

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	RELEASE BY SECURED PARTY PURSUANT TO CHAPTER 11 SALE

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Nations Financial Capital Corporation		04/19/2006	CORPORATION: DELAWARE

RECEIVING PARTY DATA

Name:	Green Thumb Aquisition Corporation
Street Address:	1001 Brickell Bay Drive
Internal Address:	26th Floor
City:	Miami
State/Country:	FLORIDA
Postal Code:	33131
Entity Type:	CORPORATION:

PROPERTY NUMBERS Total: 6

Property Type	Number	Word Mark
Registration Number:	1084414	'TOMATO BOOMERS'
Registration Number:	1768337	IT WORKS. YOU DON'T.
Registration Number:	1682545	ROSS
Registration Number:	1675783	ROSS ROOT FEEDER
Registration Number:	1664643	GRO-STAKES
Registration Number:	1684947	ROSS

CORRESPONDENCE DATA

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CH \$165.00 1084414

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ATTORNEY DOCKET NUMBER:

017962.0111

NAME OF SUBMITTER:

Daniel Angel, Esq. (017962.0111)

Signature:

/kc for da/

Date:

10/25/2006

Total Attachments: 27

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
EASY GARDENER PRODUCTS, LTD.,¹)
Debtors.) Case No. 06-10396 (KG)
(Jointly Administered)
RE: Docket No. 14

ORDER UNDER 11 U.S.C. §§ 105(a), 363, AND 365 AND FED. R. BANKR. P. 2002, 6004 AND 6006 (I) AUTHORIZING AND APPROVING ASSET PURCHASE AGREEMENT BY AND BETWEEN GREEN THUMB ACQUISITION CORPORATION AND THE DEBTORS; (II) AUTHORIZING AND APPROVING SALE OF SUBSTANTIALLY ALL ASSETS OF THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS; (III) AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (IV) GRANTING CERTAIN RELATED RELIEF

Upon consideration of the motion (the "Motion"), of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), for entry of (a) an order approving, among other things, (i) certain bid protections, including a break-up fee, expense reimbursement, auction procedures and overbid requirements (collectively, the "Bidding Procedures"), and (ii) the form and manner of notice with respect to such procedures and the hearing to consider entry of this Order; and (b) an order under 11 U.S.C. §§ 105(a), 363, and 365 and Fed. R. Bankr. P. 2002, 6004 and 6006 (i) approving that certain Asset Purchase Agreement by and between Green Thumb Acquisition Corporation (the "Buyer") and the Debtors, dated as of April 19, 2006 (the "Agreement"),² a copy of which is attached hereto as Exhibit A, and certain Ancillary

¹ The Debtors are: Easy Gardener Products, Ltd., EG Product Management, L.L.C., NBU Group, LLC, Weatherly Consumer Products Group, Inc., Weatherly Consumer Products, Inc.

² Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Agreement.

Documents (as defined in Section 2.4 of the Agreement) substantially in the forms attached as exhibits to the Agreement, (ii) authorizing the Debtors to sell (the "Sale") to the Buyer substantially all of their assets (as defined more specifically in the Agreement, the "Purchased Assets") free and clear of all Liens other than Liens for taxes not yet due and payable (the "Permitted Liens"), all liabilities (other than Assumed Liabilities), Interests (as defined herein) and Claims (as defined herein), (iii) authorizing the assumption and assignment of the Assumed Contracts, and (iv) granting certain related relief, and this Court having entered an order on May 4, 2006 (the "Procedures Order") approving, among other things, the proposed Bidding Procedures and notice of the Sale; and the Debtors having determined that the Buyer has submitted the highest or otherwise best bid for the Purchased Assets, as noted on the record of the Auction; and a hearing having been held on June 2, 2006 (the "Sale Hearing"); and adequate and sufficient notice of the Bidding Procedures, the Agreement and all transactions contemplated thereunder and in this Order having been given in the manner directed by the Court in the Procedures Order; and all interested parties having been afforded an opportunity to be heard with respect to the Motion and all relief related thereto; and the Court having reviewed and considered (i) the Motion, (ii) the objections thereto, if any, and (iii) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

FOUND AND DETERMINED THAT:

I. This Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 & 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought in the Motion are sections 105(a), 363, and 365 of title 11, United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code"), and Rules 2002, 6004, 6006, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

3. This Court entered the Procedures Order on May 4, 2006, and the Procedures Order has become a final and non-appealable order and remains in full force and effect.

