

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM322625

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
AS IP HOLDINGS, INC.		04/23/2014	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	BUTTERFLY IP HOLDING CO., INC.		
<b>Street Address:</b>	150 Meadowlands Parkway		
<b>City:</b>	Secaucus		
<b>State/Country:</b>	NEW JERSEY		
<b>Postal Code:</b>	07094		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 14</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3939361	ASHLEY SPORT	
<b>Registration Number:</b>	4228244	AS	
<b>Registration Number:</b>	4000101	DIVA DEALS	
<b>Registration Number:</b>	3987515	THE AUTHORITY ON ALLTHINGS DIVA	
<b>Registration Number:</b>	3987499	SIZES THAT COMPLIMENT EVERY CURVE	
<b>Registration Number:</b>	3076982	ASHLEY STEWART	
<b>Registration Number:</b>	3898317	A LUX	
<b>Registration Number:</b>	3878373	ASHLEY SPORT	
<b>Registration Number:</b>	2046868	ASHLEY STEWART	
<b>Registration Number:</b>	2266303	GREAT WOMEN OF STYLE	
<b>Registration Number:</b>	2747468	URBAN BRANDS	
<b>Serial Number:</b>	77383905	BUTTERFLY BY ASHLEY STEWART	
<b>Serial Number:</b>	76257526	ASHLEY STEWART	
<b>Serial Number:</b>	76330074	ASHLEY STEWART	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	9734250161		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	9734258844		
<b>Email:</b>	fmoldovan@mdmc-law.com		
<b>TRADEMARK</b>			

CH \$365.00 3939361

**Correspondent Name:** Florina Moldovan c/o McElroy Deutsch  
**Address Line 1:** 1300 Mount Kemble Ave.  
**Address Line 2:** P.O. Box 2075  
**Address Line 4:** Morristown, NEW JERSEY 07962

**ATTORNEY DOCKET NUMBER:** A1246-1000 ASSIGNMENT FEE

**NAME OF SUBMITTER:** Florina Modovan

**SIGNATURE:** /fmoldovan/

**DATE SIGNED:** 11/07/2014

**Total Attachments: 47**

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## IP ASSIGNMENT AND ASSUMPTION AGREEMENT

This IP Assignment and Assumption Agreement (this “Assignment”), dated as of April 23, 2014, by and among ASHLEY STEWART HOLDINGS, INC., a Delaware corporation (the “Seller”) and each of the subsidiaries of the Seller signatory hereto (together with the Seller, the “Assignors”), and BUTTERFLY IP HOLDING CO., INC., a Delaware corporation (the “Assignee”). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement (as defined below).

### RECITALS

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated as of March 28, 2014, by and among the Assignors and Butterfly Acquisition Co., Inc., a Delaware corporation (as may be amended or supplemented from time to time, the “Purchase Agreement”), Assignee is a “Buyer Designee”, and Assignors have agreed to enter into this Assignment, providing for (a) the assignment from Assignors to Assignee of all of Assignors’ right, title and interest in, under and to the Seller IP from and as of the Closing, and (b) the acceptance of such assignment by Assignee and the assumption by Assignee of (i) all obligations to be performed by Assignors relating to the Seller IP after the Closing pursuant to the terms of the Purchase Agreement and (ii) the Assumed Liabilities (but only to the extent the Assumed Liabilities relate to the Seller IP), in each case, subject to, and to the extent set forth in, the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors and Assignee, intending to be legally bound hereby, agree as follows:

1. **Assignment and Assumption.** Subject to the Purchase Agreement, Assignors hereby irrevocably sell, assign, transfer, convey and deliver to Assignee, effective as of the date hereof, all of Assignors’ rights, title and interest in, to and under the Seller IP. Subject to the terms of the Purchase Agreement, to the extent set forth therein, Assignee hereby (a) purchases and accepts from Assignors, effective as of the date hereof, the assignment, transfer and conveyance of Assignors’ rights, title and interest in, to and under the Seller IP; and (b) assumes, undertakes and agrees to pay, perform and discharge in accordance with the terms of the Purchase Agreement all of the Assumed Liabilities (but only to the extent the Assumed Liabilities relate to the Seller IP).

2. **Amendment.** This Assignment may be amended, altered or terminated in whole or in part only by a writing signed by the parties hereto.

3. **Further Acts.** Each party agrees for itself, and for its respective successors and assigns, to execute and deliver any and all documents or instruments and to do any and all other acts and deeds that may be reasonably required to carry out the purpose and intent of this Assignment, including, without limitation, such documentation needed for the registration or application of the Seller IP in any jurisdiction.

4. **Definitions.** Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

5. **Notices.** Any and all notices and other communications necessary or desirable to be served under this Assignment must be delivered pursuant to Section 11.3 of the Purchase Agreement.

6. **Governing Law.** Except to the extent that mandatory provisions of the Bankruptcy Code apply, this Assignment, and all claims and causes of action arising out of, based upon, or related to this Assignment or the negotiation, execution or performance hereof, shall be governed by, and construed, interpreted and enforced in accordance with, the Laws of the State of Delaware, without regard to choice or conflict of law principles that would result in the application of any Laws other than the Laws of the State of Delaware.

7. **Successors and Assigns.** The terms and conditions of this Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. **Incorporation by Reference.** This Agreement is made subject to the terms of the Purchase Agreement, which terms are incorporated herein by this reference. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.

9. **Counterparts.** This Assignment may be executed in one or more counterparts, and by each of the Assignors and Assignee in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Assignment, and which shall become effective when one or more counterparts have been signed by each of the Assignors and Assignee and delivered (by facsimile or otherwise) to the each of the Assignors and Assignee.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties caused this Assignment to be duly executed on the date first set forth above.

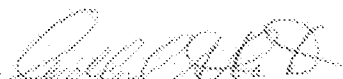
**SELLER**

ASHLEY STEWART HOLDINGS, INC.

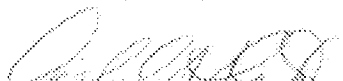
By:   
Name: Michael A. Abate  
Title: SVP/Treasurer

**OTHER ASSIGNORS**

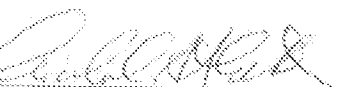
NEW ASHLEY STEWART, INC.

By:   
Name: Michael A. Abate  
Title: SVP/Treasurer

AS IP HOLDINGS, INC.

