

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM531952

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	RELEASE OF SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Wells Fargo Bank, N.A.		12/22/2017	National Banking Association: UNITED STATES
RECEIVING PARTY DATA			
Name:	Vitamin World, Inc.		
Street Address:	2100 Smithtown Ave.		
City:	Ronkonkoma		
State/Country:	NEW YORK		
Postal Code:	11779		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 14			
Property Type	Number	Word Mark	
Registration Number:	1035168	VITAMIN WORLD	
Registration Number:	2036955	VITAMIN WORLD	
Registration Number:	2304332	SAVINGS PASSPORT	
Registration Number:	2316726	SAVINGS PASSPORT	
Registration Number:	2022545	THE VITAMIN DEPOT	
Registration Number:	2949706	THE VITAMIN DEPOT	
Registration Number:	2226182	V	
Registration Number:	2228753		
Registration Number:	2224374	VITAMIN WORLD	
Registration Number:	2238924	VITAMIN WORLD	
Registration Number:	2304333	VITAMIN WORLD SAVINGS PASSPORT	
Registration Number:	2316727	VITAMIN WORLD SAVINGS PASSPORT	
Registration Number:	2466185	VITAMINCITY	
Registration Number:	2508728	NUTRITION WAREHOUSE	
CORRESPONDENCE DATA			
Fax Number:	4158362501		
<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>			

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Phone: 4158362506
Email: amanda.modesto@dlapiper.com
Correspondent Name: Gina L. Durham, Esq.
Address Line 1: 555 Mission Street, Suite 2400
Address Line 2: DLA Piper LLP (US)
Address Line 4: San Francisco, CALIFORNIA 94105-2933

ATTORNEY DOCKET NUMBER: 372609-900100

NAME OF SUBMITTER: Gina Durham

SIGNATURE: /Gina Durham/

DATE SIGNED: 07/15/2019

Total Attachments: 32

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

In re:)	Chapter 11
)	
Vitamin World, Inc., <i>et al.</i> , ¹)	Case No. 17-11933 (KJC)
)	
Debtors.)	Jointly Administered
)	Re: Docket Nos. 374 and 550
)	

ORDER (I) APPROVING AND AUTHORIZING SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS PURSUANT TO SUCCESSFUL BIDDER'S ASSET PURCHASE AGREEMENT, FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS, (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO, AND (III) GRANTING RELATED RELIEF

This matter is before the Court on the Motion of the above-captioned debtors (the "Debtors") pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended from time to time, the "Bankruptcy Rules"), and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the Bankruptcy Court for the District of Delaware (the "Local Rules"), for Entry of an Order (I) Approving the Sales or Other Acquisition Transactions for the Assets, (II) Authorizing the Sales Free and Clear of All Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief (the "Sale Motion")² [Dkt. No. 374]; and the Court having heard statements of counsel, the testimony and the evidence

¹ Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vitamin World, Inc. (2283); VWRE Holdings, Inc. (8915); VW Interholdings, Inc. (4744); VW Online, Inc. (8763); Precision Engineered Limited (USA) (0916); Vitamin World (V.I.), Inc. (9839); Vitamin Depot, LLC (6747); Vitamin World of Guam, LLC (2056); and Nutrition Warehouse, Inc. (5095). Debtors' mailing address is 4320 Veterans Highway, Holbrook, NY 11741.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion or the Final APA (as defined below), as applicable.

presented or proffered in support of the relief requested by the Debtors in the Sale Motion at a hearing before the Court on December 21, 2017 (the "Sale Hearing"); and it further appearing that the legal and factual bases set forth in the Sale Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

THE COURT HEREBY FINDS AND DETERMINES THAT:

Determination with Respect to the Findings of Fact and Conclusions of Law

A. The findings of fact and conclusions of law set forth in this Order 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 any of the following findings of fact constitute conclusions of law, they are hereby adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are hereby adopted as such. Any findings of fact or conclusions of law stated by the Court on the record at the Sale Hearing are hereby incorporated, to the extent they are not inconsistent with this Order.

Jurisdiction, Final Order and Statutory Predicates

B. The Court has jurisdiction to hear and determine the Sale Motion and over the Debtors, their estates and the Acquired Assets, as defined in the Final APA, including, without limitation, the Transferred Contracts and Assumed Leases, pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(a) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. 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 the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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

D. The statutory predicates for the relief requested in the Sale 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), 6006(a), (c) and (d), 9007 and 9014.

E. On November 21, 2017, the Court entered the *Order (I) Scheduling a Hearing to Consider Approval of the Sale or Sales of Substantially All of the Debtors' Assets and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, and (III) Granting Related Relief* (the "Bidding Procedures Order") [Dkt. No. 443].

F. Also on November 21, the Court entered the *Order Authorizing (I) The Employment and Retention of SSG Advisors, LLC as Investment Banker to the Debtors Nunc Pro Tunc to November 7, 2017 and (II) a Waiver of Compliance with Certain Requirements of Local Rule 2016-2* [Dkt. No. 438].

G. The Acquired Assets constitute property of the Debtors' estates, and title to the Acquired Assets is vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

H. In the absence of a stay pending appeal, the Successful Bidder, is a good faith purchaser under section 363(m) of the Bankruptcy Code and as such may close the transaction contemplated by the *Asset Purchase Agreement*, dated as of December 8, 2017 [Dkt. No. 483],

by and among Debtor Vitamin World, Inc. and its affiliated Debtor Subsidiaries, as Sellers, and Vitamin World USA Corporation ("Successful Bidder"), as Buyer (as may be amended from time to time, the "Final APA," a copy of which is attached hereto as Exhibit A), at any time on or after entry of this Sale Order, and cause has been shown as to why this Sale Order should not be subject to the stay provided by Bankruptcy Rules 6004(h) and 6006(d).