4. As evidenced by the affidavits of service and publication filed with this Court, and based on representations of counsel at the Sale Hearing, (i) due, proper, timely, adequate and sufficient notice of the Motion, the Sale Hearing, the Sale and the transactions contemplated thereby, including without limitation, the assumption and assignment of the Assumed Contracts, has been provided in compliance with the Procedures Order and in accordance with Bankruptcy Code sections 102(1), 105(a), 363 and 365 and Bankruptcy Rules 2002, 6004, 6006, and 9013; (ii) such notice was good, sufficient and appropriate under the circumstances; and (iii) no other or further notice of the Motion, the Sale Hearing, the Sale or the transactions contemplated thereby (including, without limitation, the assumption and assignment of the Assumed Contracts), is or shall be required.

5. A reasonable opportunity to object and be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons and entities, including the following: (i) the Office of the United States Trustee; (ii) counsel to the Buyer; (iii) counsel to the Official Committee of Unsecured Creditors appointed in these cases (the "Committee"); (iv) all entities known to have expressed an interest in acquiring any of the

Purchased Assets; (v) all entities known to have asserted any Lien in or upon any of the Purchased Assets; (vi) all federal, state and local taxing authorities that have jurisdiction over the Debtors; (vii) all regulatory authorities or recording offices that have a reasonably known interest in the relief requested in the Motion; (viii) all governmental agencies having jurisdiction over the Debtors with respect to environmental laws; (ix) parties to governmental approvals or permits; (x) the United States Attorney's office and the attorneys general of all states in which the Purchased Assets are located; (xi) all non-Debtor parties to the Assumed Contracts; and (xiii) all other parties that had filed a notice of appearance and demand for service of papers in these bankruptcy cases under Bankruptcy Rule 2002 as of the date of the Motion. The Limited Objection filed by Tredegar Film Products Corporation and the Reservations of Rights filed by the United States Trustee have been satisfied and withdrawn.

6. The Debtors may sell the Purchased Assets free and clear of all Interests because each entity with a security interest in any Purchased Assets to be transferred on the Closing Date, including the Assumed Contracts, (i) has consented to the Sale (including the assumption and assignment of the Assumed Contracts) or is deemed to have consented to the Sale; (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such interest; or (iii) otherwise falls within the provisions of section 363(f) of the Bankruptcy Code, and therefore, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests who did not object to the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

7. Good and sufficient reasons for approval of the Agreement and the Sale have been articulated. The relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest.

8. The Debtors have demonstrated both (i) good, sufficient and sound business purpose and justification and (ii) compelling circumstances for the Sale other than in the ordinary course of business, pursuant to Bankruptcy Code section 363(b), in that, among other things, the immediate consummation of the Sale to the Buyer is necessary and appropriate to maximize the value of the Debtors' estates; the Sale will provide the means for the Debtors to maximize distributions to creditors; and absent consummation of the Sale, the Debtors may be forced to conduct a piecemeal liquidation of the Purchased Assets which is likely to yield substantially less proceeds available to distribute to creditors than the Sale.

9. The Buyer is a good faith purchaser under Bankruptcy Code section 363(m) and, as such, is entitled to all of the protections afforded thereby.

10. Each Debtor has full corporate power and authority to execute the Agreement, and all other documents contemplated thereby, and to consummate the transactions contemplated by the Agreement. The Agreement and all of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action of each of the Debtors. No consents or approvals other than the authorization and approval of this Court are required for each of the Debtors to consummate the Sale.