By:   
Name: Michael A. Abate  
Title: SVP/Treasurer

NAS GIFT LLC

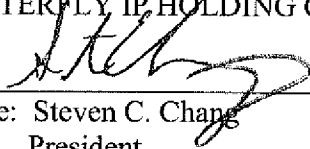
By:   
Name: Michael A. Abate  
Title: SVP/Treasurer

[Signature Page to IP Assignment and Assumption Agreement]

ACKNOWLEDGED AND ACCEPTED as of  
the day and year first above written.

**ASSIGNEE**

BUTTERFLY IP HOLDING CO., INC.

By:   
Name: Steven C. Chang  
Title: President

[Signature Page to IP Assignment and Assumption Agreement]

**TRADEMARK**  
**REEL: 005397 FRAME: 0772**

**IP BILL OF SALE**

IP BILL OF SALE (this “Bill of Sale”), dated as of April 23, 2014, by and among ASHLEY STEWART HOLDINGS, INC., a Delaware corporation (the “Seller”) and each of the subsidiaries of the Seller signatory hereto (together with the Seller, the “Selling Entities”), and BUTTERFLY IP HOLDING CO., INC., a Delaware corporation (the “Buyer”). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement (as defined below).

For the consideration set forth in the Purchase Agreement and other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged:

1. Subject to that certain Asset Purchase Agreement, dated as of March 28, 2014, by and among the Selling Entities and Butterfly Acquisition Co., Inc., a Delaware corporation (as may be amended or supplemented from time to time, the “Purchase Agreement”), pursuant to which the Buyer is a “Buyer Designee”, the Selling Entities hereby irrevocably sell, assign, convey, transfer and deliver to Buyer, effective as of the date hereof, all of the right, title and interest, legal and equitable, of the Selling Entities in, to and under the Seller IP. Subject to the Purchase Agreement, and to the extent set forth therein, Buyer hereby purchases, acquires and accepts from the Selling Entities, effective as of the date hereof, the Seller IP.

2. The Selling Entities further agree that upon the reasonable request of Buyer, the Selling Entities shall execute and deliver such other instruments and take such other actions as may reasonably be requested by Buyer in order to vest in Buyer all of the right, title and interest, legal and equitable, of the Selling Entities in, to and under the Seller IP, including, without limitation, such documentation needed for the registration or application of the Seller IP in any jurisdiction.

3. All of the terms and provisions of this Bill of Sale will be binding upon the Selling Entities and their respective successors and assigns and will inure to the benefit of Buyer and its successors and assigns.

4. Except to the extent that mandatory provisions of the Bankruptcy Code apply, this Bill of Sale, and all claims and causes of action arising out of, based upon, or related to this Bill of Sale or the negotiation, execution or performance hereof, shall be governed by, and construed, interpreted and enforced in accordance with, the Laws of the State of Delaware, without regard to choice or conflict of law principles that would result in the application of any Laws other than the Laws of the State of Delaware.

5. Any and all notices and other communications necessary or desirable to be served under this Bill of Sale must be delivered pursuant to Section 11.3 of the Purchase Agreement.

6. This Bill of Sale may be amended, supplemented or modified, and any provision hereof may be waived, only pursuant to a written instrument making specific reference hereto signed by the Selling Entities and Buyer.



7. This Bill of Sale is made subject to the terms of the Purchase Agreement, which terms are incorporated herein by this reference. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.

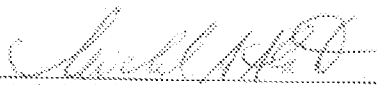
8. This Bill of Sale may be executed in one or more counterparts, and by each of the Selling Entities and Buyer in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Bill of Sale, and which shall become effective when one or more counterparts have been signed by each of the Selling Entities and Buyer and delivered (by facsimile or otherwise) to the each of the Selling Entities and Buyer.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the Selling Entities has caused this Bill of Sale to be executed by its duly authorized representative as of the day and year first above written.

**SELLER**

ASHLEY STEWART HOLDINGS, INC.

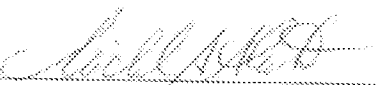
By:   
Name: Michael A. Noote  
Title: SVP/Treasurer

**OTHER SELLING ENTITIES**

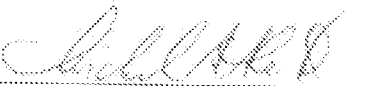
NEW ASHLEY STEWART, INC.

By:   
Name: Michael A. Noote  
Title: SVP/Treasurer

AS IP HOLDINGS, INC.

By:   
Name: Michael A. Noote  
Title: SVP/Treasurer

NAS GIFT LLC

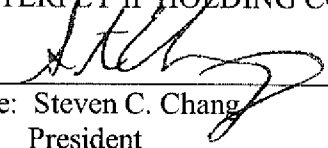
By:   
Name: Michael A. Noote  
Title: SVP/Treasurer

[Signature Page to IP Bill of Sale]

ACKNOWLEDGED AND ACCEPTED as of  
the day and year first above written.

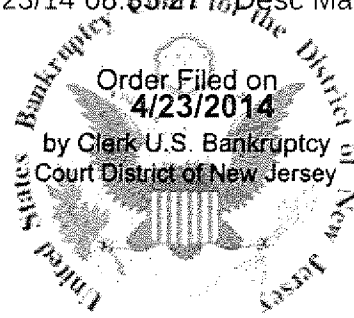
**BUYER**

BUTTERFLY IP HOLDING CO., INC.

By:   
Name: Steven C. Chang  
Title: President

[Signature Page to IP Bill of Sale]

**TRADEMARK**  
**REEL: 005397 FRAME: 0776**



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
Caption in compliance with D.N.J. LBR 9004-2(c)

**CURTIS, MALLET-PREVOST,  
COLT & MOSLE LLP**

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Cindi M. Giglio  
Bryan M. Kotliar

*Counsel to the Debtors  
and Debtors-in-Possession*

**COLE, SCHOTZ, MEISEL,  
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Telephone: (201) 489-3000  
Facsimile: (201) 489-1536  
Michael D. Sirota  
Ilana Volkov

*Co-Counsel to the Debtors  
and Debtors-in-Possession*

In re:

ASHLEY STEWART HOLDINGS, INC., et al.,<sup>1</sup>

Debtors-in-Possession.

Chapter 11

Case No. 14-14383 (MBK)

(Jointly Administered)

**DATED: 4/23/2014**

Honorable Michael B. Kaplan  
United States Bankruptcy Judge

Page: 1  
Debtor: ASHLEY STEWART HOLDINGS, INC., et al.  
Case No.: 14-14383 (MBK) (Jointly Administered)  
Caption: ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES; (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS WITH RESPECT TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF

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**ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES; (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS WITH RESPECT TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through thirty-eight (38) and Exhibits A and B, is hereby ORDERED.