Notice of the Sale, Sale Hearing and the Cure Amounts

I. Actual written notice of the Sale Motion and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein have been afforded to all known interested persons and entities, including, but not limited to the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Official Committee of Unsecured Creditors (the "Committee"); (iii) counsel to the Debtors' prepetition secured lender and DIP Agent, Wells Fargo Bank, National Association (the "DIP Agent"); (iv) each of the Debtors' thirty (30) largest creditors on a consolidated basis; (v) all applicable federal, state, and local taxing and regulatory authorities having jurisdiction over the Assets; (vi) all parties known to the Debtors who hold any liens or security interests in the Debtors' Assets who have filed UCC-1 financing statements against the Debtors, or who, to the Debtors' knowledge, have asserted any liens on any of the Debtors' Assets; (vii) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. *See* Dkt. No. 385.

J. In accordance with the provisions of the Bidding Procedures Order, the Debtors have served the *Notice of Sale of Assets* [Dkt No. 446] and the *Amended Notice of Sale of Assets* [Dkt. No. 494] (collectively, (the "Sale Notice") on the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Committee; (iii) counsel to

the DIP Agent; (iv) all parties known by the Debtors to assert a lien on any of the Acquired Assets; (v) all persons known or reasonably believed to have asserted an interest in any of the Acquired Assets, (vi) all non-Debtor parties to any potentially assumed executory contracts and unexpired leases; (vii) all persons known or reasonably believed to have expressed an interest in acquiring all or any portion of the Acquired Assets or making an equity or other investment in the Debtors within the twelve (12) months prior to the Petition Date; (viii) the Office of the United States Attorney for the District of Delaware; (ix) the Office of the Attorney General in each state in which the Debtors operate; (x) the Office of the Secretary of State in each state in which the Debtors operate or are organized; (xi) all taxing authorities having jurisdiction over any of the Acquired Assets, including the Internal Revenue Service; (xii) all regulatory authorities having jurisdiction over any of the Acquired Assets; (xiii) the Securities and Exchange Commission; (xiv) the United States Attorney General/Antitrust Division of Department of Justice; (xv) the United States Environmental Protection Agency and similar agencies for each state in which the Acquired Assets are located; and (xi) all other parties that had filed a notice of appearance and demand for service of papers as of the date of service of the Sale Notice. *See* Dkt. No. 450. The Sale Notice provided all interested parties with timely and proper notice of the Sale, Sale Objection Deadline, Bid Deadline, Auction, and Sale Hearing.

K. In accordance with the provisions of the Bidding Procedures Order, the Debtors served the *Notice of Assumption, Assignment and Cure Amount With Respect to Executory Contracts and Unexpired Leases of the Debtors* [Dkt. No. 456] (the "Cure Notice"), upon each counterparty to any potentially assumed executory contract and unexpired lease and its counsel (if known) (the "Contract Counterparties"). *See* Dkt. No. 457. The Cure Notice (i) stated the date, time and place of the Auction and Sale Hearing, (ii) listed each potentially assumed

executory contract and unexpired lease, (iii) specified the date by which any objection to the assumption and assignment of any potentially assumed executory contract or unexpired lease must be filed and served, and (iv) identified the amount, if any, that the Debtors believe is owed to each Contract Counterparty in order to cure any monetary defaults thereunder (the "Cure Amounts") pursuant to section 365 of the Bankruptcy Code. The Cure Notice further notified the Contract Counterparties that information regarding the identity of the Successful Bidder, along with the Adequate Assurance Information to be provided by the Successful Bidder, would be provided by the Debtors via e-mail or fax within an hour of the closing of the Auction if such Contract Counterparties notified the Debtors in writing of a request to receive such information. Pursuant to Bankruptcy Rule 6006(c), the Court finds that the service of the Cure Notice was adequate, sufficient and appropriate under the circumstances, in compliance with the Bidding Procedures Order, and no further notice need be given in respect of establishing the Cure Amounts. The Contract Counterparties have had an opportunity to object to the Cure Amounts set forth in the Cure Notice. The Debtors served the Adequate Assurance Information of the Successful Bidder on December 15, 2017. *See* Dkt. Nos. 516, 517.

L. As evidenced by the affidavits of service previously filed with the Court, proper, timely, adequate and sufficient notice of the Sale Motion, Auction, Sale Hearing, and Sale has been provided in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9014. The Debtors also have complied with all obligations to provide notice of the contemplated Auction, the Sale Hearing and the Sale as required by the Bidding Procedures Order. The notices described in Paragraphs I through K herein were adequate, sufficient and appropriate under the circumstances, and no other or further notice of the Sale Motion, Sale Hearing, Sale or assumption and assignment of the potentially

assumed executory contracts and unexpired leases is required, other than a notice of a final schedule of the Transferred Contracts and Assumed Leases.

M. The Cure Notice provided the Successful Bidder and each Contract Counterparty with proper notice of the potential assumption and assignment of the Transferred Contracts and Assumed Leases and any Cure Amounts relating thereto, and the procedures set forth therein with regard to any such Cure Amounts satisfy section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

N. The Debtors have articulated good and sufficient reasons for the Bankruptcy Court to grant the relief requested in the Sale Motion.

O. The disclosures made by the Debtors concerning the Sale Motion, the Sale, the Final APA, and the Sale Hearing, were good, complete and adequate.