11. The Agreement was negotiated, proposed and entered into by the Debtors and the Buyer without collusion, in good faith and from arms'-length bargaining positions. The Buyer is not an "insider" of any of the Debtors, as that term is defined in Bankruptcy Code

section 101. Neither the Debtors nor the Buyer have engaged in any conduct that would cause or permit the Agreement to be avoided under Bankruptcy Code section 363(n).

12. The consideration provided by the Buyer pursuant to the Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, and (iii) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia.

13. The Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

14. The transfer of the Purchased Assets to the Buyer pursuant to the Agreement will be a legal, valid, and effective transfer of the Purchased Assets, and vests or will vest the Buyer with all right, title, and interest of the Debtors to the Purchased Assets free and clear of Liens, mortgages, security interests, conditional sales or other title retention agreements, pledges, claims, judgments, demands, encumbrances (including, without limitation, claims, and encumbrances (i) that purport to give to any party a right or option to effect any forfeiture, modification or termination of the Debtors' or the Buyer's interests in the Purchased Assets or (ii) in respect of taxes, restrictions, rights of first refusal, charges or interests of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership) (collectively, the "Interests"), with the exception of Permitted Liens and Assumed Liabilities (as defined in the Agreement), with all such non-assumed Interests to attach to the Debtors' interest in the proceeds of the Sale (the

"Sale Proceeds") in order of priority, subject to any rights, claims and defenses of the Debtors with respect thereto and subject to the remaining provisions of this Order.

15. Neither the Buyer nor its affiliates, successors or assigns, as a result of any action taken in connection with the purchase of the Purchased Assets: (a) are successors to the Debtors; (b) have, de facto or otherwise, merged with or into the Debtors; or (c) are continuations or substantial continuations of the Debtors or any enterprise of the Debtors.

16. For purposes of 11 U.S.C. § 363(b)(1), the Debtor has not, in connection with offering a product or service, disclosed to an individual a policy prohibiting the transfer of "personally identifiable information" (as defined in section 101 (41A) of the Bankruptcy Code) about individuals to persons that are not affiliated with the Debtor.

17. The Debtors have demonstrated that assuming and assigning the Assumed Contracts in connection with the Sale is an exercise of their sound business judgment, and that such assumption and assignment is in the best interests of the Debtors' estates.

18. The Debtors have cured, or have provided adequate assurance of cure of, any default existing prior to the Closing Date, which is the effective date of the assumption of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(A), under the Assumed Contracts, and have provided compensation or adequate assurance of compensation to any non-Debtor party to such contracts or leases for any of their actual pecuniary losses resulting from any default arising prior to the Closing Date under any such Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(B) (collectively, the "Cure Amounts").

19. As of Closing Date, subject only to the payment of the Cure Amounts, as determined in accordance with the procedures identified in the Motion, each Assumed Contract

will be in full force and effect and enforceable against the non-Debtor party thereto in accordance with its terms.

20. On or before the Closing Date, the Debtors will pay in full all Cure Amounts in respect of all undisputed cure claims and all Cure Amounts that have been determined by this Court pursuant to a final order as of the Closing, excluding any portion of such Cure Amounts that constitute Assumed Liabilities which the Buyer has agreed to pay under the Agreement, on the Closing the Debtors will segregate an amount of the proceeds of the Sale equal to the asserted amount of any disputed cure claim on an Assumed Contract pending the resolution of any such dispute by this Court or mutual agreement of the parties and upon such resolution or mutual agreement, the Debtors shall pay out of such segregated funds the amount of any such cure claim which the Buyer has not expressly agreed to pay under the Agreement. Any non-Debtor party to any Assumed Contract who objected to the Cure Amounts (a "Cure Amount Objection") is protected by having such disputed portion of such Cure Amount segregated as set forth herein.