Page: 2

Debtor: ASHLEY STEWART HOLDINGS, INC., et al.

Case No.: 14-14383 (MBK) (Jointly Administered)

Caption: ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES; (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS WITH RESPECT TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF

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Upon the motion (the "Motion")<sup>1</sup> of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") for entry of an order (this "Order"), among other things: (a) approving the purchase agreement (the "Purchase Agreement") substantially in the form attached hereto as **Exhibit A** between the Debtors and Butterfly Acquisition Co., Inc. or a Buyer Designee (the "Purchaser"), (b) authorizing the Sale of the Acquired Assets (as defined in the Purchase Agreement and referred to herein as the "Assets"), the Designation Rights (as defined in the Purchase Agreement) and the Option Rights (as defined in the Purchase Agreement) free and clear of all claims, charges, liens (statutory or otherwise), mortgages, leases, hypothecations, encumbrances, pledges, security interests, options, rights of use, rights of first offer, rights of first refusal, easements, servitudes, restrictive covenants, encroachments, licenses, setoff, recoupment, and other restrictions and interests (collectively, the "Encumbrances"), (c) authorizing the assumption and assignment of certain executory contracts in connection therewith and (d) granting other related relief; and upon consideration of the Declaration of Michael A. Abate in Support of First Day Pleadings and the Declaration of Perry M. Mandarinò in support of the Motion; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties-in-interest; and the Court having jurisdiction to

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<sup>1</sup> Unless stated otherwise, all capitalized terms not defined herein shall have the same meaning as set forth in the Motion.

Page: 3

Debtor: ASHLEY STEWART HOLDINGS, INC., et al.

Case No.: 14-14383 (MBK) (Jointly Administered)

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consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion and opportunity for objections or requests for hearing having been filed; and the Debtors having received informal objections from Canon Financial Services, Inc., Cole MT Richmond VA, LLC, Delta Dental Plan of NJ, Inc., KIR Augusta II LP, Kimco Baton Rouge II 83, LLC, and Northline Commons LLC (collectively, the "Informally Objecting Parties"); and this Court having reviewed the objections filed by Bawabeh Brothers II, LLC [Docket No. 242], Ramco Jacksonville, LLC and Ramco-Gershenson Properties, L.P. [Docket No. 248], TCCI Broad Street LLC and Glenwood Crossing LLC [Docket No. 273], Prudential Insurance Company of America, The Macerich Company, and UCR Asset Services [Docket No. 275], Capital Centre, LLC and Inland Western Chicago Ashland, LLC [Docket No. 276], JG Elizabeth II, LLC [Docket No. 278], Stony Island, LLC [Docket No. 279], Inland Diversified Dallas Wheatland, LLC [Docket No. 282], Aronov Realty, Brixmor Property Group, Inc., Mid-America Asset Management, Inc., Morris Property Management, The Hub LLC, and Phillips Edison & Company [Docket No. 283], Epicor Retail Solutions Corporation and Epicor Software Corporation [Docket No. 284], Demandware, Inc. [Docket No. 286], Mainstreet Commerce LC [Docket No. 287], Next Generation Fulton, LLC [Docket No. 291], DDR Corp., General Growth

Page: 4

Debtor: ASHLEY STEWART HOLDINGS, INC., et al.

Case No.: 14-14383 (MBK) (Jointly Administered)

Caption: ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS, (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF

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Properties, Inc., Levin Management Corporation, and Weingarten Realty Investors [Docket No. 297], and Eastgate Center LLC [Docket No. 301] (collectively, the "Objecting Parties"), and the objection filed by Wells Fargo Bank, National Association ("Wells Fargo") [Docket No. 272]; and this Court having heard statements of counsel and the evidence presented in support of the relief requested by the Debtors in the Motion at a hearing before this Court (the "Sale Hearing"); and it appearing that no other notice need be given; and it further appearing that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor:

**THE COURT HEREBY FINDS THAT:<sup>2</sup>**

**Jurisdiction, Final Order and Statutory Predicates**

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157(b)(a) and 1334(a). This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (N) and (O). Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§1408 and 1409.

B. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under

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<sup>2</sup> The findings and conclusions set forth herein constitute the 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 constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.



Page: 5  
Debtor: ASHLEY STEWART HOLDINGS, INC., et al.  
Case No.: 14-14383 (MBK) (Jointly Administered)  
Caption: ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS, (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF

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Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for the delay in the implementation of this Order and expressly directs the entry of judgment as set forth herein.

C. The statutory predicates for the relief requested in the Motion are sections 105(a), 363(b), (f) and (m) and 365 of the Bankruptcy Code and Bankruptcy Rules 2002(a)(2), 6004(a), (b), (c), (e), (f) and (h) and 6006(a), (c) and (d), 8002, 9007 and 9014.

D. The Court entered the Bidding Procedures Order on April 3, 2014 [Docket No. 192].

**Notice of the Sale, Auction and the Cure Amounts**

E. Actual written notice of the Sale Hearing, the Auction, the Motion, the Sale and the assumption and assignment of the Potentially Assigned Contracts (as defined below) and a reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all known interested Persons and entities, including, but not limited to the following parties:

- (a) the United States Trustee;
- (b) counsel to the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases (the "Committee");
- (c) counsel to the agent for the Debtors' pre-petition lenders;

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Debtor: ASHLEY STEWART HOLDINGS, INC., et al.

Case No.: 14-14383 (MBK) (Jointly Administered)

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(d) counsel to Salus Capital Partners, LLC, in its capacity as administrative agent and collateral agent under that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of March 10, 2014 (the "DIP Agent");

(e) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service;

(f) all parties that have requested special notice pursuant to Bankruptcy Rule 2002;

(g) all persons known or reasonably believed to have asserted a lien on any of the Assets;

(h) the counterparties to each of the Debtors' executory contracts and unexpired leases;

(i) all persons known or reasonably believed to have expressed an interest in purchasing the Assets;

(j) the Attorney Generals in the States where the Assets are located; and

(k) the Debtors' employees.

F. The Debtors published notice of the Sale, the time and place of the proposed Auction, the time and place of the Sale Hearing and the time for filing an objection to the Motion in Women's Wear Daily and USA Today on April 8, 2014.