Good Faith of the Successful Bidder

P. The Successful Bidder is purchasing the Acquired 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*: (a) the Successful Bidder recognized that the Debtors were free to deal with any other party interested in acquiring the Acquired Assets; (b) the Successful Bidder complied with the provisions in the Bidding Procedures Order; (c) the Successful Bidder agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (d) the Successful Bidder did not induce or cause the chapter 11 filing by any of the Debtors; (e) all payments to be made by the Successful Bidder and other agreements or arrangements entered into by the Successful Bidder in connection with the Sale have been disclosed; (f) the Successful Bidder has not violated section

363(n) of the Bankruptcy Code by any action or inaction; and (g) the negotiation and execution of the Final APA and any other agreements or instruments related thereto were at arms' length and in good faith.

Highest or Otherwise Best Offer

Q. The Debtors solicited offers and noticed the Auction in accordance with the provisions of the Bidding Procedures Order. The Auction was duly noticed, the sale process was conducted in a non-collusive manner, and the Debtors afforded a full, fair and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Acquired Assets.

R. No other Qualified Bid was received by the Bid Deadline. Accordingly, on December 19, 2017, the Debtors filed the *Notice of Successful Bidder* [Dkt. No. •] with the Court.

S. The Final APA constitutes the highest or otherwise best offer for the Acquired Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination, in consultation with the Committee and the DIP Agent, that the Final APA constitutes the highest or best offer for the Acquired Assets constitutes a valid and sound exercise of the Debtors' business judgment.

T. The Final APA represents a fair and reasonable offer to purchase the Acquired Assets, including the Transferred Contracts and Assumed Leases, under the circumstances of these Chapter 11 Cases. No other person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' estates than the Successful Bidder.

U. Approval of the Sale Motion and the Final APA and the consummation of the transactions contemplated thereby is in the best interests of the Debtors, their creditors, their estates and other parties in interest.

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

No Fraudulent Transfer

W. The consideration provided by the Successful Bidder pursuant to the Final APA 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 and the District of Columbia. The Final APA was not entered into and will not be consummated for the purpose of hindering, delaying or defrauding creditors of the Debtors, and neither the Debtors nor the Successful Bidder has entered into the Final APA or is consummating the transactions contemplated thereby with any fraudulent or otherwise improper purpose.

Validity of Transfer

X. The Debtors have full corporate power and authority to execute and deliver the Final APA and all other documents contemplated thereby, and no further consents or approvals are required for the Debtors to consummate the transactions contemplated by the Final APA, except as otherwise set forth in the Final APA.

Y. The transfer of each of the Acquired Assets, including the Transferred Contracts and Assumed Leases, to the Successful Bidder will be, as of the Closing Date, a legal, valid and effective transfer of such assets and will vest the Successful Bidder with all right, title and interest of the Debtors to the Acquired Assets free and clear of all Encumbrances (as defined

below) accruing, arising or relating to any time prior to the Closing Date, except for any Permitted Liens and Assumed Liabilities under the Final APA.

Section 363(f) of the Bankruptcy Code Is Satisfied

Z. The Successful Bidder would not have entered into the Final APA and would not consummate the transactions contemplated thereby (by paying the Purchase Price and assuming the Assumed Liabilities) if the sale of the Acquired Assets to the Successful Bidder, and the sale and assumption and assignment of the Transferred Contracts and Assumed Leases to the Successful Bidder, were not, except as otherwise provided in the Final APA with respect to the Assumed Liabilities, free and clear of all Encumbrances of any kind or nature whatsoever, or if the Successful Bidder would, or in the future could, be liable for any of such Encumbrances, including, but not limited to the following (except and only to the extent expressly provided in the Final APA or this Order): (1) all of the Sellers' Cure Amounts; (2) any Liability not relating to or arising out of the Business or the Acquired Assets; (3) any Liability of the Debtors for Taxes; (4) any Liabilities under the Final APA or any Related Agreement and the transactions contemplated thereby; (5) any Liability associated with any indebtedness or guarantees of third party obligations and reimbursement obligations to guarantors of the Debtors' obligations or under any letters of credit of any Debtor; (6) any Liabilities related to any executory contracts or unexpired leases that accrued prior to the Closing or are not obligations arising under the Transferred Contracts or Assumed Leases first arising on or after the Closing Date; (7) all Liabilities (i) for fees, costs and expenses incurred and/or owed in connection with the Final APA or the administration of the Bankruptcy Cases, (ii) administrative expenses and priority claims accrued through the Closing Date and specified post-closing administrative wind-down expenses of the Estates, and (iii) costs and expenses incurred in connection with the Final APA,

the DIP Credit Agreement, and the consummation of the transactions contemplated by the Final APA; (8) all employee and employment-related Liabilities, including, without limitation for (i) Company WARN Payments, (ii) Company Severance Payments, (iii) Company PTO Payments; (iv) all Liabilities related to the termination of employment of Company “insiders” as defined by the Bankruptcy Code; (v) all Company Benefit Plans; and (vi) all Liabilities with respect to any terminated employee under COBRA; (9) all Liabilities of the Debtors to their equity holders for dividends, distributions in liquidation, redemptions of interest, option payments, or otherwise, or pursuant to any Affiliate Agreement; (10) all Liabilities for any business or property formerly owned or operated by the Debtors, their Affiliates or predecessors but not owned and operated by the Debtors as of the Closing Date; (11) all Liabilities related to any claims, action, suit, or other proceeding involving the Acquired Assets, the Business, the Company, or any of the Debtors’ assets or properties that is not filed, initiated or threatened prior to Closing and which relate to facts, events or circumstances existing prior to Closing; (12) all Liabilities arising under Environmental Laws related to facts, events or circumstance existing prior to Closing; (13) accounts payable; (14) Liabilities to any employees existing prior to Closing, with the exception of vacation, sick leave, parental leave, and other paid time accrued by Transferred Employees as set forth in the Final APA; and (15) all Liabilities of the Debtors or their predecessors arising from any contract, agreement, Permit, franchise, or claim not transferred to Successful Bidder as part of the Acquired Assets or not transferred to Successful Bidder for failure to obtain any required consents.