21. The Debtors have, to the extent necessary, satisfied the requirements of Bankruptcy Code sections 365(b)(1) and 365(f) in connection with the Sale, the assumption and assignment of the Assumed Contracts and shall upon assignment thereof on the Closing Date, be relieved from any liability for any breach thereof (other than the liability to pay Cure Amounts that are not Assumed Liabilities on or before the Closing or following the Closing, as applicable), and it is therefore

ORDERED, ADJUDGED AND DECREED THAT:

22. The Motion is GRANTED (other than with respect to matters previously addressed by the Procedures Order). All relief granted by the Procedures Order is hereby incorporated by reference to this Order and remains in full force and effect.

23. Any objections to the entry of this Order or the relief granted herein and requested in the Motion that have not been withdrawn, waived or settled, and all reservations of rights included therein, hereby are denied and overruled on the merits with prejudice.

24. The Agreement and the Ancillary Documents, and all of the terms and conditions thereof, including, but not limited to, the sale of the Purchased Assets in exchange for the Purchase Price and the assumption of the Assumed Liabilities, as set forth in the Agreement, are hereby approved.

25. Pursuant to Bankruptcy Code sections 363(b) and (f), the Debtors are authorized and (subject to the applicable closing conditions set forth in the Agreement) directed to consummate the Sale, pursuant to and in accordance with the terms and conditions of the Agreement.

26. The Debtors are authorized and (subject to the applicable closing conditions set forth in the Agreement) directed to execute and deliver, and empowered to perform under, consummate and implement, the Agreement, collectively with all additional instruments and documents, including, without limitation, the Ancillary Documents that may be reasonably necessary or desirable to implement the Agreement, and to take all further actions as may be requested by the Buyer for the purpose of transferring the Purchased Assets to the Buyer or as may be necessary or appropriate to the performance of the obligations contemplated by the

Agreement. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Agreement, the Ancillary Documents or any other Sale related document in the Bankruptcy Court in accordance with Section 9.16 of the Agreement. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of this Order.

27. Except as expressly permitted or otherwise specifically provided for in the Agreement or this Order, pursuant to Bankruptcy Code sections 105(a) and 363(f), the Purchased Assets shall be transferred to the Buyer and, as of the Closing Date (subject to the payment of any applicable Cure Amount as provided herein), shall be free and clear of (a) all Interests, and (b) all debts arising under, relating to, or in connection with any acts of the Debtors, claims (as that term is defined in section 101(5) of the Bankruptcy Code), liabilities, obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these cases, and whether imposed by agreement, understanding, law, equity or otherwise (including, without limitation, claims and encumbrances (i) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of any of the Debtors' or the Buyer's interests in the Purchased Assets, or any similar rights, or (ii) in respect of taxes, restrictions, rights of first refusal, charges or interests of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership) (collectively, "Claims"), with the exception of Assumed Liabilities. Subject to the provisions of paragraph 6 above, all such non-assumed Interests and Claims to

attach to the Debtors' interest in the Sale Proceeds, in the order of their priority, with the same validity, force and effect which they now have against the Purchased Assets, subject to any rights, claims and defenses the Debtors may possess with respect thereto.

28. Except as expressly provided by the Agreement, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and regulatory authorities, lenders, trade and other creditors, holding Interests or Claims of any kind or nature whatsoever against or in the Debtors or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non contingent, liquidated or unliquidated, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets, the operation of the Debtors' businesses prior to the Closing Date or the transfer of the Purchased Assets to the Buyer, shall be and hereby are forever barred, estopped and permanently enjoined from asserting, prosecuting or otherwise pursuing against the Buyer, its property, its successors and assigns, its affiliates or the Purchased Assets, such persons' or entities' Interests or Claims (with the exception of Permitted Liens and Assumed Liabilities). Following the Closing Date, no holder of an Interest in or Claim against the Debtors (other than holders of Permitted Liens or Assumed Liabilities) shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to such Interests or Claims, and all such Claims and Interests, if any, shall be, and hereby are channeled, transferred and attached solely and exclusively to the Sale Proceeds.