G. In accordance with the provisions of the Bidding Procedures Order, the Debtors have served notice upon the counterparties to the Debtors' executory contracts and unexpired leases: (i) that the Debtors may seek to assume and assign certain executory contracts and

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unexpired leases (the "Potentially Assigned Contracts"); (ii) setting forth the Debtors' proposed cure amounts; and (iii) indicating that the failure of any such counterparty to object to the proposed assumption and assignment of its Potentially Assigned Contract shall constitute consent thereto. The service of such notice was good, sufficient and appropriate under the circumstances and, except for an Assumption Notice (as defined below) no further notice need be given in respect of the assumption and assignment of or establishment of the cure amount set forth in the notice for the Potentially Assigned Contracts. Each of the counterparties to the Potentially Assigned Contracts has had an opportunity to object to the assumption and assignment of its Potentially Assigned Contract and the cure amounts set forth in such notice, subject to the rights of the counterparty to file a supplemental cure objection to assert any additional amount due and owing that may have accrued after the date of the filing and serving of such notice through the date of assumption of such Potentially Assigned Contract set forth in an Assumption Notice (as defined below) in accordance with paragraph 19 below.

H. The Debtors have articulated good and sufficient reasons for this Court to grant the relief requested in the Motion regarding the sales process, including, without limitation: (i) determination of the cure amounts; and (ii) approval and authorization to serve the Sale Notice (as defined in the Bidding Procedures Order).

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I. The Sale Notice provided all interested parties with timely and proper notice of the Sale, the Sale Hearing and the Auction. However, the Debtors did not receive any additional Qualified Bids for the Assets and the Auction was cancelled in accordance with the Bidding Procedures. Accordingly, the Debtors seek approval of the Sale to the Purchaser.

J. As evidenced by the affidavits of service previously filed with this Court, proper, timely, adequate and sufficient notice of the Motion, Auction, Sale Hearing and Sale has been provided in accordance with sections 105(a), 363 and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9014. The Debtors have also complied with all obligations to provide notice of the Motion, Auction, Sale Hearing and Sale required by the Bidding Procedures Order. The notices described above were good, sufficient and appropriate under the circumstances, and except for any Assumption Notices (as defined below), no further or other notice of the Motion, Auction, Sale Hearing, Sale or assumption and assignment of the Potentially Assigned Contracts is required.

K. The disclosures made by the Debtors concerning the Purchase Agreement, Auction, Sale, Sale Hearing and the assumption and assignment of the Potentially Assigned Contracts were good, complete and adequate.

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**Good Faith of the Purchaser**

L. The Purchaser is not an "insider" or otherwise an "affiliate" of any of the Debtors, as those terms are defined in section 101(31) of the Bankruptcy Code.

M. The Purchaser is purchasing the Assets in good faith and is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding in that, *inter alia*: (i) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Assets in accordance with the terms of the Purchase Agreement; (ii) the Purchaser complied with the provisions of the Bidding Procedures Order; (iii) the Purchaser agreed to submit its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (iv) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; (v) the Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (vi) no common identity of directors or controlling stockholders exists between the Purchaser and the Debtors; and (vii) the negotiation and execution of the Purchase Agreement was at arm's-length and in good faith.

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N. The Purchaser will be acting in good faith pursuant to section 363(m) of the Bankruptcy Code in closing the transaction contemplated by the Purchase Agreement, in its sole discretion, at any time on or after entry of this Order.

**Highest and Best Offer**

O. The Debtors conducted an auction process in accordance with, and have otherwise complied in all respects with, the Bidding Procedures Order. The auction process set forth in the Bidding Procedures Order afforded a full, fair and reasonable opportunity for any Person or entity to make a higher or otherwise better offer to purchase the Assets. The auction process was duly noticed and conducted in a non-collusive, fair and good faith manner and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets.

P. Based upon the Bidding Procedures approved pursuant to the Bidding Procedures Order, the Debtors determined that the bid evidenced by the Purchase Agreement is the highest and best offer for the Assets.

Q. The transaction contemplated by the Purchase Agreement constitutes the highest and best offer for the Assets, and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination that the

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Purchase Agreement constitutes the highest and best offer constitutes a valid and sound exercise of the Debtors' business judgment.

R. The Purchase Agreement represents a fair and reasonable offer to purchase the Assets under the circumstances of these Chapter 11 Cases. No other Person or entity or group of entities has offered to purchase the Assets for greater economic value to the Debtors' estates than the Purchaser.

S. Approval of the Motion and the Purchase Agreement and the consummation of the transactions contemplated thereby are in the best interests of the Debtors, their creditors, their estates and other parties-in-interest.

T. The Debtors have demonstrated compelling circumstances and a good, sufficient and sound business purpose and justification for the Sale prior to, and outside of, a plan of reorganization.

**No Fraudulent Transfer**

U. The consideration provided by the Purchaser pursuant to the Purchase Agreement is fair and adequate and 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.

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V. The Purchaser is not a mere continuation of the Debtors or their estates and there is no continuity between the Purchaser and the Debtors. The Purchaser is not holding itself out to the public as a continuation of the Debtors. The Purchaser is not a successor to the Debtors or their estates and the Sale does not amount to a consolidation, merger or de facto merger of the Purchaser and the Debtors.

**Validity of Transfer**

W. The Debtors have full corporate power and authority to execute and deliver the Purchase Agreement and all other documents contemplated thereby and to perform their obligations thereunder, and no further consents or approvals are required for the Debtors to consummate the transactions contemplated by the Purchase Agreement, except as otherwise set forth in the Purchase Agreement.

X. The transfer of the Assets to the Purchaser will be as of the Closing Date, and the transfer of the Potentially Assigned Contracts to the Purchaser will be as of the date set forth in the Assumption Notice (as defined below) applicable thereto, a legal, valid and effective transfer of such Assets and the Potentially Assigned Contracts, and vests or will vest the Purchaser with all right, title and interest of the Debtors to the Assets free and clear of all Encumbrances accruing, arising or relating thereto any time prior to the Closing Date, except for any Permitted



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Encumbrances (as defined in the Purchase Agreement) and Assumed Liabilities (as defined in the Purchase Agreement).

**Section 363(f) is Satisfied**

Y. The Purchaser would not have entered into the Purchase Agreement and would not consummate the transactions contemplated thereby if the sale of the Assets to the Purchaser, and the assumption, assignment and sale of the Assigned Contracts to the Purchaser, were not free and clear of all Encumbrances (except the Permitted Encumbrances and Assumed Liabilities), or if the Purchaser would, or in the future could be liable for any such Encumbrances.