AA. The Successful Bidder (i) is not, and shall not be considered, a successor to the Debtors, (ii) has not, *de facto* or otherwise, merged with or into the Debtors, (iii) is not a continuation or substantial continuation, and is not holding itself out as a mere continuation, of

any of the Debtors or their respective estates, businesses or operations, or any enterprise of the Debtors, and (iv) does not have a common identity of incorporators, directors or equity holders with the Debtors. The Successful Bidder shall have no, and shall not be deemed to have or to have assumed or become obligated by operation of law or in equity for, any Liability or Encumbrance except as expressly assumed under the Final APA.

BB. The Debtors may sell the Acquired Assets, including the Transferred Contracts and Assumed Leases, free and clear of all Encumbrances (except for the 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 Sale Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of the 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, attach to the cash proceeds of the Sale attributable to the Acquired Assets in which such holder alleges an Encumbrance, in the same order of priority, with the same validity, force and effect that such Encumbrance had prior to the Sale, subject to any claims and defenses the Debtors and their estates may possess with respect thereto and by having proceeds applied in accordance with Paragraph 25 of this Order.

Assumption and Assignment of Executory Contracts and Leases

CC. The sale and assumption and assignment of the Transferred Contracts and Assumed Leases pursuant to the terms of this Order is integral to the Final APA, is in the best interests of the Debtors and their estates, creditors and other parties in interest and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

DD. Pursuant to the terms of the Final APA, at Closing, the Debtors shall assume and assign to the Successful Bidder each of the Transferred Contracts and Assumed Leases identified in Schedule 2.7(b) of the Final APA that is capable of being assumed and assigned. The Successful Bidder shall pay as part of the Purchase Price an amount equal to one-half of all Cure Amounts listed on Schedule 2.7(b) of the Final APA in excess of \$2,400,000 from the Escrow Account, in connection with such assumption and assignment. The Debtors shall pay promptly all Cure Amounts. The Successful Bidder shall assume and perform and discharge the Assumed Liabilities, if any, under the Transferred Contracts and Assumed Leases, including pursuant to any contract or lease assignment agreements, as applicable. The Successful Bidder has provided adequate assurance of its future performance under the Transferred Contracts and Assumed Leases 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 to any counterparty to a Transferred Contract or Assumed Lease that requests such assurance and shall have no further obligation to provide assurance of performance to any counterparty, except to the extent of timely- filed objections to such adequate assurance information.

Compelling Circumstances for an Immediate Sale

EE. To enhance the Debtors' level of liquidity, to preserve the value of the Debtors' estates and reduce the amount of postpetition financing borne by the Debtors, and to maximize the amount of funding available to provide for a timely exit from these Chapter 11 Cases, it is essential that the Sale of the Acquired Assets occur within the time constraints set forth in the Final APA. Time is of the essence in consummating the Sale.

FF. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the Final APA, the proposed Sale of the Acquired Assets

to the Successful Bidder constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

GG. The Sale does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it does not propose to (i) impair or restructure existing debt of, or equity interests in, the Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors, (iii) circumvent chapter 11 safeguards, including those set forth in sections 1125 and 1129 of the Bankruptcy Code, or (iv) classify claims or equity interests.

HH. The consummation of the Sale 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 of the applicable requirements of such sections have been complied with in respect of the Sale.

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

General Provisions

1. The relief requested in the Sale Motion is GRANTED AND APPROVED as set forth in this Order, and the Sale contemplated thereby is APPROVED.
2. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order and above are fully incorporated into this Order by reference.
3. Notice of the Sale Motion, the Sale Hearing, and the Sale was adequate, fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights

included therein, are hereby overruled on the merits or have been otherwise satisfied or adequately provided for.

Approval of the Final APA

4. The Final APA and the terms and conditions thereof are hereby APPROVED, and the Debtors are authorized to enter into all Related Agreements and such other ancillary documents consistent with the terms hereof and in furtherance thereof.

5. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized and empowered to take any and all actions necessary or appropriate to (i) consummate the Sale of the Acquired Assets to the Successful Bidder pursuant to and in accordance with the terms and conditions of the Final APA, (ii) close the Sale as contemplated in the Final APA and this Order, and (iii) execute and deliver, perform under, consummate, implement and close the Final APA, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Final APA and the Sale or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Final APA and such ancillary documents.

6. This Order shall be binding in all respects upon the Debtors, their estates, all holders of equity interests in any Debtor, all holders of any Claim(s) (as defined in the Bankruptcy Code) against any Debtor, whether known or unknown, any holders of Liens (as defined in the Bankruptcy Code) and Encumbrances on all or any portion of the Acquired Assets, all Contract Counterparties, the Successful Bidder, all successors and assigns of the Successful Bidder, any other bidders for the Acquired Assets, any trustees, if any, subsequently appointed in any of the Debtors' Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Debtors' cases, and all employee benefit plans in which the Debtors participated. This Order and the Final APA shall inure to the benefit of the Debtors, their estates,

their creditors, the Successful Bidder and their respective successors and assigns. Unless otherwise ordered by the Court, nothing contained in any plan of reorganization or liquidation or order of any type or kind entered in these Chapter 11 Cases or any subsequent chapter 7 or chapter 11 case for any of the Debtors or any related proceedings subsequent to the entry of this Order shall directly conflict with or derogate from the provisions of the Final APA or the terms of this Order.