29. The transfer of the Purchased Assets to the Buyer pursuant to the Agreement shall not result in (i) the Buyer having any liability or responsibility for any claim (other than for Permitted Liens or Assumed Liabilities) against the Debtors or against an insider

of the Debtors, or (ii) the Buyer having any liability or responsibility to the Debtors except pursuant to the Agreement and this Order.

30. The Buyer shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Purchased Assets other than as expressly set forth in the Agreement. Without limiting the effect or scope of the foregoing, the transfer of the Purchased Assets from the Debtors to the Buyer does not and will not subject the Buyer or its affiliates, successors or assigns or their respective properties (including the Purchased Assets) to any liability for claims (as that term is defined in section 101(5) of the Bankruptcy Code) against the Debtors or the Purchased Assets by reason of such transfer under the laws of the United States or any state, territory or possession thereof applicable to such transactions.

31. Neither the Buyer nor its affiliates, successors or assigns shall be deemed, as a result of any action taken in connection with the purchase of the Purchased Assets to: (a) be a successor to the Debtors; (b) have, de facto or otherwise, merged with or into the Debtors; or (c) be a continuation or substantial continuation of the Debtors or any enterprise of the Debtors.

32. Except as expressly set forth in the Agreement, neither the Buyer nor its affiliates, successors or assigns is acquiring or assuming any liability, warranty or other obligation of the Debtors, including, without limitation, any tax incurred but unpaid by the Debtors prior to the Closing Date, including, but not limited to, any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assessed, fixed or audited, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction, except as otherwise expressly provided in the Agreement.

33. The transfer of the Purchased Assets to the Buyer pursuant to the Agreement constitutes a legal, valid and effective transfer of the Purchased Assets, and shall vest the Buyer with all right, title and interest of the Debtors in and to the Purchased Assets free and clear of all Claims and Interests (other than Permitted Liens and Assumed Liabilities) of any kind or nature whatsoever.

34. On the Closing Date, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Purchased Assets or a bill of sale transferring good and marketable title in the Purchased Assets to the Buyer. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement.

35. This Order is and shall be effective as a determination that, all Liens (other than Permitted Liens) shall be, and are, without further action by any person or entity, released with respect to the Purchased Assets as of the Closing Date.

36. This Order shall be binding upon and shall govern the acts of all entities, including without limitation all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets.

37. The Debtors are hereby authorized, in accordance with Bankruptcy Code sections 105(a), 363 and 365, to (a) assume and assign to the Buyer, effective upon the Closing Date, the Assumed Contracts, and/or to transfer, sell and deliver to the Buyer all of Debtors' right, title and interest in and to the Assumed Contracts, free and clear of all Interests and Claims of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities), and (b) execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts to the Buyer.

38. The requirements of sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code are hereby deemed satisfied with respect to the Assumed Contracts (subject to the Cure Amount procedures set forth herein).

39. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer, in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including provisions of the type described in sections 365(b)(2), (e)(1) and (f)(1) of the Bankruptcy Code) which prohibits, restricts or conditions such assignment or transfer. The non-Debtor party to each Assumed Contract shall be deemed to have consented to such assignment under section 365(c)(1)(B) of the Bankruptcy Code, and the Buyer shall enjoy all of the rights and benefits under each such Assumed Contract as of the applicable Closing Date without the necessity of obtaining such non-Debtor party's written consent to the assumption and assignment thereof.

40. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors and their estates shall be relieved from any liability for any breach of any Assumed Contract after such assignment to and assumption by the Buyer on the Closing Date.

41. All liquidated monetary defaults, claims or other obligations of the Debtors arising or accruing under each Assumed Contract prior to the assumption of such Assumed Contract (without giving effect to any acceleration clauses or any default provisions of the kind specified in Bankruptcy Code section 365(b)(2)) shall be determined in accordance with the Procedures Order and promptly cured by the Debtors upon the Closing or, if later, upon determination of the Cure Amount.