Z. The Debtors may sell the Assets free and clear of all Encumbrances against the Debtors, their estates or the Assets (except for Permitted Encumbrances and Assumed Liabilities), because, 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 Encumbrances who did not object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of such Encumbrances who did object fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Encumbrances, if any, in each instance against the Debtors, their estates or the Assets, attached to the cash proceeds of the

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Sale ultimately attributable to the Assets in which such creditor alleges an interest (subject to the prior payment of all amounts owed to the DIP Agent and the DIP Lenders), in the same order of priority, with the same validity, force and effect that such creditor had prior to the Sale, subject to any and all claims and defenses the Debtors and their estates may possess with respect thereto.

AA. The Purchaser shall have no obligations with respect to any liabilities of the Debtors other than the Permitted Encumbrances and Assumed Liabilities and its obligations specifically set forth in and solely to the extent provided pursuant to the Purchase Agreement.

**Assumption and Assignment of the Assigned Contracts**

BB. The assumption and assignment of the Potentially Assigned Contracts as of the date set forth in an Assumption Notice (as defined below) pursuant to the terms of this Order is integral to the Purchase Agreement and is in the best interests of the Debtors, their estates and other parties-in-interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

CC. The procedures governing the assumption and assignment of the Potentially Assigned Contracts, including pursuant to the Option Rights and the Designation Rights, are fair and reasonably calculated to provide adequate notice and an opportunity for counterparties to such Potentially Assigned Contracts to be heard with respect to any proposed assumption and assignment of a Potentially Assigned Contract after the Closing Date.

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DD. Subject to the Objecting Parties' Reservation of Rights (as defined below), the respective amounts set forth on **Exhibit B** attached hereto are the sole amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure all monetary defaults and pay all actual pecuniary losses under the Potentially Assigned Contracts listed on **Exhibit B** (the "Cure Amounts") as of the date of the Cure Schedule (as defined in the Bidding Procedures Order).

EE. Subject to the Objecting Parties' Reservation of Rights (as defined below), adequate assurance exists that the Cure Amounts listed on **Exhibit B** required to be paid under the Purchase Agreement will be paid and the Purchaser will fully perform all future obligations under the Potentially Assigned Contracts listed on **Exhibit B** to be assumed and assigned to the Purchaser under the Purchase Agreement within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code.

FF. Notwithstanding anything to the contrary in the Purchase Agreement, the Bidding Procedures Order, or this Order, solely with respect to the Objecting Parties (and not, for the avoidance of doubt, any counterparty to a Potentially Assigned Contract other than an Objecting Party), all objections to the assumption and assignment of any Potentially Assigned Contract, including objections to the Debtors' proposed cure amounts (whether accruing prior to or after the date of the Cure Schedule) or the Debtors' ability to establish adequate assurance of future

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performance by a proposed assignee (whether the Purchaser or its Designated Purchaser) as required by section 365 of the Bankruptcy Code, are reserved until such time as such Objecting Party has been served an Assumption Notice in accordance with paragraph 19 of this Order (the "Objecting Parties' Reservation of Rights")<sup>3</sup> and any objection has been resolved or determined by order of the Court. If an Objecting Party receiving such Assumption Notice fails to object within ten (10) days of service, such Objecting Party shall be deemed to consent to the cure amount set forth therein with respect to its Potentially Assigned Contract and to the assumption and assignment of its Potentially Assigned Contract and the assumption and assignment thereof may be effectuated without further order of the Court.

#### **Compelling Circumstances for an Immediate Sale**

GG. To maximize the value of the Assets and preserve the viability of the businesses to which the Assets relate, and to reduce the amount of post-petition debtor-in-possession financing borne by the Debtors, it is essential that the Sale occur within the time constraints set forth in the Purchase Agreement. Time is of the essence in consummating the Sale.

HH. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the purchase price under the Purchase Agreement, the proposed Sale to the

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<sup>3</sup> The terms of this Order, including the Objecting Parties' Reservation of Rights, shall apply equally to the Informally Objecting Parties.

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Purchaser on the terms set forth in the Purchase Agreement constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

II. The consummation of the transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f) and all applicable requirements of such sections have been complied with in respect of the transaction.

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

**General Provisions**

1. The relief request in the Motion is granted and approved, and the Sale contemplated thereby and by the Purchase Agreement is approved as set forth in this Order.
2. This Court's findings of fact and conclusions of law, set forth in the Bidding Procedures Order, are incorporated herein by reference.
3. All objections to the Motion or the relief requested therein have been withdrawn, waived, or settled as announced to this Court at the Sale Hearing or by stipulation filed with this Court, and the objections of the Objecting Parties and the Informally Objecting Parties and the Objecting Parties' Reservation of Rights have been preserved as set forth in this Order.

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**Approval of the Purchase Agreement**

4. The Purchase Agreement and all other ancillary documents, including, without limitation, the Transition Services Agreement to be filed with the Court at a later date, and all of the terms and conditions thereof, are hereby approved and are binding in all respects upon all parties, except as modified by this Order. Notwithstanding that the Transition Services Agreement may be filed at a later date, entry into the Transition Services Agreement shall be a condition precedent to the Buyer's obligation to close the transaction.

5. The sale and assignment of any and all purchase orders of the Debtors are hereby approved.

6. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized, empowered and directed to take any and all actions necessary or appropriate to (a) consummate the Sale of the Assets to the Purchaser pursuant to and in accordance with the terms of the Purchase Agreement, (b) close the Sale as contemplated by the Purchase Agreement and this Order, and (c) execute and deliver, perform under, consummate, implement and close fully the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement and such other ancillary documents, including, without limitation, the Transition Services Agreement.

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7. This Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any Claim(s) (whether known or unknown) against any Debtor, any holders of Encumbrances against or on all or any portion of the Assets, all counterparties to the Potentially Assigned Contracts, the Purchaser and all successors and assigns of the Purchaser, and any trustees, if any, subsequently appointed in any of the Debtors' Chapter 11 Cases or upon a conversion to chapter 7 of the Bankruptcy Code of any of the Debtors' cases. This Order and the Purchase Agreement shall inure to the benefit of the Debtors, their estates and creditors and the Purchaser and their respective successors and assigns.

