to this Order, absent further order of this Court. Upon the entry of this Order, this Court grants authority for the Debtors and the Consultant to conduct

the Store Closing Sales pursuant to the terms of this Order, the Consulting Agreement, and/or the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in this Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.

- (v) If, at any time, a dispute arises between the Debtors and/or the Consultant and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in this Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (ii) and (iii) above by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

38. Subject to paragraphs 36 and 37 above, each and every federal, state, or local agency, departmental, or Governmental Unit with regulatory authority over the Store Closing Sales and all newspapers and other advertising media in which the Store Closing Sales are advertised shall consider this Order as binding authority that no further approval, license, or permit of any Governmental Unit shall be required, nor shall the Debtors or the Consultant be required to post any bond, to conduct the Store Closing Sales.

39. Provided that the Store Closing Sales are conducted in accordance with the terms of this Order, the Consulting Agreement, and the Store Closing Procedures, and in light of the provisions in the laws that exempt court-ordered sales from their provisions, the Debtors and Consultant shall be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of this Order and the Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.

VI. Other Provisions

40. The Consultant shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against the Consultant, in each case, other than as expressly provided for in the Consulting Agreement, as modified by this Order.

41. To the extent the Debtors are subject to any state “fast pay” laws in connection with the Store Closing Sales, the Debtors shall be presumed to be in compliance with such laws to the extent, in applicable states, such payroll payments are made by the later of: (a) the Debtors’ next regularly scheduled payroll; and (b) seven calendar days following the termination date of the relevant employee, and in all such cases consistent with, and subject to, any previous orders of this Court regarding payment of same.

42. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ or any party-in-interest’s right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors’ rights or the rights of any other person under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtors and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

43. Notice of the Motion as provided therein is deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the local rules of this Court are satisfied by such notice.

44. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

45. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

46. This Court shall retain jurisdiction with regard to all issues or disputes relating to this Order or the Consulting Agreement, including, but not limited to, (a) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being conducted in a safe, professional, and non-deceptive manner, (b) any claim of the Debtors, the landlords and/or the Consultant for protection from interference with the Store Closings or the Store Closing Sales, (c) any other disputes related to the Store Closings or the Store Closing Sales, and (d) protect the Debtors and/or the Consultant against any assertions of any liens, claims, encumbrances, and other interests. No such parties or person shall take any action against the Debtors, the Consultant, the landlords, the Store Closing Sales or the Store Closings until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

Pittsburgh, Pennsylvania
Dated: _____, 2017

THE HONORABLE
UNITED STATES BANKRUPTCY JUDGE