42. Subject to the terms hereof with respect to the Cure Amounts, all defaults or other obligations of the Debtors under the Assumed Contracts arising or accruing prior to the Closing Date have been cured or shall promptly be cured by the Debtors in accordance with the terms hereof such that the Buyer shall have no liability or obligation with respect to any default or obligation arising or accruing under any Assumed Contract or prior to the Closing Date, except to the extent expressly provided in the Agreement. Each non-Debtor party to an Assumed Contract is forever barred, estopped and permanently enjoined from asserting against the Buyer or its property or affiliates, or any thereof, any breach or default under any Assumed Contract, any claim of lack of consent relating to the assignment thereof, or any counterclaim, defense, setoff, right of recoupment or any other matter arising prior to the Closing Date for such Assumed Contract or with regard to the assumption and assignment thereof pursuant to the Agreement or this Order.

43. Upon assignment of the Assumed Contracts to the Buyer on the Closing Date, no default shall exist under any Assumed Contract and no non-Debtor party to any Assumed Contract shall be permitted to declare a default by the Buyer under such Assumed Contract or otherwise take action against the Buyer as a result of any Debtor's financial

condition, bankruptcy or failure to perform any of its obligations under the Assumed Contract, including any failure to pay any amounts necessary to cure any Debtor's defaults thereunder. Upon entry of this Order and assumption and assignment of the Assumed Contracts, the Buyer shall be deemed in compliance with all terms and provisions of the Assumed Contracts.

44. Notwithstanding anything to the contrary in this Order, upon assumption of the Assumed Contracts, the Buyer is assuming all liabilities arising under the Assumed Contracts arising and accruing on and after the Closing Date.

45. The consideration provided by the Buyer for the Purchased Assets under the Agreement is fair and reasonable and may not be avoided under Bankruptcy Code section 363(n).

46. The transactions contemplated by the Agreement are undertaken by the Buyer in good faith, as that term is used in Bankruptcy Code section 363(m) and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to the Buyer, unless such authorization is duly stayed prior to the consummation of the Sale. The Buyer is a good-faith purchaser of the Purchased Assets, and is entitled to all of the benefits and protections afforded by Bankruptcy Code section 363(m).

47. This Court retains jurisdiction to enforce and implement the terms and provisions of the Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Purchased Assets to the Buyer, (b) compel assumption of the Assumed Liabilities by the Buyer, (c) resolve any disputes arising

under or related to the Agreement, and (d) interpret, implement and enforce the provisions of this Order.

48. All entities who are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets either (i) to the Debtors prior to the Closing Date for subsequent transfer to the Buyer on the Closing Date or (ii) to the Buyer on the Closing Date.

49. On the Closing Date, the Debtors shall pay in full, from the proceeds of sale, the prepetition obligations and postpetition obligations (as those terms are defined in the Final Order (i) Authorizing Debtors in Possession to Enter into Postpetition Credit Agreement Amendment Pursuant to Sections 105, 361, 362, 363 and 364 of the Bankruptcy Code, (ii) Authorizing Use of Cash Collateral Pursuant to Section 363 of the Bankruptcy Code, (iii) Granting Adequate Protection Pursuant to Sections 363 and 364 of the Bankruptcy Code, and (iv) Granting Other and Additional Relief with Respect Thereto) of Lender and Term Loan Lender. Any disputes as to amounts shall be resolved by the Bankruptcy Court.

50. On or before the Closing Date, each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Interests in the Purchased Assets, if any, as such Interests may have been recorded or otherwise exist; provided, however, that the Agent shall only be obligated to execute such documents and take such other actions as are reasonably requested by Buyer.

51. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens or other documents or agreements evidencing Interests with respect to the Purchased Assets shall not have delivered to the Debtors and the Buyer prior to the

Closing Date in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Interests which the person or entity has with respect to the Debtors and/or the Purchased Assets or otherwise, then (i) the Debtors hereby are authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to such assets and contracts and (ii) the Buyer hereby is authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Purchased Assets as of the Closing Date of any kind or nature whatsoever (other than the Permitted Liens and Assumed Liabilities).