Transfer of the Acquired Assets

7. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Debtors are authorized to transfer the Acquired Assets on the Closing Date. The Acquired Assets (including the Transferred Contracts and Assumed Leases) shall be transferred to the Successful Bidder upon and as of the Closing Date, and such transfer shall constitute a legal, valid, binding and effective transfer of such Acquired Assets and, upon the Debtors' receipt of the Purchase Price, shall be free and clear of all Liens, Claims, interests, rights of setoff, netting and deductions, rights of first offer, first refusal and any other similar contractual rights, and any successor or successor-in-interest liability theories (collectively, the "Encumbrances"), except for the Assumed Liabilities under the Final APA. Notwithstanding any provision in the Final APA, the transfer of the Acquired Assets shall not be free and clear of the right of recoupment. Upon the Closing, the Successful Bidder shall take title to and possession of the Acquired Assets subject only to the Assumed Liabilities; provided, however, that the Successful Bidder shall not be relieved of liability with respect to the Assumed Liabilities and any obligations accruing under the Transferred Contracts and Assumed Leases as provided in paragraph 19 of this Order. All Encumbrances shall attach to the proceeds of the Sale with the same validity, priority, force and effect that they now have as against the Acquired Assets, subject to any claims and defenses the Debtors and their estates may possess with respect

thereto and subject to application of such proceeds in accordance with Paragraph 24 of this Order; provided, further, notwithstanding anything to the contrary in this Order, and subject to the provisions of section 362 of the Bankruptcy Code, any rights of third parties, including landlords, to seek coverage under any existing insurance policy of the Debtors are reserved, to the extent such coverage is available.

8. The Sale of the Acquired Assets to the Successful Bidder, and the sale and assumption and assignment of the Transferred Contracts and Assumed Leases to the Successful Bidder, shall be, except as otherwise provided in the Final APA and this Order, free and clear of all Encumbrances of any kind or nature whatsoever, including, but not limited to, in respect of the following: (1) all of the Sellers' Cure Amounts; (2) any Liability not relating to or arising out of the Business or the Acquired Assets; (3) any Liability of the Debtors for Taxes; (4) any Liabilities under the Final APA or any Related Agreement and the transactions contemplated thereby; (5) any Liability associated with any indebtedness or guarantees of third party obligations and reimbursement obligations to guarantors of the Debtors' obligations or under any letters of credit of any Debtor; (6) any Liabilities related to any executory contracts or unexpired leases that accrued prior to the Closing or are not obligations arising under the Transferred Contracts or Assumed Leases first arising on or after the Closing Date; (7) all Liabilities (i) for fees, costs and expenses incurred and/or owed in connection with the Final APA or the administration of the Bankruptcy Cases, (ii) administrative expenses and priority claims accrued through the Closing Date and specified post-closing administrative wind-down expenses of the Estates, and (iii) costs and expenses incurred in connection with the Final APA, the DIP Credit Agreement, and the consummation of the transactions contemplated by the Final APA; (8) all employee and employment-related Liabilities, including, without limitation for (i) Company

WARN Payments, (ii) Company Severance Payments, (iii) Company PTO Payments; (iv) all liabilities related to the termination of employment of Company "insiders" as defined by the Bankruptcy Code; (v) all Company Benefit Plans; and (vi) all Liabilities with respect to any terminated employee under COBRA; (9) all Liabilities of the Debtors to their equity holders for dividends, distributions in liquidation, redemptions of interest, option payments, or otherwise, or pursuant to any Affiliate Agreement; (10) all Liabilities for any business or property formerly owned or operated by the Debtors, their Affiliates or predecessors but not owned and operated by the Debtors as of the Closing Date; (11) all Liabilities related to any claims, action, suit, or other proceeding involving the Acquired Assets, the Business, the Company, or any of the Debtors' assets or properties that is not filed, initiated or threatened prior to Closing and which relate to facts, events or circumstances existing prior to Closing; (12) all Liabilities arising under Environmental Laws related to facts, events or circumstance existing prior to Closing; (13) accounts payable; (14) Liabilities to any employees existing prior to Closing, with the exception of vacation, sick leave, parental leave, and other paid time accrued by Transferred Employees; and (15) all Liabilities of the Debtors or their predecessors arising from any contract, agreement, Permit, franchise, or claim not transferred to Successful Bidder as part of the Acquired Assets or not transferred to Successful Bidder for failure to obtain any required consents.

9. Except as expressly provided by the Final APA, all persons and entities holding Encumbrances on all or any portion of the Acquired Assets hereby are forever barred, estopped and permanently enjoined from asserting against the Successful Bidder or its successors or assigns, their property or the Acquired Assets, such Encumbrances and all claims and rights relating thereto. On the Closing Date, each holder of an Encumbrance is authorized and directed to execute such documents and take all other actions as may be deemed by the Successful Bidder

to be necessary or desirable to release its Encumbrances on the Acquired Assets, as provided for herein, as such Encumbrances may have been recorded or may otherwise exist.

10. 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 Acquired Assets, including the sale, assumption and assignment of the Transferred Contracts and Assumed Leases, to the Successful Bidder in accordance with the terms of the Final APA and this order.

11. All persons and entities that are in possession of some or all of the Acquired Assets on the Closing Date are directed to surrender possession of such Acquired Assets to the Successful Bidder or its assignee at the Closing.

12. A certified copy of this Order may be filed with the appropriate clerk and/or recorded with the appropriate recorder to cancel any Encumbrances of record.