#### **Transfer of the Assets**

8. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Assets on the Closing Date. Such Assets shall be transferred to the Purchaser "as is where is" with all faults in accordance with the Purchase Agreement upon and as of the Closing Date and such transfer shall constitute a legal, valid, binding and effective transfer of the Assets and, upon payment of the Purchase Price to the DIP Agent or the Debtors, as applicable, shall be free and clear of all Encumbrances except any Permitted Encumbrances and Assumed Liabilities. Upon the Closing, the Purchaser shall take title to and possession of the Assets subject only to any Permitted

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Encumbrances and Assumed Liabilities, and the Assets and the Proceeds thereof shall thereafter be the sole and exclusive property of the Purchaser. Pursuant to section 363(f) of the Bankruptcy Code, the transfer of title to the Assets, including but not limited to the Assigned Contracts, and any proceeds thereof, shall be free and clear of any and all Encumbrances (including, without limitation, any and all claims pursuant to any successor-in-interest liability theory and any restrictions under the Bankruptcy Code) except for Assumed Liabilities and Permitted Encumbrances; provided, however, that the Purchaser shall not be relieved of liability with respect to the Assumed Liabilities. Notwithstanding anything to the contrary in the Purchase Agreement or this Order, only Butterfly Giftcard LLC, a Virginia limited liability company, is liable for the Consumer Liabilities (as defined in the Purchase Agreement). For the avoidance of doubt, the Assets and all proceeds thereof shall be the exclusive property of the Purchaser, remain free of Encumbrances as provided herein and not be deemed property of the Debtors or their estates for any purpose after the Closing, irrespective of whether the Debtors have access to or custody of such Assets to provide services under the Transition Services Agreement. The Assets and proceeds thereof shall be segregated at all times from the property of the estates and shall be held in trust for the Purchaser during the period covered by the Transition Services Agreement. All Encumbrances on the Assets shall attach solely to the proceeds of the Sale with the same validity, priority, force and effect that they now have as against the Assets, subject to



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any and all claims and defenses the Debtors and their estates may possess with respect thereto and any other Orders of this Court. For the avoidance of doubt, to the extent that Wells Fargo's interests in certain Irrevocable Standby Letters of Credit issued by Wells Fargo on behalf of the Debtors prior to the Petition Date (the "Wells Fargo Letters of Credit"), including, but not limited to, any rights in or to, any security interest in or relating to, or any liens on the funds deposited by the Debtors into that certain segregated Commercial Money Market Account maintained by Wells Fargo and identified as a blocked account (the "Wells Fargo L/C Deposit Account") relate to Assigned Contracts (as defined below) or the Wells Fargo L/C Deposit Account is transferred to the Purchaser pursuant to the Sale, such interests of Wells Fargo in the Wells Fargo Letters of Credit and the Wells Fargo L/C Deposit Account constitute Permitted Encumbrances (as defined in the Purchase Agreement). The funds in the Wells Fargo L/C Deposit Account shall be retained and applied by Wells Fargo in accordance with the terms of the agreements governing the issuance of the Wells Fargo Letters of Credit, including any fees and costs associated with draws on, termination of or administration of the Wells Fargo Letters of Credit and attorneys' and other professional fees, and at such time when each of the Wells Fargo Letters of Credit have either expired, been drawn upon, or have been returned by the L/C beneficiaries to Wells Fargo undrawn, any unused portion of the balance of the Wells Fargo L/C Deposit Account shall be immediately transferred to an account designated by the Purchaser as

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Caption: ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) AUTHORIZING THE TRANSFER OF OPTION AND DESIGNATION RIGHTS, (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN ACCORDANCE WITH APPROVED PROCEDURES; AND (D) GRANTING RELATED RELIEF

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an Acquired Asset. To the extent that the Debtors or their estates have any right to recover payments made by Wells Fargo to the beneficiaries of the Letters of Credit (whether as refund rights, over-payments or otherwise), such rights and any recovered payments shall be an Acquired Asset.

9. Immediately upon the Closing, the Debtors are authorized and directed to (i) execute and deliver to the DIP Agent the pay-off letter dated as of the date of the Closing Date from the DIP Agent addressed to the Debtors; and (ii) repay, or cause to be repaid, directly from the proceeds of the Sale, the DIP Obligations and the Prepetition Senior Obligations (if any such obligations remain outstanding) indefeasibly in full in cash subject to the terms and conditions of the final DIP financing order.

10. Except as expressly permitted or otherwise specifically provided in the Purchase Agreement or the Order, all Persons or entities holding Encumbrances or interests in all or any portion of the Assets (other than Permitted Encumbrances and Assumed Liabilities) arising under or out of, in connection with, or in any way relating to the Debtors, the Assets, the operation of the Debtors' business prior to the Closing Date or the transfer of the Assets to the Purchaser, hereby are forever barred, estopped and permanently enjoined from asserting against the Purchaser or its successors or assigns, their property such Persons' or entities' Encumbrances in and to the Assets. On the Closing Date, each creditor is authorized and directed to execute

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such documents and take all other actions as may be necessary to release Encumbrances (except the Permitted Encumbrances) on the Assets, if any, as provided herein, as such Encumbrances may have been recorded or may otherwise exist. The transactions authorized herein shall be of full force and effect, regardless of any Debtors' lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business. Upon consummation of the transactions set forth in the Purchase Agreement, the Purchaser shall be authorized to file termination statements or lien terminations in any required jurisdiction to remove any record, notice filing, or financing statement recorded to attach, perfect or otherwise notice any Encumbrance with respect to the Assets (but not the proceeds thereof) that is extinguished or otherwise released pursuant to this Order under section 363 and the related provisions of the Bankruptcy Code.

11. All Persons and entities are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtors to sell and transfer the Assets to the Purchaser in accordance with the terms of the Purchase Agreement and this Order.

12. Except as otherwise provided herein, all Persons and entities that are in possession of some or all of the Assets on the Closing Date are directed to surrender possession of such Assets to the Purchaser or its assignee at the Closing.

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13. The provisions of this Order authorizing the Sale of the Assets by the Debtors free and clear of Encumbrances shall be self-executing, and none of the Debtors, the Purchaser or any other party shall be required to execute or file releases, termination statements, assignments, cancellations, consents or other instruments to effectuate, consummate, and/or implement the provisions hereof with respect to the Sale; provided, however, that this paragraph shall not excuse such parties from performing any and all of their respective obligations under the Purchase Agreement. The Transition Services Agreement shall provide the following: (A) "at all times during the [TSA] Term, in respect of the Real Property Leases that are not Excluded Assets and except as provided under the Bankruptcy Code and Orders of the Court, the Selling Entities (i) shall continue to be bound by, and shall comply in all respects with the contractual terms of, such Real Property Leases, including but not limited to, use, hours, advertising and signage restrictions, (ii) shall be liable to the landlord(s) thereunder for any non-payment of rentals and additional rent and agree to hold in escrow for the benefit of the landlords of the Real Property Leases any and all amounts received from the Buyer pursuant to the Buyer's reimbursement obligations under the immediately preceding paragraph (D), and if any of the Selling Entities fails to pay any rent or additional rent due under the terms of any Real Property Lease, the applicable landlords can bring appropriate action to compel such payment from the funds held in escrow by the Selling Entities and can bring a motion in the Court to compel the

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Selling Entities to collect any amounts due and owing from the Buyer pursuant to its reimbursement obligations under the immediately preceding paragraph (D), (iii) maintain customary and appropriate insurance required by the applicable Real Property Leases with respect thereto (with the landlord(s) thereunder identified as additional insureds), and (iv) provide Buyer and its Subsidiaries with customary and appropriate licenses to Buyer to enter and use the premises governed under such Real Property Leases which will provide that the Buyer shall not cause the Selling Entities to violate the terms and conditions of Real Property Leases while acting under such licenses. Additionally, Buyer agrees to use commercially reasonable efforts to insure its insurable interest in the Real Property Leases and the related Acquired Assets (with the landlord(s) thereunder identified as additional insureds)"; (B) if the Transition Services Agreement is terminated pursuant to its terms, the Real Property Leases shall remain subject to assumption or rejection in accordance with the terms of the Purchase Agreement and this Order; and (C) nothing in this Order or in the Transition Services Agreement will cause the Buyer to be liable under any Real Property Lease unless and until it becomes an Assigned Contract.

14. Without limiting the foregoing, a certified copy of this Order may be filed with the appropriate clerk and/or recorded to act to cancel any of the Encumbrances on the Assets of record except the Permitted Encumbrances.

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15. If any Person or entity which has filed statements or other documents or agreements evidencing Encumbrances on, interests in, all or a portion of the Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary or desirable to the Purchaser for the purpose of documenting the release of all Encumbrances on the Assets, which the Person or entity has or may assert with respect to all or any portion of the Assets, the Debtors are hereby authorized and directed, and the Purchaser is hereby authorized, to execute and file such statements, instruments, releases and other documents on behalf of such Person or entity with respect to the Assets.

16. This Order is and shall be binding upon and govern the acts of all Persons and 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 and local officials and all other Persons or 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 lease; and each of the foregoing Persons and entities is hereby directed to accept for filing any and all of the

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documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

17. Any and all governmental recording offices and all other parties, persons or entities are authorized to accept this Order for recordation on or after the Closing as conclusive evidence of the free and clear, and unencumbered, transfer of all right, title, interest and ownership in and to the Assets conveyed to the Purchaser at Closing.

**Assigned Contracts, Option Rights and Designation Rights**

18. The transfer of the Option Rights and the Designation Rights are hereby approved. The Option Period is hereby approved. For the avoidance of doubt, the last day of the Option Period for any Real Property Lease (as defined in the Purchase Agreement) will be October 6, 2014 unless further extended upon the prior written consent of the relevant lessor pursuant to section 365(d)(4) of the Bankruptcy Code.

19. No less than ten (10) days prior to a proposed assumption and/or assignment of a Potentially Assigned Contract, the Debtors shall file a notice setting forth (i) the title of the Potentially Assigned Contract to be assumed, (ii) the name of the counterparty to the Potentially Assigned Contract, (iii) the proposed effective date for the assumption and assignment of such Potentially Assigned Contract and (iv) any applicable cure amounts that may have accrued from the time between the filing of the Cure Schedule through and including the

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proposed assumption date (the "Incremental Cure Amount"), or with respect to an Objecting Party or Informally Objecting Party only, all applicable cure amounts through and including the proposed assumption date (an "Assumption Notice"). The Assumption Notice shall be sent to: (i) the address in the notice provision of the applicable Potentially Assigned Contract, (ii) any party (or its counsel) to the Potentially Assigned Contract that has requested e-mail notification of an Assumption Notice, or (iii) counsel to a counterparty to a Potentially Assigned Contract that has filed a notice of appearance and request for service of pleadings in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

20. The Debtors shall also provide either (i) a certification that any adequate assurance information previously provided to the non-debtor contractual counterparty by the proposed assignee/designee has not changed or (ii) updated Adequate Assurance Information for the Purchaser or its Designated Purchaser. If a party receiving such Assumption Notice fails to object within ten (10) days of service, such party shall be deemed to consent to such assumption and assignment and the assumption and assignment may be effectuated without further order of the Court, and the Debtors are authorized and directed to assume each Potentially Assigned Contract that becomes an assigned contract (an "Assigned Contract") and assign such Assigned Contract to the Purchaser or its Designated Purchaser free and clear of all Encumbrances, as described herein.



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21. If a timely objection to any proposed assumption and/or assignment, Incremental Cure Amount, or with respect to an Objecting Party or Informally Objecting Party only, any cure amount, is received and such objection cannot otherwise be resolved by the parties, the Debtors may seek a hearing before the Court to hear such objection on no less than five (5) business days' notice. The pendency of a dispute relating to cure amounts will not prevent or delay the assumption and assignment of any Potentially Assigned Contract. If an objection is filed only with respect to the cure amount listed on the Assumption Notice, the Debtors may assume or assign such Potentially Assigned Contract and the dispute with respect to the cure amount will be resolved consensually, if possible, or, if the parties are unable to resolve their dispute, by the Court on no less than five (5) business days' notice, in which case the Debtors shall cause to be paid the undisputed cure amount and escrow any reasonably disputed cure amount pending agreement of the parties or further order of the Court, provided, however, that any assignment is contingent on the payment in full of the cure amount determined on consent of the parties or by a final order of the Court. The Debtors shall use commercially reasonable efforts to cooperate with the Purchaser in resolving any disputed cure amounts arising after the closing of the Sale.

22. The Debtors shall perform their obligations under section 365(d)(3) of the Bankruptcy Code unless and until the Leases are assumed and assigned or rejected. The Debtors

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shall perform their obligations under the contracts with Demandware, Inc. and Mainstreet Commerce LC unless and until they are assumed and assigned or rejected.

23. The payment of the applicable cure amounts (if any, as determined by the Court or agreement of the applicable parties) in accordance with the Purchase Agreement shall (a) effect a cure of all monetary defaults existing thereunder as of the Closing Date and (b) compensate for any actual pecuniary loss to such non-Debtor party resulting from such default. The Purchaser shall then have assumed the Assigned Contract and, pursuant to section 365(f) of the Bankruptcy Code, the assignment by the Debtors of such Assigned Contracts shall not be a default thereunder.

24. Any provisions in any Potentially Assigned Contract that prohibit or condition the assignment of such Potentially Assigned Contract or allow the party to such Potentially Assigned Contract to terminate, recapture, impose any penalty, condition a renewal or extension or modify any term or condition upon the assignment of such Potentially Assigned Contract, except with respect to "use" clauses, constitute unenforceable anti-assignment provisions that are void and of no force and effect solely with respect to the Sale and the Potentially Assigned Contracts. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment of the Purchaser of the Potentially Assigned Contracts have been satisfied. Upon the assumption and assignment

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of a Potentially Assigned Contract, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Assigned Contract.

25. Upon the assumption of an Assigned Contract and the payment of the relevant cure amounts, if any, in accordance with the Purchase Agreement, the Purchaser or its Designated Purchaser shall be deemed to be substituted for the Debtors as a party to the applicable Assigned Contracts and the Debtors shall be relieved, pursuant to section 365(k) of the Bankruptcy Code of any further liability under the Assigned Contracts. Notwithstanding the foregoing, the Debtors, in accordance with the terms of the Purchase Agreement, shall remain liable for the payment in full of any cure amounts in excess of the Cure Payments Cap (as defined in the Purchase Agreement).

26. Upon the payment of the applicable cure amount, if any, the Assigned Contracts will remain in full force and effect, and no default by the Debtors shall exist under the Assigned Contracts nor shall there exist any event or condition caused by the Debtors that, with the passage of time or giving of notice, or both, would constitute such a default.

27. The Purchaser has provided adequate assurance of future performance under the relevant Potentially Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code, except as provided

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herein for the Potentially Assigned Contracts of the Objecting Parties and Informally Objecting Parties.

28. Other than increases and changes made by an Objecting Party or Informally Objecting Party in the ordinary course in accordance with the terms of the applicable Assigned Contract, there shall be no rent accelerations, assignment fees, increases or any other fees charged to the Purchaser or the Debtors as a result of the assumption and assignment of the Assigned Contracts pursuant to the Sale and this Order.

29. Pursuant to sections 105(a) 363 and 365 of the Bankruptcy Code, all counterparties to the Potentially Assigned Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Purchaser any assignment fee, default, breach or claim of pecuniary loss, or condition to assignment, arising under or related to the Potentially Assigned Contracts existing as of the date of the assumption and assignment of the Potentially Assigned Contracts or arising by reason of the Closing or the assumption and assignment thereof.

30. For the avoidance of doubt, the provisions of this Order, including the foregoing paragraphs 18 through 29, are subject to the Objecting Parties' Reservation of Rights and the resolution thereof.

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**Other Provisions**

31. Effective upon the Closing Date and except as otherwise provided by stipulations filed with or announced to this Court with respect to a specific matter, all Persons and entities are forever prohibited and permanently enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Purchaser, its successors and assigns, or the Assets, with respect to any (a) Encumbrance (other than Permitted Encumbrances) arising under, out of, in connection with or in any way relating to the Debtors, the Purchaser, the Assets or the operation of the businesses to which the Assets relate prior to the Closing of the Sale, or (b) successor liability, including, without limitation, the following actions: (i) commencing or continuing in any manner any action or other proceeding against the Purchaser, its successors or assigns, assets or properties; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Purchaser, its successors or assigns, assets or properties; (iii) creating, perfecting, or enforcing any Encumbrance against the Purchaser, its successors or assigns, assets or properties; (iv) asserting any setoff, right or subrogation or recoupment of any kind against any obligation due the Purchaser or its successors or assigns; (v) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Order or other orders of this Court, or the agreements or

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actions contemplated or taken in respect thereof; or (vi) revoking, terminating or failing or refusing to issue or renew and license, permits or authorizations to operate any of the Assets or conduct any of the businesses operated with the Assets. The sale and conveyance of the Assets shall be exempt from any transfer tax, stamp tax or similar tax pursuant to section 1146(c) of the Bankruptcy Code.

32. Except for the Permitted Encumbrances and Assumed Liabilities or as otherwise expressly set forth in this Order or the Purchase Agreement, the Purchaser shall not have any liability or other obligation of the Debtors arising under or related to any of the Assets. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein or in the Purchase Agreement, the Purchaser shall not be liable for any claims against the Debtors or any of their predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character, including, but not limited to, any theory of antitrust, environmental, product liability, successor or transferee liability, labor law, COBRA, WARN Act or similar state law claims, de facto merger or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Debtors or any obligations of the Debtors arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising, accruing or payable under, out of, in connection with,

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or in any way relating to the operation of any of the Assets prior to the Closing. The Purchaser has given substantial consideration under the Purchase Agreement for the benefit of the holders of any Encumbrance. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of Encumbrances against any interests in the Debtors or any of the Assets. No employee of the Debtors shall become an employee of Purchaser until such employee has received and accepted a formal offer of employment from Purchaser and becomes a Transferred Employee under the terms of the Purchase Agreement. The reimbursement or other payment of employment expenses by Purchaser will not be deemed an offer of employment under any circumstances.

33. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, 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 (including the assumption and assignment of the Potentially Assigned Contracts). The Purchaser is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code and as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code.

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34. The Sale and transaction contemplated in the Purchase Agreement may not be avoided, and no damages may be assessed against the Purchaser under section 363(n) of the Bankruptcy Code.

35. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in (a) these Chapter 11 Cases, (b) any subsequent chapter 7 case into which any such chapter 11 case may be converted, or (c) any related preceding subsequent to the entry of this Order, shall conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Order.

36. Pursuant to Bankruptcy Rules 7062, 9014, 6004(h), 6006(d), and 8002, this Order shall be a final order effective immediately upon entry and the Debtors and Purchaser are authorized to close the Sale immediately upon entry of this Order.

37. No bulk sales law or any similar law of any state or jurisdiction applies in any way to the Sale.

38. There are no brokers involved in consummating the Sale and no brokers' commissions are due.

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



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

41. To the extent there are any inconsistencies between the terms of this Order and the Purchase Agreement (including any ancillary documents executed in connection therewith) or the Bidding Procedures Order, the terms of this Order shall govern. Notwithstanding the foregoing or any other provision of this Order, nothing in this Order shall modify, abridge, impair or otherwise alter any of the rights of the DIP Agent and the DIP Lenders under the DIP Credit Agreement and the orders of this Court entered into in connection therewith.

42. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

43. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion in these Chapter 11 Cases, the terms of this Order shall govern.

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44. This Court shall retain jurisdiction to, among other things, interpret, implement and enforce the terms of the Order and the Purchase Agreement, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which had been assigned by the Debtors to the Purchase, and to adjudicate, if necessary, any and all disputes relating in any way to the Sale.