52. Any amounts payable by the Debtors pursuant to the Agreement or any of the documents delivered by the Debtors pursuant to or in connection with the Agreement shall (i) constitute administrative priority expenses of the Debtors' estates pursuant to Bankruptcy Code sections 503(b) and 507(a)(1), except as otherwise specifically provided in the Agreement, (ii) be paid by the Debtors in the time and manner provided in the Agreement without further order of this Court, and (iii) not be discharged, modified or otherwise affected by any plan of reorganization of any of the Debtors.

53. The terms and provisions of the Agreement and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, the Buyer and its respective affiliates, successors and assigns, and any affected third parties, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding.

54. Effective as of the Closing Date, all persons who hold Claims against or Interests in (other than Permitted Liens and Assumed Liabilities) the Debtors are forever barred, estopped and permanently enjoined from asserting or prosecuting any claims or causes of action against the Buyer, its affiliates, or any of its respective officers, directors, employees, attorneys or advisors, arising out of or in connection with the Sale.

55. After the Closing Date, no person or entity, including, without limitation, any federal, state or local taxing authority, may (a) attach or perfect a lien or security interest against any of the Purchased Assets on account of, or (b) collect or attempt to collect from the Buyer or any of its affiliates, any tax (or other amount alleged to be owing by one or more of the Debtors) (i) for any period commencing before and concluding prior to or after the Closing Date, or (ii) assessed prior to and payable after the Closing Date, except as otherwise specifically provided in the Agreement.

56. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to any of the transactions under the Agreement.

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

58. The provisions of the Agreement and this Order shall remain effective and enforceable notwithstanding the subsequent entry of any order confirming any chapter 11 plan or

other order in these cases (including any order entered after any conversion of these cases to cases under chapter 7 of the Bankruptcy Code).

59. The failure specifically to include any particular provisions of the Agreement in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Agreement be authorized and approved in its entirety. Likewise, all of the provisions of this Order are nonseverable and mutually dependent. In the event of any direct conflict between the terms of the Agreement and this Order, this Order shall be controlling.

60. Notwithstanding the provisions of Bankruptcy Rules 6004 and 6006, this Order shall not be stayed for ten (10) days after the entry hereof, but shall be effective and enforceable immediately upon issuance hereof. Time is of the essence in closing the transactions referenced herein and the Debtors and the Buyer intend to close the Sale as soon as practicable. Therefore, any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay, or risk its appeal being foreclosed as moot.

61. Notwithstanding any provision of the Agreement to the contrary, the Closing Date shall occur on or before June 16, 2006, and the termination provision of the Agreement (including Sections 8.1(b) and 8.1(c)) shall be deemed and are hereby modified so as to permit such extension of the Closing Date.


62. On or before the close of business on the date of this Order, Buyer shall remit by wire transfer in immediately available funds to the Escrow Agent an additional Earnest Money Deposit in the amount of \$2.5 million.

63. The amount of \$15.32 million in Schedule 2.1 of the Agreement shall be increased to \$23.5 million.

64. Notwithstanding any provision of the Procedures Order to the contrary, EG Broad Street Partners Acquisition, Inc. ("EG Broad Street"), as the Backup Bidder (as defined in the Procedures Order) shall leave its last offer made at the Auction open and irrevocable and remain as a backup bid to the Buyer through and including the earlier of (i) the Closing Date referenced in paragraph 61 of this Order or (ii) July 5, 2006. EG Broad Street's deposit held by counsel for the Debtors shall be held in escrow from and after the date of this Order in a segregated interest bearing account for the benefit of EG Broad Street pursuant to and in accordance with its bid.

65. Subsequent to further order of the Court, Richard M. Kurz shall remain as the Chief Financial Officer of the Debtors subsequent to the Closing Date.