13. If any person or entity that has filed statements or other documents or agreements evidencing Encumbrances on all or any portion of the Acquired Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of Liens and easements and any other documents necessary or desirable to the Successful Bidder for the purpose of documenting the release of all Encumbrances, which the person or entity has or may assert with respect to all or any portion of the Acquired Assets, the Debtors are hereby authorized and directed, and the Successful Bidder 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 Acquired Assets.

14. This Order shall 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 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 lease; and each of the foregoing persons and entities is hereby authorized to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Final APA.

Executory Contracts and Leases

15. The Debtors are authorized and directed to assume and sell and assign the Transferred Contracts and Assumed Leases to the Successful Bidder free and clear of all Encumbrances, except for the Successful Bidder's obligation to pay certain applicable Cure Amounts, if any, and the obligations expressly provided for in paragraph 19 of this Order. With respect to each Transferred Contract and Assumed Lease, the payment of the applicable Cure Amount (if any) by the Debtors, or the Debtors and the Successful Bidder if the Cure Amount exceeds \$2,400,000 pursuant to the Final APA and Paragraph 16 of this Order, shall (a) effect a cure of all monetary defaults existing thereunder as of the Closing Date, (b) compensate the applicable Contract Counterparty for any actual pecuniary loss resulting from such default, and (c) together with the assumption of the Transferred Contracts and Assumed Leases by the Successful Bidder, constitute adequate assurance of future performance thereof; provided, however, that to the extent any counterparty to the Transferred Contracts and Assumed Leases timely interposed an objection to such Adequate Assurance Information, the hearing as to such objectors shall be continued until a further hearing before the Court. As of the

Closing Date, the Successful Bidder shall be deemed to have acquired and assumed the Transferred Contracts and Assumed Leases, pursuant to sections 363 and 365(f) of the Bankruptcy Code, the assignment by the Debtors of such Transferred Contracts and Assumed Leases shall not be a default thereunder and the Successful Bidder entitled to the protections afforded under section 363(m) of the Bankruptcy Code with respect thereto.

16. The Successful Bidder shall be liable for payment as part of the Purchase Price of one-half of all Cure Amounts in excess of \$2,400,000 (the "Buyer Cure Costs"). The Debtors shall be liable for all other Cure Amounts excluding the Buyer Cure Costs. The Debtors and the Successful Bidder shall cooperate concerning the resolution of disputed Cure Amounts.

17. Any provision in or effect of any Transferred Contract or Assumed Lease that prohibits or conditions the assignment of such Transferred Contract or Assumed Lease or allows the party to such Transferred Contract or Assumed Lease to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Transferred Contract or Assumed Lease, constitutes an unenforceable anti-assignment provision that is void and of no force and effect pursuant to section 365(f) of the Bankruptcy Code. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Successful Bidder of the Transferred Contracts and Assumed Leases have been satisfied, and such assumption and assignment shall not constitute a default thereunder. Upon the Closing and the payment of the required Cure Amounts, in accordance with sections 363 and 365 of the Bankruptcy Code, the Successful Bidder shall be fully and irrevocably vested with all right, title and interest of the Debtors under each Transferred Contract and Assumed Lease.

18. Notwithstanding anything in the Final APA to the contrary, the Successful Bidder may remove executory contracts and unexpired leases from the list of Transferred Contracts and Assumed Leases at any time until three (3) business days prior to the Closing Date.

19. Notwithstanding anything to the contrary contained in this Order, the Sale Motion or the Cure Notice, the Successful Bidder shall be obligated for any rent, fees, charges or other expenses or obligations arising or incurred in the ordinary course under any Transferred Contract or Assumed Lease, other than Cure Amounts, provided that such amounts become due and payable on or after the Closing Date, regardless of whether such amounts relate to a period of time prior to the assignment of the Transferred Contract or Assumed Lease to the Successful Bidder; provided, however, that all counter-parties to Transferred Contracts or Assumed Leases shall in good faith remit by the Closing Date an estimate, and recent three-year historical averages of, any and all such rent, fees, charges or other expenses or obligations arising or incurred in the ordinary course under any Transferred Contract or Assumed Lease that relate to the time prior to calendar year end.

20. Upon the Closing and the payment of the Cure Amounts applicable to any Transferred Contract or Assumed Lease, the Successful Bidder shall be deemed to be substituted for the relevant Debtor as a party to such Transferred Contract or Assumed Lease, and the Debtors shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability to the Contract Counterparties under such Transferred Contract or Assumed Lease.

21. Upon the Closing and the payment of the applicable Cure Amounts, if any, the Transferred Contracts and Assumed Leases shall remain in full force and effect, and no default shall exist thereunder nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default.

22. Other than as provided under the Final APA, there shall be no rent accelerations or increases, assignment fees, deposits, increases (including advertising rates) or any other fees charged to the Successful Bidder or the Debtors as a result of the assumption and assignment (including any change in control) of the Transferred Contracts or Assumed Leases.

23. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against the Debtors, their estates, the Successful Bidder, or any of their respective successors and assigns any increased rent or fees, assignment fee, default, breach or claim or pecuniary loss or condition to assignment, arising under or related to the Transferred Contracts or Assumed Leases existing as of the Closing Date or arising by reason of the Closing.