Dated: June 2, 2006

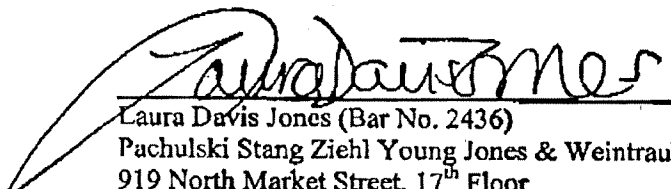

United States Bankruptcy Judge

AGREED AS TO FORM AND CONTENT:



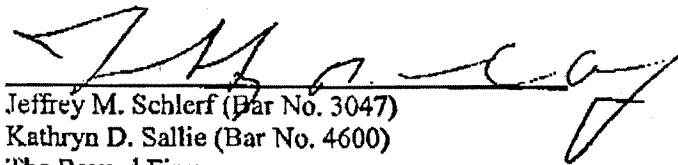
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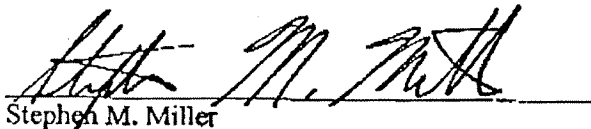


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COUNSEL EG BROAD STREET PARTNERS ACQUISITION

EXHIBIT A

[EXECUTION COPY]

ASSET PURCHASE AGREEMENT

BY AND AMONG

EASY GARDENER PRODUCTS, LTD.,

WEATHERLY CONSUMER PRODUCTS GROUP, INC.,

WEATHERLY CONSUMER PRODUCTS, INC.

as the Sellers

AND

GREEN THUMB ACQUISITION CORPORATION

as the Buyer

DATED APRIL 19, 2006

SCHEDULE 3.4
(Title)
to the
Asset Purchase Agreement
dated April 19, 2006
among
Easy Gardener Products, Ltd.,
Weatherly Consumer Products Group, Inc.,
Weatherly Consumer Products, Inc. and
Green Thumb Acquisition Corporation

1. Trademarks Subject to Security Interests Held by Bank of America National Trust and Savings Association

<u>Trademark</u>	<u>Reg. No./Ser. No.</u>	<u>Reg. Date/ App. Date</u>
EASY GARDENER & Design	2,294,225	November 23, 1999
TREE GARD	2,010,199	October 22, 1996

2. Trademarks Subject to Security Interests Held by The Provident Bank and Bank of America National Trust and Savings Association

<u>Trademark</u>	<u>Reg. No./Ser. No.</u>	<u>Reg. Date/ App. Date</u>
BIO BLOCK	1,938,066	November 28, 1995

3. Trademarks Subject to Security Interests Held by Nations Financial Capital Corporation

<u>Trademark</u>	<u>Reg. No./Ser. No.</u>	<u>Reg. Date/ App. Date</u>
IT WORKS. YOU DON'T.	1,768,337	May 4, 1993
ROSS & Design	1,682,545	April 14, 1992
ROSS ROOT FEEDER	1,675,783	February 18, 1992
GRO-STAKES	1,664,643	November 19, 1991
ROSS	1,684,947	May 5, 1992
'TOMATO BOOMERS'	1,084,414	February 7, 1978

4. Copyrights Subject to Security Interests Held by U.S. West Financial Services

<u>Copyright</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
Nursery school	PA 178-015	June 6, 1983
Chip	PA 178-016	June 6, 1983
Handful	PA 178-017	June 6, 1983
Spike	PA 178-018	June 6, 1983

5. Patents Subject to Security Interests Held by Bank of America National Trust and Savings Association

<u>Patent</u>	<u>Patent No./App. No.</u>	<u>Issuance Date/ App. Date</u>
Root feeder head assembly	D357,971	May 2, 1995

6. Patents Subject to Security Interests Held by BPV, LLC

<u>Patent</u>	<u>Patent No./App. No.</u>	<u>Issuance Date/ App. Date</u>
Pourable granular paper mulch composition	6,021,598	February 8, 2000