24. Notwithstanding anything to the contrary in this Order or the Final APA (a) the Debtors shall not assume and assign any Transferred Contracts or Assumed Leases that are the subject to a timely asserted objection to the Successful Bidder's adequate assurance of future performance under Bankruptcy Code Section 365(b)(1)(C) absent the consent of the non-debtor party to such Transferred Contracts or Assumed Leases or further order of the Court, (b) upon the later to occur of: (i) entry of an order of the Court approving the Debtors' assumption and assignment of a Transferred Contract or Assumed Lease or (ii) the Closing Date, the Debtors shall pay the counter-party to any Transferred Contract or Assumed Lease the undisputed portion of the Cure Amount attributable to such Transferred Contract or Assumed Lease, with any disputed portion of such Cure Amount being escrowed by the Debtors pending either agreement among the non-debtor party to such Transferred Contract or Assumed Lease and the Debtors, or further order of the Court determining the allowed amount of such disputed Cure Amount, and (c) all timely asserted objections to the Successful Bidder's adequate assurance of future

performance under Bankruptcy Code Section 365(b)(1)(C) and to the Cure Amounts are fully preserved. Notwithstanding any provision to the contrary contained herein or in the Final APA, all pending objections timely filed by landlords and all rights under Bankruptcy Code section 365 and the leases are hereby preserved pending further resolution of the parties and/or Order of the Court and nothing herein shall prejudice the Successful Bidder's reliance on, among other things, advancing payment of January rent, purchasing GOB inventory on or prior to December 31, 2017, funding a cure escrow to the extent of \$2.5 million, funding a deposit in consideration of the purchase price to the extent of \$2.8 million, and capitalizing the Successful Bidder with \$5 million, in demonstrating that the Successful Bidder has provided adequate assurance of future performance under the Transferred Contracts and Assumed Leases.

Payment of DIP Obligations

25. In connection with the Closing of the transactions provided for under the Purchase Agreement and this Order, the Debtors are authorized and directed to pay the DIP Agent, for the benefit of the DIP Lenders, the proceeds of the sale as provided under the Final APA, which payment shall be in satisfaction of the DIP Obligations (as defined in that certain "*Final Order Pursuant To 11 U.S.C. §§ 105, 361, 362, 363, 364, And 507 And Fed. R. Bankr. P. 2002, 4001 And 9014 (I) Authorizing Debtors And Debtors In Possession To Obtain Postpetition Financing, (II) Authorizing Use Of Cash Collateral, (III) Granting Liens And Super-Priority Claims, (IV) Granting Adequate Protection To Prepetition Secured Lenders; (V) Modifying the Automatic Stay; and (VI) Granting Related Relief*", dated November 9, 2017 [Dkt. No. 370] (the "Final DIP Order"). Upon the Closing of the transactions provided for under the Final APA this Order and the payment of sale proceeds in satisfaction of the DIP Obligations as provided herein, the respective Commitments of the DIP Lenders under the DIP Credit Agreement shall be

terminated, and neither the DIP Agent nor any DIP Lender shall be obligated to make any further Loan (as defined in the DIP Credit Agreement) or other extension of credit under the DIP Financing Agreements (as defined in the Final DIP Order). Upon the earlier to occur of the following: (x) January 19, 2018 or (y) the occurrence of a closing of the transactions provided for under the Final APA and this Order, the Debtors shall pay the DIP Agent, for the benefit of itself and the DIP Lenders, as their interests may appear, a DIP Facility extension fee of \$100,000, which fee shall be fully earned and non-refundable upon entry of this Order and payable in the amount and at the time provided herein. Except as provided in this Paragraph 24 and in Paragraphs 15-16 in respect of the Cure Amounts, the Debtors shall retain all sale proceeds pending order of this Court.

Miscellaneous

26. The Debtors and the Successful Bidder anticipate that the Closing shall take place on January 19, 2018. The Debtors and the Successful Bidder may extend the Closing Date past January 19, 2018 only upon further order of this Court.

27. Effective upon the Closing Date and except as otherwise provided by stipulations filed with or announced to the 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 Successful Bidder, its successors and assigns, or the Acquired Assets including without limitation the Transferred Contracts or Assumed Leases, with respect to (a) any Encumbrance arising prior to the Closing Date, (b) any theory of claim or remedy sounding in successor liability, or (c) revoking, terminating, failing or refusing to renew any license, permit or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

28. Except as otherwise provided in this Order and to the maximum extent available under applicable law and to the extent provided for under the Final APA, the Successful Bidder shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Acquired Assets, including the Transferred Contracts or Assumed Leases and, to the maximum extent available under applicable law and to the extent provided for under the Final APA, all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been transferred to the Successful Bidder as of the Closing Date. All existing licenses or permits applicable to the Acquired Assets shall remain in place for the Successful Bidder's benefit until either new licenses and permits are obtained or existing licenses and permits are transferred in accordance with applicable administrative procedures. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any grant, permit, or license relating to the operation of the Acquired Assets sold, transferred or conveyed to the Successful Bidder on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale.

29. Except for the Permitted Liens and Assumed Liabilities, the Successful Bidder shall not have any liability for any obligation of the Debtors arising under or related to any of the Acquired Assets. Without limiting the generality of the foregoing, the Successful Bidder shall not be liable for any Claims against the Debtors or any of their predecessors or affiliates. By virtue of the Sale, the Successful Bidder and its affiliates, successors and assigns shall not be deemed or considered to (a) be a legal successor or otherwise be deemed a successor to any of the Debtors, (b) have, *de facto* or otherwise, merged with or into any or all Debtors or (c) be a continuation or substantial continuation, or be holding itself out as a mere continuation, of any of

the Debtors or their respective estates, businesses or operations, or any enterprise of the Debtors, in each case by any law or equity, and the Successful Bidder has not assumed nor is it in any way responsible for any liability or obligation of the Debtors or the Debtors' estates, except with respect to the Assumed Liabilities. The Successful Bidder shall have no successor or vicarious liabilities of any kind or character, including, but not limited to, any theory of antitrust, environmental, successor or transferee liability, labor law, *de facto* merger or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, 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, or in any way relating to the operation of any of the Acquired Assets prior to the Closing.

30. [RESERVED].

31. The transactions contemplated by and consummated under the Final APA are undertaken by the Successful Bidder 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 Transferred Contracts and Assumed Leases), unless such authorization and such Sale are duly stayed pending such appeal. The Successful Bidder 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. The Final APA and the transactions contemplated thereby cannot be avoided under section 363(n) of the Bankruptcy Code. The Debtors and the Successful Bidder have not engaged in any conduct that would cause or permit the Final APA or the consummation of the transactions

contemplated thereby to be avoided, or costs or damages to be imposed, under section 3636(n) of the Bankruptcy Code.

32. Pursuant to Bankruptcy Rules 6004(h), 6006(d), 7062 and 9014, this Order shall be effective immediately upon its entry, and the Debtors and the Successful Bidder are authorized to close the Sale immediately upon entry of this Order.

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

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

35. The Final APA and any Related Agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court but after consultation with the Committee and the DIP Agent, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates or on the interests of the Successful Bidder.

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

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

38. (a) After the Closing Date, the Debtors shall receive in trust and remit any payment or revenue received by the Debtors that belongs to the Successful Bidder pursuant to the terms of the Final APA to the Successful Bidder within two (2) business days of the Debtors' receipt thereof and, prior to such transmission, such payments shall be held by the Debtors in

trust for the Successful Bidder; and (b) after the Closing Date, the Successful Bidder shall receive in trust and remit any payment or revenue received by the Successful Bidder that belongs to any of the Debtors pursuant to the terms of the Final APA to the Debtors within two (2) business days of the Successful Bidder's receipt thereof and, prior to such transmission, such payments shall be held by the Successful Bidder in trust for the Debtors.

39. The Debtors are authorized and directed to change their corporate names in the domestic jurisdictions in which they are registered or authorized to do business under names mutually agreed upon between the Debtors and the Successful Bidder, and to provide the Successful Bidder with evidence of such name changes upon request thereof. Upon the filing of a Certification of Counsel, following consultation with the Successful Bidder, the Committee, the DIP Agent, and the Office of the United States Trustee for the District of Delaware, the caption of all pleadings shall be changed as stated in such Certification of Counsel (with any necessary reflection that the case was formerly known as *In re Vitamin World, Inc., et al.*), and all pleadings shall be filed under the new caption.

40. Upon the reasonable request of the Successful Bidder and upon reasonable advance written notice, from the date of the entry of this Order the Debtors will permit the Successful Bidder and its representatives to have access to the premises, properties, books and records and Transferred Contracts and Assumed Leases included within the Acquired Assets during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of any Debtor, provided that no Person shall be required to waive its attorney-client privilege with respect thereto. Upon reasonable notice, the Successful Bidder shall be permitted to contact vendors, suppliers, licensors, and licensees. Debtors and their representatives are permitted to be present at any such meetings.

41. Notwithstanding anything to the contrary in the Final APA or this Order, the Debtors shall consult with the Committee on all outstanding issues relating to the Final APA, and the Debtors shall consult with the Committee regarding the resolution of any such disputes, whether before the Court or otherwise. Nothing in this Order restricts any right the Committee may have to seek direct involvement in the resolution of such disputes to the extent that the Committee believes such involvement is necessary.

42. Promptly following the Closing, the Debtors shall pay from the sale proceeds the 2017 taxes due to Brazos County, Texas, Hays County, Texas, Hill County, Texas, Hill County Appraisal District, and Midland Central Appraisal District in the aggregate amount of \$4,531.31.

43. Notwithstanding any provision to the contrary in the Sale Motion, this Order, and any implementing Sale documents, nothing shall (1) authorize the assumption, assignment or other transfer to the Successful Bidder of any contracts between the Debtors and the Army and Air Force Exchange Service, an instrumentality of the United States ("AAFES Agreements") without compliance by the Debtors and the Successful Bidder with all terms of the AAFES Agreements and applicable non-bankruptcy law; or (2) be interpreted to set cure amounts or to require the government to novate or otherwise consent to the transfer of any AAFES Agreements; or (3) affect the government's rights to offset or recoup any amounts due under, or relating to, the AAFES Agreements.

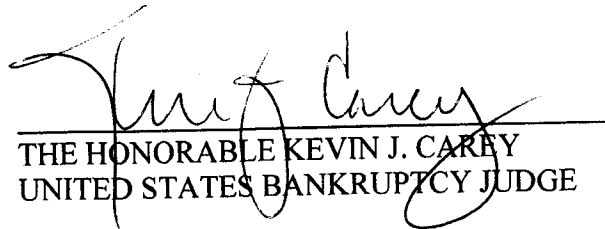
44. The Court shall retain jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order and the Final APA, all amendments thereto and any releases, waivers and consents hereunder and thereunder, and each of the agreements executed in connection therewith to which any of the Debtors are a party or which has been

assigned by the Debtors to the Successful Bidder, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to any of the foregoing.

45. Nothing in this Order or the Final APA releases, nullifies, precludes or enjoins the enforcement of any valid police or regulatory liability to a governmental unit, to which that Successful Bidder may be subject to as the post-sale owner or operator of any property that is an Acquired Asset after the date of entry of this Order. Nothing in this Order or the Final APA authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law.

Nothing in this Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order.

Dated: December 22, 2017
Wilmington, Delaware


THE HONORABLE KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE