

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM722865

SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	Bankruptcy Order of Release		
RESUBMIT DOCUMENT ID:	900674063		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
888 Capital Partners, LLC		10/27/2021	Limited Liability Company: NEW YORK
RECEIVING PARTY DATA			
Name:	ABC Home Furnishings, Inc.		
Street Address:	888 Broadway		
City:	New York		
State/Country:	NEW YORK		
Postal Code:	10003		
Entity Type:	Corporation: NEW YORK		
PROPERTY NUMBERS Total: 5			
Property Type	Number	Word Mark	
Registration Number:	4536397	ABC COCINA	
Registration Number:	5261464	ABCV	
Registration Number:	3954573	ABC KITCHEN	
Registration Number:	4244548	ABC KITCHEN	
Registration Number:	4248450	ABC KITCHEN	
CORRESPONDENCE DATA			
Fax Number:			
<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>			
Phone:	201-525-6237		
Email:	wstroeever@coleschotz.com		
Correspondent Name:	William W. Stroever		
Address Line 1:	25 Main Street		
Address Line 4:	Hackensack, NEW JERSEY 07601		
ATTORNEY DOCKET NUMBER:	63064-0001		
NAME OF SUBMITTER:	James J. Dade		
SIGNATURE:	/James J. Dade/		
DATE SIGNED:	04/21/2022		

Total Attachments: 133

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

ABC CARPET CO., INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 21-11591 (DSJ)

(Jointly Administered)

**ORDER (A) AUTHORIZING SALE OF ALL OR
SUBSTANTIALLY ALL OF DEBTORS' ASSETS FREE AND CLEAR OF
LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) AUTHORIZING
ASSUMPTION AND ASSIGNMENT OR REJECTION OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

Upon the motion [Docket No. 18] (the "Motion")² of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), pursuant to sections 105, 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 6004-1 and 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), for, among other things, entry of an order (a) authorizing the sale of the Acquired Assets free and clear of all liens, claims, encumbrances, and other interests pursuant to section 363 of the Bankruptcy Code; (b) approving the Asset Purchase Agreement by and among the Debtors and 888 Capital Partners, LLC (the "Buyer"), dated as of September 8, 2021, as modified by Amendment No. 1 to Asset Purchase Agreement, dated as of September 30, 2021, Amendment No. 2 to Asset Purchase Agreement, dated as of October 19, 2021 and Amendment No. 3 to Asset Purchase Agreement, dated as of October 25, 2021 (as may be amended, supplemented, or otherwise modified from time

¹ The Debtors in these chapter 11 cases (these "Chapter 11 Cases"), along with the last four digits of each Debtor's federal tax identification number, as applicable, are A.B.C. Carpet Co., Inc. (6537), A.B.C. Home Furnishings, Inc. (6915), and A.B.C. Oriental Carpets, Inc. (3679). The Debtors' principal place of business is 888 Broadway, New York, NY 10003.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Purchase Agreement (as defined herein).

to time, together with all documents ancillary thereto, the “Purchase Agreement”), a copy of which is attached hereto as **Exhibit A**; (c) authorizing the assumption and assignment of the Transferred Contracts and Assumed Leases, along with the Cure Amount applicable for each such Transferred Contract and Assumed Lease, each listed at **Exhibit B** (collectively, the “Assigned Contracts”); and (d) granting certain related relief, all as more fully set forth in the Motion; and this Court having entered an order on October 1, 2021 [Docket No. 120] (the “Bidding Procedures Order”) approving, among other things, the Bidding Procedures, the Sale Notice, and the Assumption and Assignment Procedures (each as defined in the Bidding Procedures Order); and the hearing to consider the Motion and the Sale (as defined in the Motion) having been scheduled for 10:00 a.m. (prevailing Eastern Time) on October 27, 2021 (the “Sale Hearing”); and the Bid Deadline (as defined in the Bidding Procedures Order) for submitting Qualified Bids (as defined in the Bidding Procedures) having been October 19, 2021 at 4:00 p.m. (prevailing Eastern Time) and the Debtors having received no other Qualified Bids for the assets of the Debtors, obviating the need for an Auction (as defined in the Bidding Procedures Order); and pursuant to the Bidding Procedures Order, the Buyer has been designated as the Successful Bidder (as defined in the Bidding Procedures); and the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), having agreed to sell to the Buyer the Acquired Assets pursuant to the terms of the Purchase Agreement; and due notice of the Sale having been given to all parties entitled thereto; and upon the First Day Declaration, the Mandarino Declaration filed contemporaneously with the Motion, and the Mandarino October 26, 2021 declaration [Docket No. 210] and Rose October 26, 2021 Declaration [Docket No. 211] each of which were filed contemporaneously with the Debtors’ reply in support of the Motion [Docket No. 212] (the “Reply”) and the Declaration of Sid Banon, dated October 26, 2021 [Docket No. 214]; and the Court having reviewed and

considered the Motion, Purchase Agreement, declarations, Reply and all related relief requested thereto and any objections thereto and having heard the statements in support of the Sale at the Sale Hearing; and upon the full record of these cases and in support of the relief requested by the Debtors; and this Court having found that the relief requested is in the best interests of the Debtors' estates, their creditors, and all other parties in interest; and this Court having determined that the legal and factual bases set forth in the Motion, the Reply, 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 AS FOLLOWS:

A. Jurisdiction and Venue. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.), and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. Bases for Relief. The statutory and other legal bases for the relief provided herein are sections 105(a), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1. The consummation of the transactions contemplated by the Purchase Agreement and this Sale Order is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and the Debtors and the Buyer have complied with all of the applicable requirements of such sections and rules in respect of such transactions.

C. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, especially

given the October 31, 2021 deadline to do so, waives any stay, and expressly directs entry of judgment as set forth herein.

D. Notice of the Motion.

i. As evidenced by the affidavits and/or certificates of service and publication notice filed with the Court, proper, timely, adequate, and sufficient notice of the Bidding Procedures, the cancellation of the Auction, the Sale (and all transactions contemplated in connection therewith), the assumption and assignment of the Assigned Contracts to the Buyer pursuant to the Purchase Agreement, the Cure Amounts for such Assigned Contracts, the Sale Hearing, and all deadlines related thereto, has been provided, as relevant, in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, the Local Rules, and in compliance with the Bidding Procedures Order, to all interested parties, including, without limitation the Sale Notice Parties.

ii. The Sale Notice [Docket No. 142] was served on all parties required to receive such notice under the Bidding Procedures Order and applicable rules and published in *USA Today* (National Edition) [Docket No. 148] in accordance with the Bidding Procedures Order and was sufficient and proper notice to any other interested parties, including those parties whose identities or contact information are unknown to the Debtors. With respect to any parties that may have claims against the Debtors, but whose identities or contact information are not reasonably ascertainable by the Debtors, the publication of the Sale Notice was sufficient and reasonably calculated under the circumstances to reach such parties and constitutes sufficient notice of all relief granted herein with respect thereto.

iii. The Debtors filed with the Court, served on the Sale Notice Parties (as defined herein)—including each counterparty (each, a “Counterparty”) to an executory contract or

lease, including an unexpired non-residential real property lease of the Debtors (each, a “Proposed Assumed Contract”) that the Debtors proposed to assume and assign to the Buyer (as the Successful Bidder)—and caused to be published on the Case Website (as defined in the Bidding Procedures), a notice containing the cancellation of the Auction in accordance with the Bidding Procedures Order.

iv. The Debtors properly and timely served notices on counterparties to executory and unexpired leases (including the Assigned Contracts) [Docket Nos. 135, 182] (collectively, the “Contract Notice”) regarding the Debtors’ potential assumption and assignment or rejection of such contracts and leases and of the Debtors’ calculation of the Cure Amounts. The service of the Contract Notice was good, sufficient, and appropriate under the circumstances and in full compliance with the Bidding Procedures Order, and no further notice need be provided in respect of the Debtors’ assumption and assignment to the Buyer of the Assigned Contracts, including with respect to adequate assurance of future performance or the Cure Amounts, and of the Debtors’ rejection of the Rejected Contracts (as defined herein). All Counterparties to the Assigned Contracts have had an adequate opportunity to object to the assumption and assignment of the Assigned Contracts, and the Cure Amounts (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the Counterparty from accepting performance by, or rendering performance to, the Buyer for purposes of section 365(c)(1) of the Bankruptcy Code) and all Counterparties to Rejected Contracts have had an adequate opportunity to object to the Debtors’ rejection of such contracts or leases.

v. The notices described in the foregoing Paragraphs D(i)-(iv) are good, sufficient, and appropriate under the circumstances, and no other or further notice of the Bidding Procedures, the cancellation of the Auction, the Sale (and all transactions contemplated in

connection therewith), the assumption and assignment of the Assigned Contracts to the Buyer pursuant to the Purchase Agreement and related Cure Amounts, the rejection of the Rejected Contracts, the Sale Hearing, and all deadlines related thereto are or shall be required.

E. Marketing and Sale Process. The sale of the Acquired Assets pursuant to the Bidding Procedures is duly authorized under sections 363(b)(1) and 363(f) of the Bankruptcy Code, Bankruptcy Rule 6004(f), and the Local Rules. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, the Debtors and their professionals, agents and other representatives engaged in a robust and extensive marketing and sale process and have marketed the Acquired Assets and conducted all aspects of the sale process in good faith and in compliance with the Bidding Procedures and the Bidding Procedures Order. The marketing process undertaken by the Debtors and their professionals, agents and other representatives with respect to the Acquired Assets has been adequate and appropriate and reasonably calculated to maximize value for the benefit of all stakeholders. The Bidding Procedures and the cancellation of the Auction were duly noticed, were substantively and procedurally fair to all parties, and were conducted in a diligent, non-collusive, fair and good-faith manner.

F. Designation of Successful Bidder. Pursuant to the Bidding Procedures Order and as reflected in the *Notice of Cancellation of Auction and Designation of Stalking Horse Bidder as Successful Bidder* [Docket No. 186], the Buyer is designated the Successful Bidder.

G. Compliance with Bidding Procedures. As established by the record of the Sale Hearing, the bidding and related procedures established by the Bidding Procedures Order have been complied with in all respects by the Debtors and the Buyer. The Bidding Procedures afforded a full, fair and reasonable opportunity for any entity or person to make a higher or otherwise better

offer to purchase the Acquired Assets. Because there were no other Qualified Bidders other than the Buyer, the Debtors, in consultation with their advisors and the Consultation Parties, determined in a valid, and sound exercise of their business judgment that the Purchase Agreement constituted the best and highest offer for the Acquired Assets.

H. Opportunity to Object. A reasonable opportunity to object or be heard with respect to the Bidding Procedures, the cancellation of the Auction, the Sale (and all transactions contemplated in connection therewith), the assumption and assignment of the Assigned Contracts to the Buyer pursuant to the Purchase Agreement and related Cure Amounts, the rejection of the Rejected Contracts, the Sale Hearing, and all deadlines related thereto has been afforded to all interested persons and entities, including, without limitation: (i) counsel to the Buyer; (ii) the Consultation Parties (as applicable); (iii) all persons and entities known by the Debtors and their advisors to have expressed an interest in a transaction with respect to any of the Debtors' assets during the past twelve (12) months; (iv) all persons and entities known by the Debtors to have asserted any lien, claim, encumbrance, or other interest in any asset (for whom identifying information and addresses are available to the Debtors); (v) all Counterparties to Proposed Assumed Contracts; (vi) any Governmental Authority known to have a claim in these Chapter 11 Cases; (vii) the United States Attorney for the Southern District of New York; (viii) the Office of the Attorney General in each state which the Debtors operate; (ix) the Office of the Secretary of State in each state in which the Debtors operate or are organized; (x) any multiemployer pension plan to which any of the Debtors is a contributing employer and any single employer defined benefit plan to which any Debtor is a contributor; (xi) that certain union to which certain of the Debtors' employees belong; (xii) all of the Debtors' known creditors (for whom identifying information and addresses are available to the Debtors); (xiii) all other persons directed by the

Court (for whom identifying information and addresses are available to the Debtors) (the foregoing, the “Sale Notice Parties”), and (xiv) all unknown creditors by publication notice.

I. Corporate Authority. The Acquired Assets constitute property of the Debtors’ estates and title thereto is vested in the Debtors’ estates within the meaning of section 541 of the Bankruptcy Code. The Debtors (i) have full corporate power and authority to execute the Purchase Agreement, and the Sale to the Buyer has been duly and validly authorized by all necessary corporate action, (ii) have all of the corporate power and authority necessary to consummate the Sale and all transactions contemplated by the Purchase Agreement, (iii) have taken all corporate action necessary to authorize and approve the Purchase Agreement and the consummation by the Debtors of the Sale and all transactions contemplated thereby, and (iv) require no consents or approvals, other than those expressly provided for in the Purchase Agreement, to consummate such transactions other than the entry of this Sale Order.

J. Highest and Best Offer; Business Judgment. The Debtors have demonstrated sufficient basis to enter into the Purchase Agreement, sell the Acquired Assets for the Purchase Price (including the Assumed Liabilities) on the terms outlined therein and assume and assign the Assigned Contracts to the Buyer under sections 363 and 365 of the Bankruptcy Code, and reject the Rejected Contracts, and all such actions are appropriate exercises of the Debtors’ business judgment and in the best interests of the Debtors, their creditors, their estates and other parties in interest. The offer of the Buyer, upon the terms and conditions set forth in the Purchase Agreement, including the total consideration to be realized by the Debtors thereunder, (i) is the highest and best offer received by the Debtors after extensive marketing, including through the Bidding Procedures, (ii) is in the best interests of the Debtors, their creditors, their estates and all other parties in interest and (iii) constitutes full and adequate consideration, is fair and reasonable

and constitutes reasonably equivalent value, fair consideration, and fair value for the Acquired Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia. Moreover, Ms. Paulette Cole, who is an equity holder in and board member of the Debtors and, as discussed below, will, upon consummation of the Sale, hold an interest in the parent company of the Buyer, has been sequestered from the Sale process, including any decision by the boards of each of the Debtors to approve, among other things, the Sale to the Buyer. Taking into consideration all relevant factors and circumstances, no other entity has offered to purchase the Acquired Assets for greater economic value to the Debtors or their estates.

K. Good Cause. Good and sufficient reasons for approval of the Purchase Agreement have been articulated by the Debtors. The Debtors have demonstrated compelling circumstances for the Sale outside (i) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code and (ii) a plan of reorganization or liquidation (as the case may be), in that, among other things, the immediate consummation of the Sale to the Buyer is necessary and appropriate to preserve and to maximize the value of the Debtors' estates. To maximize the value of the Acquired Assets, it is essential that the consummation of the Sale occur promptly.

L. Sale Is Not a *Sub Rosa* Plan. The sale of the Acquired Assets outside of a chapter 11 plan pursuant to the Purchase Agreement neither impermissibly restructures the rights of the Debtors' creditors or equity interest holders nor impermissibly dictates the terms of a chapter 11 plan of the Debtors. The Purchase Agreement and the Sale do not constitute a *sub rosa* chapter 11 plan.

M. Good Faith Purchaser; Arm's Length Sale.

i. The Purchase Agreement was negotiated, proposed, and entered into by the Debtors and the Buyer without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtors, nor the Buyer, nor Ms. Cole, nor any affiliate of the Buyer has engaged in any conduct that would cause or permit the Purchase Agreement or the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

ii. The Buyer is a wholly-owned subsidiary of ABC Holdco LLC ("Holdco"). Upon closing of the Sale, Ms. Cole (who is an equity holder in and board member of the Debtors), in exchange for her junior Participation Interest in the Prepetition Loan (as such terms are defined in the Final DIP Order [Docket No. 123]), will possess a ten percent (10%) interest in Holdco. Ms. Cole, as authorized signatory of the landlord of a portion of one of the Debtors' retail locations, has entered into a lease with an affiliate of the Buyer, which lease will be effective upon the closing of the Sale. The Buyer is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and except as disclosed herein, no common identity of incorporators, directors, or controlling stockholders exists between the Buyer and the Debtors.

iii. The Buyer is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. In particular, (a) the Buyer recognized that the Debtors (and Ms. Cole) were free to deal with any other party interested in purchasing the Acquired Assets pursuant to section 363 of the Bankruptcy Code; (b) the Buyer (including Ms. Cole, who will possess an interest in the Buyer's parent upon the closing of the Sale) has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (c) the Buyer agreed to subject its bid to the competitive bid procedures set forth in the Bidding Procedures Order; (d) all payments to be made by the Buyer and other agreements or arrangements

entered into by the Buyer in connection with the Sale have been disclosed; and (e) the Buyer has not acted in a collusive manner with any person. Moreover, the Buyer's professionals, agents and other representatives have complied in all respects with the Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the Purchase Agreement. The Purchase Agreement complies with the Bidding Procedures Order and all other applicable orders of this Court.

N. Free and Clear Transfer Required by Buyer. The Buyer would not have entered into the Purchase Agreement and would not have agreed to consummate the Sale, thus adversely affecting the Debtors, their estates, and their creditors, if (i) each of (A) the Sale and (B) the assumption and assignment of the Assigned Contracts to the Buyer were not free and clear of all Liens, Claims, and Interests of any kind or nature whatsoever (other than Assumed Liabilities and Permitted Liens), or (ii) the Buyer would, or in the future could, be liable for any encumbrances or liabilities associated with assets that are not Acquired Assets or Assigned Contracts (other than the Assumed Liabilities and Permitted Liens).

O. Credit Bid Amount of Purchase Price.

i. DIP Obligations. Pursuant to the Final DIP Order and DIP Loan Documents (as defined in the Final DIP Order), the DIP Obligations (as defined in the Final DIP Order) are secured by a first-priority asset lien on all of the DIP Collateral (as defined in the Final DIP Order), other than with respect to the Carve-Out and the Valid Prior Liens (as such terms are defined in the Final DIP Order). The DIP Obligations constitute legal, valid and binding obligations of the Debtors, enforceable against them in accordance with the terms of the Final DIP Order and DIP Loan Documents, and the DIP Liens (as defined in the Final DIP Order) constitute legal, valid, binding, enforceable, and perfected security interests in and liens on the DIP Collateral. Pursuant

to section 363(k) of the Bankruptcy Code, the Buyer, as the holder of the DIP Obligations, has the right to credit bid any or all of the obligations outstanding under the DIP Loan Documents.

ii. Prepetition Secured Obligations. Pursuant to the Prepetition Loan Documents (as defined in the Final DIP Order), the Prepetition Secured Obligations (as defined in the Final DIP Order)³ are secured by a first-priority asset lien on all of the Prepetition Collateral (as defined in the Final DIP Order) in which the Prepetition Lender (as defined in the Final DIP Order) properly perfected a security interest, subject in priority to the DIP Liens and Adequate Protection Liens (as defined in the Final DIP Order); provided that, for the avoidance of doubt, the Prepetition Collateral does not include the Carve-Out. The Prepetition Secured Obligations owing to the Prepetition Lender (inclusive of the Participant's Participation Interest) constitute legal, valid and binding obligations of the Debtors, enforceable against them in accordance with the terms of the Prepetition Loan Documents, and the Prepetition Liens (as defined in the Final DIP Order) constitute legal, valid, binding, enforceable, and perfected (to the extent properly perfected) security interests in and liens on the Prepetition Collateral. Pursuant to section 363(k) of the Bankruptcy Code, the Buyer, as the holder of the Prepetition Secured Obligations, has the right to credit bid any or all of the obligations outstanding under the Prepetition Loan Documents (as defined in the Final DIP Order), including the Participant's Participation Interest.

P. Satisfaction of Section 363(f). The Debtors may sell the Acquired Assets free and clear of any and all Liens, Claims, and Interests of any kind or nature whatsoever (other than Assumed Liabilities or Permitted Liens), including any such rights or claims based on any putative successor or transferee liability, as set forth herein, because, in each case, one or more of the

³ For the avoidance of doubt, the Prepetition Secured Obligations include the Participant's Participation Interest under the Participation Documents (as such terms are defined in the Final DIP Order).

standards set forth in sections 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. All parties in interest, including, without limitation, any holders of Liens, Claims, and/or Interests and any Counterparty to the Assigned Contracts, who did not object, or who withdrew their objection, to the Sale, the assumption and assignment of the applicable Assigned Contract or the associated Cure Amount are deemed to have consented to the relief granted herein pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Liens, Claims, or Interests that did not object are adequately protected by having their Liens, Claims, or Interests (other than Assumed Liabilities or Permitted Liens, which shall be the sole obligation of and/or satisfied by Buyer post-Closing), if any, attach to the portion of the Purchase Price ultimately attributable to the Acquired Assets against or in which they claim an interest, in the order of their priority, with the same validity, force and effect, if any, which they now have against such Acquired Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto.

Q. No Successorship. Neither the Buyer nor any of its affiliates are successors to the Debtors or their estates by reason of any theory of law or equity, and neither the Buyer nor any of its affiliates shall assume or in any way be responsible for any liability or obligation of any of the Debtors and/or their estates (other than Assumed Liabilities or Permitted Liens), except as otherwise expressly provided in the Purchase Agreement. Except as otherwise set forth in the Purchase Agreement or this Sale Order, the transfer of the Acquired Assets to the Buyer, and the assumption of the Assumed Liabilities does not and will not subject the Buyer to any liability whatsoever, with respect to the Debtors or the operation of the Debtors' businesses prior to the Closing Date or by reason of such transfer except as otherwise expressly provided in the Purchase Agreement, including under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, or any foreign jurisdiction, based, in whole or in part, directly

or indirectly, on any theory of law or equity including, or on any theory of liability, including, without limitation, successor, vicarious, antitrust, environmental, fraudulent transfer or avoidance, revenue, pension, ERISA, tax, labor (including any WARN Act), employment or benefits, de facto merger, business continuation, substantial continuity, alter ego, derivative, transferee, veil piercing, escheat, continuity of enterprise, mere continuation, product line, or products liability law, bulk sales or similar laws, or other applicable law, rule, or regulation (including filing requirements under any such law, rule, or regulation), or other theory of liability whatsoever, whether legal, equitable, or otherwise (collectively, the “Successor or Other Liabilities”).

R. Sale Is Not a Fraudulent Transfer. Neither the Debtors nor the Buyer (i) has entered into the Purchase Agreement or proposes to consummate the Sale for the purposes of hindering, delaying, or defrauding the Debtors’ present or future creditors or (ii) is entering into the Purchase Agreement or proposing to consummate the Sale fraudulently, for the purpose of avoiding statutory or common law fraudulent conveyance and fraudulent transfer claims, whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

S. The Assigned Contracts. The assumption, assignment and cure of any defaults under the Assigned Contracts are reasonable and enhance the value of the Debtors’ estates. Any Counterparty to an Assigned Contract that has not actually filed with the Court an objection to such assumption and assignment in accordance with the terms of the Bidding Procedures Order, who consensually agreed to a resolution of their objection to such assumption and assignment, or who withdrew their objection to such assumption and assignment, is deemed to have consented to such assumption and assignment.

T. Cure Amounts and Adequate Assurance. The Buyer has, including by way of entering into the Purchase Agreement and agreeing to the provisions relating to the Assigned Contracts therein, (i) provided adequate assurance of cure of any default existing prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provided adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(B) of the Bankruptcy Code and the Buyer has, based upon the record of these proceedings, including the evidence proffered by the Debtors (and the Buyer, if applicable) at the Sale Hearing, provided adequate assurance of their future performance of and under the Assigned Contracts pursuant to sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. To the extent that any Counterparty failed to timely object to its Cure Amount(s) or the assignment of its Assigned Contract(s), such Counterparty is deemed to have consented to such Cure Amount(s) and to the assignment of its respective Assigned Contract(s) to the Buyer and to have waived any other defaults or breaches relating to the period prior to Closing. The Buyer's promise under the Purchase Agreement to perform the obligations under the Assigned Contracts after the Closing shall constitute adequate assurance of future performance under the Assigned Contracts being assigned to the Buyer within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. The Cure Amounts are hereby deemed to be the sole amounts necessary to cure any and all defaults through the Closing under the Assigned Contracts under section 365(b) of the Bankruptcy Code.

U. Time Is of the Essence; Waiver of Stay. Time is of the essence in consummating the Sale. In order to maximize the value of the Acquired Assets, it is essential that the Sale and assignment of the Acquired Assets (and Assumed Liabilities) and Assigned Contracts occur within

the time constraints set forth in the Purchase Agreement. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Findings of Fact; Conclusions of Law. The findings of fact and conclusions of law herein constitute the Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

2. Objections. Other than the Adjourned Cure Objection (as defined herein), all objections, if any, to the Motion or the relief granted herein that have not been withdrawn, settled or waived, and all reservations of rights, are hereby overruled on the merits with prejudice.

3. Sale Approved. The Sale, and all of the terms and conditions and transactions contemplated by the Purchase Agreement are hereby authorized and approved pursuant to, *inter alia*, sections 105(a), 363(b), and 365(a) of the Bankruptcy Code. Subject to the terms herein, the Debtors are authorized to execute and deliver, and empowered to perform under, consummate, and implement the Purchase Agreement and Sale, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement, and effectuate the provisions of this Sale Order and the transactions approved hereby, without further leave of the Court. The failure to specifically reference any particular provision of the Purchase Agreement or other related documents in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Purchase Agreement and other related documents be authorized and approved.

4. Amendments to the Purchase Agreement. The Purchase Agreement and any related agreements, documents, or their instruments may be modified, amended, supplemented or restated by the parties thereto in a writing signed by Debtors and Buyer and in accordance with the terms thereof, without further order of this Court, provided that any such modification, amendment, supplement or restatement does not have an adverse effect on the Debtors' estates and is acceptable to the Debtors and Buyer.

5. Transfer of the Acquired Assets Free and Clear. The Buyer shall assume and be liable for only those liabilities expressly assumed pursuant to the Purchase Agreement, which, for the avoidance of doubt, shall not include any Excluded Liabilities. Pursuant to sections 105(a), 363(b), 363(f), and 365(b) of the Bankruptcy Code, upon the Closing, the Acquired Assets shall be transferred to the Buyer free and clear of any and all Liens, Claims, and Interests of any kind or nature whatsoever, with the exception of any Permitted Liens and Assumed Liabilities or as otherwise provided in the Purchase Agreement or this Sale Order.

6. Transfer Taxes. The Sale of the Acquired Assets shall be exempted from state and local sales taxes (1) on Inventory to the extent Buyer provides appropriate resale certificates on or before Closing and (2) on furniture, fixtures and equipment located in New Jersey and Georgia under New Jersey and Georgia law, respectively; provided, that if Buyer fails to provide appropriate resale certificates on or before Closing, Buyer shall pay, and be responsible for, all applicable transfer taxes (including state and local sales taxes) for the Sale of Inventory. Notwithstanding the forgoing, Buyer shall pay, and be responsible for, all related state and local sales taxes under New York law for the Sale with respect to furniture, fixtures and equipment located in New York.

7. Vesting of Assets in the Buyer. The transfer of the Acquired Assets to the Buyer pursuant to the Purchase Agreement shall constitute a legal, valid, and effective transfer of the Acquired Assets on the Closing, and, on the Closing Date shall vest the Buyer with all of the Debtors' rights, title and interests in the Acquired Assets free and clear of all Liens, Claims, and Interests of any kind or nature whatsoever, with the exception of any Permitted Liens and Assumed Liabilities or as otherwise provided in the Purchase Agreement or this Sale Order.

8. Personally Identifiable Information. Buyer shall honor and observe any and all policies of Debtors in effect on the Petition Date prohibiting the transfer of personally identifiable information about individuals consistent with the requirements of section 363(b)(1)(A) of the Bankruptcy Code.

9. Post-Closing Access to Books and Records. Buyer shall provide to Debtors, and the accountants, counsel and representatives of Debtors, including any administrator or liquidator of Debtors' estates, such access to the books and records relating to the Business as is reasonably necessary to permit Debtors to monetize any Excluded Assets, otherwise administer or liquidate their estates or assets after the Closing, and to conclude their bankruptcy cases, including the reconciliation and litigation of claims and making of distributions to creditors or otherwise.

10. Consents. The transfer of the Acquired Assets to the Buyer pursuant to the Purchase Agreement does not require any third-party consents or approvals other than this Sale Order.

11. Non-prosecution of Claims. Neither Buyer nor any Affiliate of Buyer nor any Person claiming by, through or on behalf of Buyer (including by operation of law, sale, assignment, conveyance or otherwise) shall pursue, prosecute, litigate, institute or commence an Action based on, assert, sell, convey, assign or file any Claim that relates to any rights, claims or causes of action

transferred under Section 1.1(o) of the Purchase Agreement against any Debtor or any of its Affiliates or Related Persons.

12. Release of Liens by Creditors. Except with respect to Assumed Liabilities or Permitted Liens, or as otherwise expressly provided to the contrary in this Sale Order or in the Purchase Agreement, the holder of any valid Lien, Claim or Interest in the Debtors or the Acquired Assets, shall, as of the Closing, be deemed to have waived and released such Lien, Claim or Interest, without regard to whether such holder has executed or filed any applicable release, and such Lien, Claim or Interest shall automatically, and with no further action by any party, attach to the portion of the Purchase Price ultimately attributable to the Acquired Assets against or in which they claim an interest, in the order of their priority, with the same validity, force, and effect, if any, which they now have against such Acquired Assets, subject to any claims, defenses and objections, if any, that the Debtors or their estates may possess with respect thereto. Notwithstanding the foregoing, any such holder of such a Lien, Claim or Interest (which does not include Assumed Liabilities or Permitted Liens) is authorized and directed to execute and deliver any waivers, releases, or other related documentation, as reasonably requested by the Debtors. Moreover, (a) the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the Person with respect to the Acquired Assets, and (b) the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Liens and Claims in the Acquired Assets of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities).

13. Assumption and Assignment of Assigned Contracts. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtors'

assumption and assignment to the Buyer of the Assigned Contracts is hereby approved, and all requirements of sections 363 and 365 of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

14. The Debtors are hereby authorized, in accordance with the Purchase Agreement, and in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code, to assume and assign to the Buyer the Assigned Contracts, effective upon and subject to the occurrence of the Closing, free and clear of all Liens, Claims, and Interests of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities), which Assigned Contracts, by operation of this Sale Order, shall be deemed assumed and assigned to Buyer effective as of the Closing.

15. Any provisions in any Assigned Contract that prohibit or condition the assignment of such Assigned Contract absent the consent of the Counterparty thereto or allow the Counterparty to such Assigned Contract to terminate, recapture, impose any penalty, condition, renewal or extension, or modify any term or condition upon the assignment of such Assigned Contract shall constitute unenforceable anti-assignment provisions which are expressly preempted under section 365 of the Bankruptcy Code and void and of no force and effect.

16. Upon the Closing, the Assigned Contracts shall be transferred and assigned to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract (including those of the type described in sections 365(b)(2), 365(e)(1) and 365(f) of the Bankruptcy Code) that prohibits, restricts, limits, or conditions such assignment or transfer. After the Debtors' transfer and assignment of the Assigned Contracts to the Buyer, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested in all right, title, and interest

in respect of each Assigned Contract and the Debtors shall have no obligation or liability in respect thereof.

17. All breaches or defaults of the Debtors under the Assigned Contracts (and any resulting acceleration) occurring, arising or accruing prior to the assignment thereof to the Buyer at Closing are deemed to have been cured or satisfied by the payment of the proposed Cure Amounts, which represent the amounts necessary, if any, to cure all obligations or defaults, if any, under each Assigned Contract. The Cure Amounts payable shall be those set forth on **Exhibit B**—which schedule of Cure Amounts was provided to Counterparties to Assigned Contracts in the Contract Notice—or any other Cure Amount reached by agreement with Buyer or adjudicated at the Sale Hearing or pursuant to Paragraph 18 of this Sale Order. All Cure Amounts shall be paid by the Buyer at Closing as provided in the Purchase Agreement, directly to the Counterparty or as provided in Paragraph 18 of this Sale Order.

18. The timely filed Cure Objection listed on **Exhibit E** shall be adjourned to a subsequent hearing on November 23, 2021 at 10:00 a.m. (Prevailing Eastern Time) solely with respect to the applicable Cure Amount (the “Adjourned Cure Objection”); provided, that the Buyer pays for, at Closing, and the Debtors maintain a Cure Cost Reserve equal to the amount set forth on **Exhibit E**; provided, further, that the Assigned Contracts associated with the Adjourned Cure Objection shall be deemed assumed and assigned to Buyer pursuant to, and subject to the terms of, this Sale Order effective as of the Closing. Subject to and conditioned upon the Closing and either the resolution or full and final adjudication of an Adjourned Cure Objection, the Debtors shall pay the so ordered or agreed-to Cure Amount (as applicable) from the Cure Cost Reserve, and the Cure Cost Reserve shall be reduced as appropriate. Once the Adjourned Cure Objection has been resolved, or fully and finally adjudicated, any excess funds in the Cure Cost Reserve shall

be returned to Buyer. Should the Cure Cost Reserve be insufficient to pay the Cure Amount in respect of Adjourned Cure Objection, any shortfall shall be paid by Buyer. Any liabilities or obligations incurred after Closing under an Assigned Contract that was the subject of an Adjourned Cure Objection shall be the responsibility of Buyer, and the Debtors shall have no liabilities or obligations in respect thereof.

19. Any party that may have had the right to consent to the assumption or assignment of an Assigned Contract is deemed to have consented to such assumption and assignment for purposes of section 365(e)(2)(A)(ii) of the Bankruptcy Code and any other applicable law if such party failed to object timely to the assumption or assignment of such Assigned Contract in accordance with the Bidding Procedures Order, and the Buyer shall be deemed to have demonstrated adequate assurance of future performance with respect to such Assigned Contract pursuant to sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code.

20. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors and their estates shall be relieved from any liability or obligation in respect of an Assigned Contract, including any liability for any breach for any Assigned Contract, following the effective date of such assumption and assignment to the Buyer.

21. Modification of the Automatic Stay. The automatic stay provisions of section 362 of the Bankruptcy Code are lifted and modified to the extent necessary to consummate the Purchase Agreement and to implement the provisions of this Sale Order.

22. Effect of Recordation of Order. This Sale Order, once filed, registered, or otherwise recorded, (a) shall be effective as a conclusive determination that, upon the Closing, all Liens, Claims and Interests of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities or as otherwise provided in the Purchase Agreement or this Sale Order) existing as to

the Acquired Assets prior to the Closing have been unconditionally released, discharged, and terminated and that the conveyances described herein have been effected, and (b) shall be binding upon and 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, registrars of patents, trademarks, or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal, state, local officials, notaries, protonotaries, 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, the Acquired Assets. Each and every federal, state, local or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement, including, without limitation, recordation of this Sale Order.

23. Collection of Acquired Assets. All Persons that are in or come into possession of some or all of the Acquired Assets are hereby directed to surrender possession of such Acquired Assets to the Buyer on the Closing Date.

24. Prohibition of Actions Against the Buyer. Except for Permitted Liens and Assumed Liabilities or as expressly provided for in the Purchase Agreement or this Sale Order, (x) the Buyer and its affiliates, including any director, officer, employee, incorporator, member, partner, manager, stockholder, agent, attorney or representative of, and any financial advisor or lender to, any of the foregoing, as to each solely in such capacity, shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Acquired Assets, and

(y) upon Closing all entities or Persons are permanently and forever prohibited, barred, estopped, and enjoined from asserting against the Buyer and its permitted successors, designees, and assigns, or property, or the Acquired Assets conveyed in accordance with the Purchase Agreement, any Lien, Claim or Interest of any kind whatsoever arising prior to Closing. Without limiting the foregoing, the Buyer and its affiliates shall not be liable for any Successor or Other Liabilities.

25. No Interference. Subject to the terms, conditions, and provisions of this Sale Order, all Persons 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 to the Buyer in accordance with the terms of the Purchase Agreement and this Sale Order.

26. Good Faith Purchaser. The Sale pursuant to the Purchase Agreement and this Sale Order is undertaken by the Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to the Buyer (including the assumption and assignment by the Debtors to Buyer of any of the Assigned Contracts), unless such authorization is duly stayed prior to Closing. The Buyer is a buyer in good faith of the Acquired Assets and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

27. Provisions Related to DIP Obligations and Prepetition Secured Obligations.

a. Amendment to DIP Facility. The DIP Facility Amount (as defined in the Final DIP Order) shall be decreased by \$35,000 to \$6,315,000. This Sale Order shall be deemed to amend the DIP Loan Documents to decrease the Commitment and Note (as defined in the DIP Agreement) and the principal amount of the Note (as defined in the DIP Agreement) accordingly.

b. Full Draw on DIP Facility Amount. Notwithstanding anything to the contrary herein, the Purchase Agreement, the Interim DIP Order [Docket No. 39], the Final DIP Order, or

DIP Loan Documents, and provided that the DIP Lender's (as defined in the Final DIP Order) commitments to lend under the DIP Loan Documents have not terminated on or before the Closing Date of the Sale, the DIP Lender shall fully fund the unused amount of the DIP Facility Amount⁴ and the Debtors shall draw such amount simultaneously with the Closing, which amount shall remain with and as property of the Debtors' estates notwithstanding consummation of the Sale. In the event (i) the DIP Lender's commitments to lend under the DIP Loan Documents have terminated on or before the Closing Date, unless the DIP Lender terminates its loan commitments due to the Debtors' knowing and intentional Event of Default (as defined in the DIP Agreement) under the DIP Loan Documents, or (ii) the DIP Lender refuses to fully fund the unused amount of the DIP Facility Amount on or before the Closing, as to each of (i) or (ii), the Debtors shall have no obligation to close and/or consummate the Sale; provided, however, that under no circumstance shall the DIP Lender be required to lend the Debtors more than the \$6.315 million DIP Facility Amount, plus the Post-Trigger Notice Carve-Out Amount (as defined in the Final DIP Order) (if applicable).

c. Credit Bid of DIP Obligations and Prepetition Secured Obligations. Pursuant to the Purchase Agreement, and pursuant to section 363(k) of the Bankruptcy Code, on the Closing Date, the Buyer has the right to and shall credit bid the entire amount of the DIP Obligations (including the DIP Superpriority Claim) and Prepetition Secured Obligations (including, for the avoidance of doubt, the Participant's Participation Interest under the Participation Documents, and all principal, interest, fees, expenses and all other amounts and obligations under and as defined in the Prepetition Loan Documents) such that, at Closing, the Debtors shall have no indebtedness for borrowed money that has the benefit of a lien or security interest in respect of the property of the

⁴ For the avoidance of doubt, reference to the DIP Facility Amount in this Sale Order shall mean \$6,315,000.

Debtors' estates, or, for the avoidance of doubt, the Adequate Protection Liens and Superpriority Adequate Protections Claims (each as defined in the Final DIP Order). On the Closing Date, the DIP Obligations and Prepetition Secured Obligations shall be deemed satisfied in full and the Debtors shall have no further obligations or liabilities under the DIP Loan Documents and Prepetition Loan Documents or under the Final DIP Order and Interim DIP Order. Without limiting the foregoing, at Closing, the Buyer shall execute a release, in form and substance acceptable to Debtors, evidencing the satisfaction of the Credit Bid Amount by discharging and releasing Debtors from the DIP Credit Agreement and Prepetition Secured Indebtedness and any related Liens, Claims or Interests in respect thereto.

28. Reserves.

a. Professional Fee Escrow. The Buyer shall fund the Professional Fee Escrow Amount in cash on or prior to the Closing, so long as the amount funded does not exceed the aggregate DIP Facility Amount when the full draw taken under paragraph 27(b) is given effect, into an account designated by the Debtors maintained at Webster Bank, N.A. (the "Professional Fee Escrow Account"), which account shall not be property of the Debtors' estates, and shall be used solely for the applicable Estate Professional, and for no other Persons until the fee and expense claims of the applicable Estate Professionals (the "Professional Fee Claims") have been allowed by the Bankruptcy Court on a final basis and irrevocably paid in full to such Estate Professionals pursuant to one or more final, non-appealable Orders of the Bankruptcy Court. Amounts funded into the Professional Fee Escrow Account shall be held in trust for each Professional separately on a per-Professional basis and paid to such Professional as their compensation is allowed by the Court pursuant to the Interim Compensation Procedures Order [Docket No. 78]; provided, however, the amounts funded into the Professional Fee Escrow

Account for the Creditors' Committee's Professionals can be allocated among such Professionals as may be agreed to by the Creditors' Committee's Professionals if the total fees and expenses of the Creditors' Committee's Professionals is equal to or less than \$750,000 in the aggregate. Upon funding the Professional Fee Escrow Amount, the Buyer shall have satisfied its obligations under Section ~~9.2(f)~~ ~~9.3(f)~~ of the Purchase Agreement. The creation and funding of the Professional Fee Escrow Account is approved pursuant to section 363(b) of the Bankruptcy Code.

[DSJ 10/27/2021]

b. Winddown Account. At Closing, the Buyer shall deposit the Winddown Amount of \$300,000 into one or more of the Debtors' segregated accounts, which shall be property of Debtors' bankruptcy estates, solely used for the winddown of Debtors' estates. For the avoidance of doubt, the definition of "Winddown Amount" in the Purchase Agreement is amended accordingly, and the Winddown Amount is included in the \$6.315 million DIP Facility Amount.

29. Cessation of Clearance and Consignment Sales. The clearance and consignment sales approved by Orders of the Court, dated September 17 and October 1, 2021 [Docket Nos. 52, 117] shall cease no earlier than 5 p.m. on October 28, 2021 unless the Debtors agree to a later date in writing (the "Clearance and Consignment Sales"). Vendors with goods consigned to the Debtors that are/were to be sold in the Clearance and Consignment Sales shall remove such goods from the Debtors' locations on or before October 29, 2021. On October 29, 2021, the Debtors shall bring down, ready for transport, to the loading area at each of their retail stores (as applicable) the goods consigned to the Debtors that were not sold in the Clearance and Consignment Sales. All proceeds of the Clearance and Consignment Sales to which the Debtors have an entitlement are Excluded Assets.

30. Payment of Consigned Merchandise Proceeds Shortfall. On or before October 29, 2021, the DIP Lender shall remit to the Debtors' estates the Consigned Merchandise Proceeds Shortfall (as defined in the DIP Agreement), *less* (i) the amount by which the Consigned Merchandise Proceeds Shortfall is reduced on account of there being a \$40,000 deemed amount of consignment sales pursuant to the Clearance and Consignment Sales for the period from October 29–31 and (ii) the amount of written sales which have been entered into but for which goods have not yet been delivered (the "Written Consigned Sales"). Notwithstanding the foregoing, the Debtors shall be entitled to receive their portion of the proceeds of the consignment sales pursuant to the Clearance and Consignment Sales on or before October 28, 2021 as well as the \$40,000 of deemed consignment sales from October 29–31 and from the Written Consigned Sales.

31. Consigned Goods Not Included in Acquired Assets. The Debtors have no right, title or interest in any consigned goods not yet sold as of the Closing, or to goods in leased departments not yet sold by licensees that executed license agreements with the Debtors prepetition as of the Closing and, accordingly, the foregoing shall not be property of the Debtors' estates as of Closing and are not Acquired Assets, with any dispute in respect thereof determined by the Court on notice and hearing at a later date. Notwithstanding the foregoing, the Debtors' right title and interest in the proceeds of the sale of consigned goods or the goods sold through leased departments shall be unaffected by this Paragraph and shall constitute Excluded Assets.

32. Retention of Contracts. Any executory contract or unexpired lease listed on **Exhibit C** (collectively, the "Retained Contracts") shall not be rejected or assumed as of the Closing; provided, however, that nothing herein shall constitute an admission that any Retained Contract is an executory contract or unexpired lease; provided, further, the Debtors shall have the right to assume, assume and assign, or reject any Retained Contract at a later date.

33. Rejection of Contracts and Leases Not Assigned or Retained. Any executory contract or unexpired lease listed on **Exhibit D** (collectively, the “Rejected Contracts”) shall be rejected, effective as of one (1) calendar day prior to Closing (together, the “Rejected Contracts”); provided, however, that nothing herein shall constitute an admission that any Rejected Contract is an executory contract or unexpired lease. Pursuant to this *Court’s Order Establish Deadline for Filings Proofs of Claim and Approving the Form and Manner of Notice Thereof* [Docket No. 140], any person or entity that holds a claim that arises from the rejection of such Rejected Contract must file a proof of claim on or before 5:00 p.m. Eastern Time on the date that is thirty (30) days after entry of this Sale Order.

34. Abandonment of Property in the Upper Unit. Pursuant to section 554(a) of the Bankruptcy Code, any personal property of the Debtors remaining, at Closing, in the portion of 880-888 Broadway, New York, NY 10003 being leased by the Debtors pursuant to an agreement with Amma421, LLC is abandoned to the landlord free and clear of all liens, claims, encumbrances, interests, and rights of third parties.

35. Cigna. Notwithstanding anything to the contrary in this Sale Order, or any Notice related thereto, unless Cigna Health and Life Insurance Company and the Debtors agree otherwise, the Cigna Policy (as defined in the *Protective Objection of Cigna Health and Life Insurance Company to Notice of Cure Costs and Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Sale* [Docket No. 164] (the “Cigna Objection”)) shall not be assumed and assigned to the Successful Bidder, and shall not be deemed rejected by this Sale Order. This fully resolves the Cigna Objection.

36. Binding Effect of Order. This Sale Order and the Purchase Agreement shall be binding upon all creditors of, and equity holders in, the Debtors, and any and all other parties in

interest, including, without limitation, any and all holders of Liens, Claims, and Interests, all Counterparties to the Assigned Contracts or any other contract or lease, the Buyer, all successors and assigns of the Buyer, the Debtors, and any trustee or successor trustee appointed in the Debtors' Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code.

37. Retention of Jurisdiction. This Court retains jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects, including, but not limited to, retaining jurisdiction to: (a) compel delivery of the Purchase Price or performance of other obligations owed to the Debtors; (b) resolve any disputes arising under or related to the Purchase Agreement; (c) resolve any disputes arising under or related to any of the Assigned Contracts; (d) interpret, implement, and enforce the provisions of this Sale Order; and (e) protect the Buyer and its affiliates against (I) any Liens, Claims and Interests in or against the Debtors or the Acquired Assets of any kind or nature whatsoever (other than Permitted Liens and Assumed Liabilities or as otherwise provided in the Purchase Agreement or this Sale Order) and (II) any creditors or other parties in interest regarding the turnover of the Acquired Assets that may be in their possession.

38. No Stay of Order. Notwithstanding anything, including Bankruptcy Rules 6004(h) and 6006(d), this Sale Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay, the Debtors and the Buyer are free to close the Sale under the Purchase Agreement at any time pursuant to the terms thereof and herein.

39. Inconsistencies with Prior Orders, Pleadings or Agreements. To the extent of any conflict between the Purchase Agreement and this Sale Order, the terms of this Sale Order shall

govern. To the extent this Sale Order is inconsistent or conflicts with any prior order or pleading in these Chapter 11 Cases except the 9019 Order (as defined herein), the terms of this Sale Order shall govern and any prior orders shall be deemed amended or otherwise modified; provided that nothing in this Sale Order affects or supersedes this Court's *Order Pursuant to Section 105(a) of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure Approving Settlement Between the Debtors, the Official Committee of Unsecured Creditors, 888 Capital Partners, LLC and Paulette Cole* (the "9019 Order").

Dated: New York, New York
October 27, 2021

s/ David S. Jones

HONORABLE DAVID S. JONES
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Asset Purchase Agreement

AMENDMENT NO. 3 TO ASSET PURCHASE AGREEMENT

THIS AMENDMENT NO. 3 TO ASSET PURCHASE AGREEMENT (the "Amendment") is made and entered into as of the 25th day of October, 2021, by and among (i) A.B.C. Carpet Co., Inc., a New York corporation ("Carpet"), A.B.C. Home Furnishings, Inc., a New York corporation ("Home"), and A.B.C. Oriental Carpets, Inc., a New York corporation ("Oriental," and together with Carpet and Home, each a "Seller" and collectively "Sellers"), and (ii) 888 Capital Partners, LLC, a New York limited liability company ("Buyer," and together with Sellers, hereinafter the "Parties," and each individually a "Party").

RECITALS

WHEREAS, the Parties are parties to that certain Asset Purchase Agreement, dated as of September 8, 2021, as amended by that certain Amendment No. 1 to Asset Purchase Agreement, dated as of September 30, 2021, and that certain Amendment No. 2 to Asset Purchase Agreement, dated as of October 19, 2021 (as amended, the "Purchase Agreement");

WHEREAS, pursuant to Section 11.8 of the Purchase Agreement, the Purchase Agreement may be amended or modified on by a written instrument executed by the Parties; and

WHEREAS, the Parties believe that it is in their mutual best interests to amend the Purchase Agreement pursuant to the provisions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements contained in this Amendment, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Section 1. Definitions. Except as otherwise provided in this Amendment, capitalized terms used herein shall have the meanings attributed thereto in the Purchase Agreement.

Section 2. Amendments.

(a) Section 12.1. Section 12.1 of the Purchase Agreement is hereby amended to add the following definitions to such section:

"D&O Coverage" means the extent of insurance coverage for the Sellers' directors and officers under the D&O Policies.

"Preserved D&O Claims" means all claims, causes of action and remedies of the Sellers against Paulette Cole in her capacity as a director or officer of the Sellers, but solely to the extent payable and paid from D&O Coverage.

(b) Amendment to Section 1.1(o). Section 1.1(o) of the Purchase Agreement is hereby amended and restated to read as follows:

(o) all rights, claims, causes of action, and Avoidance Actions (whether or not asserted as of the Closing Date) of Sellers, including but not limited to any and all rights, claims, causes of action and Avoidance Actions against directors and officers of

the Sellers other than the Preserved D&O Claims, and all causes of action arising under Sections 510 and 544 through 550 of the Bankruptcy Code, or under similar state Law (but excluding, in each instance, the Claims against Visa/Mastercard related to class actions or interchange fees, and any of Sellers' rights, defenses and objections to claims in respect of claims administration in the Bankruptcy Cases, expressly including, but not limited to the right to seek recharacterization or subordination of any claims asserted against the Sellers' estates); provided, however, that neither Buyer or any Affiliate of Buyer nor any Person claiming by, through or on behalf of Buyer (including by operation of law, sale, assignment, conveyance or otherwise) shall pursue, prosecute, litigate, institute or commence an Action based on, assert, sell, convey, assign or file any Claim that relates to any rights, claims or causes of action transferred under this Section 1.1(o) against any Seller or any of its Affiliates or Related Persons.

(c) New Section 1.2(s). A new Section 1.2(s) of the Purchase Agreement is hereby added to the Purchase Agreement as follows:

(s) (1) the Preserved D&O Claims; and (2) the Claims against Visa/Mastercard related to class actions or interchange fees to the extent of the first \$200,000 of net proceeds recovered by the Sellers with the balance in excess of \$200,000 of net proceeds recovered, if any, being deemed an Acquired Asset to the extent of such excess. The Sellers shall provide an update to Buyer in respect of the Claims described in (2) above every six (6) months prior to their resolution, as well as when expenses in respect thereof exceed \$10,000, but failure to provide such update shall not be a breach of this Agreement or impair the Sellers' ownership or recovery on such Claims.

(d) Amendment to Section 1.3(h). Section 1.3(h) of the Purchase Agreement is hereby amended and restated to read as follows:

(h) all liabilities and obligations of Sellers under the terms of the Contracts set forth on Schedule 1.3(h) (the "Specified Contracts") that concern, or arise or accrue only during, the period of time between the Closing and ninety (90) days following the Closing (the "Specified Contract Period"); provided, however, that as to the Contracts with Presidio set forth on Schedule 1.3(h) the reference to "ninety (90) days" in the defined term Specified Contract Period shall instead be "thirty (30) days."

(e) New Section 1.3(j). A new Section 1.3(j) of the Purchase Agreement is hereby added to the Purchase Agreement as follows:

(j) the obligation to pay the Sellers \$100,000, upon at least five (5) Business Days' notice (email being sufficient notice), which notice shall be provided on or after the date that the Sellers' remaining deferred tax obligations under the CARES Act become payable.

(f) Amendment to Section 2.1(d). Section 2.1(d) of the Purchase Agreement is hereby amended and restated to read as follows:

(d) cash equal to four hundred thousand dollars (\$400,000), plus the amount of the Store-Level Cash, plus the amount the Sellers estimate to be necessary for the Sellers to satisfy the payment obligations pursuant to the Specified Contracts for the Specific Contract Period (the "Cash Purchase Price");

(g) Amendment to Section 2.1. The following two sentences are hereby added at the end of Section 2.1 of the Purchase Agreement:

Should the amount paid by Buyer at Closing to satisfy the obligations and liabilities pursuant to the Specified Contracts for the Specific Contract Period be insufficient to do so, Buyer shall pay Sellers any additional amounts required to satisfy such obligations or liabilities on two (2) Business Days' notice (email being sufficient notice). Should the amounts paid by Buyer to satisfy the obligations and liabilities pursuant to the Specified Contracts for the Specific Contract Period exceed the total amount necessary to do so, once all such counterparties have confirmed in writing to Sellers' counsel that all obligations or liabilities pursuant to the Specified Contracts for the Specific Contract Period have been satisfied or waived and all Specified Contracts have been rejected by order of the Bankruptcy Court, any such excess paid by Buyer shall be returned by Sellers.

(h) New Section 3.3(h). A new Section 3.3(h) of the Purchase Agreement is hereby added to the Purchase Agreement as follows:

(h) a duly executed general release and covenant not to sue (without exception, and under which every releasee is an intended beneficiary with rights to enforce) in respect of any Seller or any of its Affiliates or Related Persons, other than the Preserved D&O Claims, in form and substance acceptable to the Sellers.

Section 3. Reference to and Effect Upon the Purchase Agreement. Except as specifically amended above, the Purchase Agreement shall remain unchanged and in full force and effect. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Parties, nor constitute a waiver of any provision of the Purchase Agreement, except as specifically set forth herein.

Section 4. Counterparts and Facsimile. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. Executed signature pages to this Amendment may be delivered by electronic mail and such electronic copies will be deemed as sufficient as if actual signature pages had been delivered.

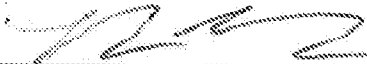
Section 5. Governing Law. This Amendment shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of New York (without giving effect to the principles of conflicts of Laws thereof), except to the extent that the Laws of such State are superseded by the Bankruptcy Code. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with the Amendment, and consent to the exclusive jurisdiction of, the Bankruptcy Court. After Sellers are no longer subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Amendment, and consent to the jurisdiction of, any state or federal court having competent jurisdiction in New York, New York.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first written above.

BUYER:

888 Capital Partners, LLC

By: 
Name: Brian Beller
Title: Authorized Signatory

SELLERS:

A.B.C. Carpet Co., Inc.

By: _____
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: _____
Name: Aaron Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: _____
Name: Aaron Rose
Title: CEO

21-11591 dsj Doc 228-1 Filed 10/27/21 Entered 10/27/21 16:58:54 Exhibit A
Pg 6 of 85
in accordance with, and governed by, the Laws of the State of New York (without giving effect to the principles of conflict of Laws) except to the extent that the Laws of such State are superseded by the Bankruptcy Code. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with the Amendment, and consent to the exclusive jurisdiction of, the Bankruptcy Court. After Sellers are no longer subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Amendment, and consent to the jurisdiction of, any state or federal court having competent jurisdiction in New York, New York.

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ACTIVE 00892709v3

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first written above.

BUYER:

888 Capital Partners, LLC


By:
Name: Brian Beller
Title: Authorized Signatory

SELLERS:

A.B.C. Carpet Co., Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: 
Name: Aaron Rose
Title: CEO

SIGNATURE PAGE TO AMENDMENT NO. 3 TO ASSET PURCHASE AGREEMENT

ACTIVE 00892709v3

AMENDMENT NO. 2 TO ASSET PURCHASE AGREEMENT

THIS AMENDMENT NO. 2 TO ASSET PURCHASE AGREEMENT (the "Amendment") is made and entered into as of the 19th day of October, 2021, by and among (i) A.B.C. Carpet Co., Inc., a New York corporation ("Carpet"), A.B.C. Home Furnishings, Inc., a New York corporation ("Home"), and A.B.C. Oriental Carpets, Inc., a New York corporation ("Oriental," and together with Carpet and Home, each a "Seller" and collectively "Sellers"), and (ii) 888 Capital Partners, LLC, a New York limited liability company ("Buyer," and together with Sellers, hereinafter the "Parties," and each individually a "Party").

RECITALS

WHEREAS, the Parties are parties to that certain Asset Purchase Agreement, dated as of September 8, 2021, as amended by that certain Amendment No. 1 to Asset Purchase Agreement, dated as of September 30, 2021 (as amended, the "Purchase Agreement");

WHEREAS, pursuant to Section 11.8 of the Purchase Agreement, the Purchase Agreement may be amended or modified on by a written instrument executed by the Parties; and

WHEREAS, the Parties believe that it is in their mutual best interests to amend the Purchase Agreement pursuant to the provisions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements contained in this Amendment, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Section 1. Definitions. Except as otherwise provided in this Amendment, capitalized terms used herein shall have the meanings attributed thereto in the Purchase Agreement.

Section 2. Amendments.

(a) New Section 1.1(w). A new Section 1.1(w) of the Purchase Agreement is hereby added to the Purchase Agreement as follows:

(w) in reliance on the representation that all implementation (non-recurring) fees have been paid by the Seller, all Contracts with Zoom Video Communications, Inc. or its Affiliates (the "Zoom Contracts");

(b) New Section 1.3(h) and Section 1.3(i). A new Section 1.3(h) and Section 1.3(i) of the Purchase Agreement are hereby added to the Purchase Agreement as follows:

(h) all liabilities and obligations of Sellers under the terms of the Contracts set forth on Schedule 1.3(h) (the "Specified Contracts") that concern, or arise or accrue only during, the period of time between the Closing and ninety (90) days following the Closing (the "Specified Contract Period"); and

(i) all liabilities and obligations of Sellers under the Zoom Contracts.

(c) Amendment to Section 2.1(d). Section 2.1(d) of the Purchase Agreement is hereby amended and restated to read as follows:

(d) cash equal to three hundred thousand dollars (\$300,000), *plus* the amount of the Store-Level Cash, *plus* the amount the Sellers estimate to be necessary for the Sellers to satisfy the payment obligations pursuant to the Specified Contracts for the Specific Contract Period (the "Cash Purchase Price");

Section 3. Reference to and Effect Upon the Purchase Agreement. Except as specifically amended above, the Purchase Agreement shall remain unchanged and in full force and effect. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Parties, nor constitute a waiver of any provision of the Purchase Agreement, except as specifically set forth herein.

Section 4. Counterparts and Facsimile. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. Executed signature pages to this Amendment may be delivered by electronic mail and such electronic copies will be deemed as sufficient as if actual signature pages had been delivered.


Section 5. Governing Law. This Amendment shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of New York (without giving effect to the principles of conflicts of Laws thereof), except to the extent that the Laws of such State are superseded by the Bankruptcy Code. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with the Amendment, and consent to the exclusive jurisdiction of, the Bankruptcy Court. After Sellers are no longer subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Amendment, and consent to the jurisdiction of, any state or federal court having competent jurisdiction in New York, New York.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first written above.

BUYER:

888 Capital Partners, LLC

By: 
Name: Brian Beller
Title: Authorized Signatory

SELLERS:

A.B.C. Carpet Co., Inc.

By: _____
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: _____
Name: Aaron Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: _____
Name: Aaron Rose
Title: CEO

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first written above.

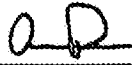
BUYER:

888 Capital Partners, LLC

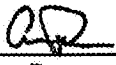
By: _____
Name: Brian Beller
Title: Authorized Signatory

SELLERS:


A.B.C. Carpet Co., Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: 
Name: Aaron Rose
Title: CEO

AMENDMENT NO. 1 TO ASSET PURCHASE AGREEMENT

THIS AMENDMENT NO. 1 TO ASSET PURCHASE AGREEMENT (the "Amendment") is made and entered into as of the 30th day of September, 2021, by and among (i) A.B.C. Carpet Co., Inc., a New York corporation ("Carpet"), A.B.C. Home Furnishings, Inc., a New York corporation ("Home"), and A.B.C. Oriental Carpets, Inc., a New York corporation ("Oriental," and together with Carpet and Home, each a "Seller" and collectively "Sellers"), and (ii) 888 Capital Partners, LLC, a New York limited liability company ("Buyer," and together with Sellers, hereinafter the "Parties," and each individually a "Party").

RECITALS

WHEREAS, the Parties are parties to that certain Asset Purchase Agreement, dated as of September 8, 2021 (the "Purchase Agreement");

WHEREAS, pursuant to Section 11.8 of the Purchase Agreement, the Purchase Agreement may be amended or modified on by a written instrument executed by the Parties; and

WHEREAS, the Parties believe that it is in their mutual best interests to amend the Purchase Agreement pursuant to the provisions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements contained in this Amendment, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Section 1. Definitions. Except as otherwise provided in this Amendment, capitalized terms used herein shall have the meanings attributed thereto in the Purchase Agreement.

Section 2. Amendments.

(a) New Section 1.1(v). A new Section 1.1(v) of the Purchase Agreement is hereby added to the Purchase Agreement follows:

(v) all files included in the First Specified File Request (as defined below).

(b) New Section 5.6. A new Section 5.6 of the Purchase Agreement is hereby added to the Purchase Agreement follows:

5.6. Delivery of Specified Assets.

(i) The Parties acknowledge and agree that certain of the Acquired Assets consisting of servers and certain furniture, fixtures and equipment or other personal property (collectively, the "Specified Assets") is located at on the 8th floor of 888 Broadway, New York, NY 10003 (the "Specified Location").

(ii) Notwithstanding anything to the contrary, including the Agreement or any order of the Bankruptcy Court approving it (including, but not limited to, the Sale Order), Buyer acknowledges and agrees that (i) at the Closing, Sellers shall deliver the Specified Assets to Buyer by unplugging and/or uninstalling such Specified Assets and moving such Specified

Assets from the Specified Location to the first or basement floor of 888 Broadway, New York, NY 10003 (or other location at Buyer's expense if agreed by the Parties), at which point any delivery requirement shall be satisfied, and (ii) the Specified Assets (and therefore the Business) will not be operational at the Closing, or until the Specified Assets (or similar replacements at Buyer's expense) are properly installed by Buyer (at the expense of Buyer).

(iii) Prior to the Closing, Buyer and Seller may otherwise agree (at Buyer's expense) that Sellers transition or move the Specified Assets, provided that such transition or movement shall not interrupt or otherwise disturb the Business or create a risk of damage or destruction to the Specified Assets.

(iv) Sellers shall provide to Buyer via email an index of all files contained on the servers included in the Specified Assets by no later than October 10, 2021 ("File List"), and from the date hereof through the Closing Date, Sellers, including their IT team, shall work with Buyer and its consultants, in good faith, to backup and transfer to the cloud or on a drive (as determined by Buyer) all files contained on the File List designated in writing (email is sufficient) by Buyer (the "Specified Files") for delivery promptly after satisfaction or waiver of all conditions precedent to Closing and Sellers' receipt of the Cash Purchase Price into the Sellers' account for the Closing ("File Transfer"), in each case, at Buyer's expense. The File Transfer shall be performed by Sellers in consultation with third party consultant(s) designated by Buyer and reasonably acceptable to (and engaged by) Sellers (the "IT Consultant"), with such backup occurring at reasonable times and upon reasonable advance notice to Sellers. Such backup shall not interrupt or otherwise disturb the Business without risk of damage or destruction. The Buyer, as of the date hereof, is requesting files relating to the following be included in the Specified Files, to the extent such exist, and are not damaged or corrupted, on the servers to which the File List pertains: (i) Vendor Information – contact information, products (by SKU) procured, and purchasing history for both trade and expense; (ii) Customers – all contact information (email, phone and address), open orders with customer deposits, and sales history; (iii) full inventory files including - name SKU, description, vendor dimensions, quantity on hand, quantity purchased and annual purchase and sales statistics and (iv) E-commerce - all product images, product catalog information (i.e. SKU, description, vendor, dimensions, color, collection, cost, sales price (together the "First Specified File Request"). The Specified Files will be updated in the ordinary course of business so as to include current information.

(c) New Section 3.2(g). A new Section 3.2(g) of the Purchase Agreement is hereby added to the Purchase Agreement as follows:

(g) a certificate duly executed by the IT Consultant that, as of the File Transfer date, the Specified Files are all contained in the File Transfer labeled in substantially similar fashion to the File List (accounting for amongst other things updated dates and the Sellers' ordinary course of business), can be opened, and are not corrupt.

Section 3. Reference to and Effect Upon the Purchase Agreement. Except as specifically amended above, the Purchase Agreement shall remain unchanged and in full force and effect. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Parties, nor constitute a waiver of any provision of the Purchase Agreement, except as specifically set forth herein.

Section 4. Counterparts and Facsimile. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. Executed

signature pages to this Amendment may be delivered by electronic mail and such electronic copies will be deemed as sufficient as if actual signature pages had been delivered.

Section 5. Governing Law. This Amendment shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of New York (without giving effect to the principles of conflicts of Laws thereof), except to the extent that the Laws of such State are superseded by the Bankruptcy Code. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with the Amendment, and consent to the exclusive jurisdiction of, the Bankruptcy Court. After Sellers are no longer subject to the jurisdiction of the Bankruptcy Court, the parties to this Amendment irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Amendment, and consent to the jurisdiction of, any state or federal court having competent jurisdiction in New York, New York.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed
on its behalf as of the date first written above.

BUYER:

888 Capital Partners, LLC

By: _____
Name: _____
Title: _____

SELLERS:

A.B.C. Carpet Co., Inc.

By: AR
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: AR
Name: Aaron Rose
Title: CEO


A.B.C. Oriental Carpets, Inc.

By: AR
Name: Aaron Rose
Title: CEO

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first written above.

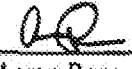
BUYER:

888 Capital Partners, LLC


By: 
Name: Byron Bell
Title: Authorized Signatory

SELLERS:

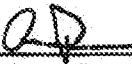
A.B.C. Carpet Co., Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: 
Name: Aaron Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: 
Name: Aaron Rose
Title: CEO

Execution Version
Confidential

ASSET PURCHASE AGREEMENT

by and among

888 Capital Partners, LLC

as Buyer,

and

A.B.C. Carpet Co., Inc., A.B.C. Home Furnishings, Inc. and A.B.C. Oriental Carpets, Inc.

collectively, as Sellers

Dated as of September 8, 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of September 8, 2021 (the “Effective Date”), is entered into by and among (i) A.B.C. Carpet Co., Inc., a New York corporation (“Carpet”), A.B.C. Home Furnishings, Inc., a New York corporation (“Home”), and A.B.C. Oriental Carpets, Inc., a New York corporation (“Oriental,” and together with Carpet and Home, each a “Seller” and collectively “Sellers”), and (ii) 888 Capital Partners, LLC, a New York limited liability company (“Buyer,” and together with Sellers, hereinafter the “Parties,” and each individually a “Party”). Capitalized terms used in this Agreement are defined in Article 12.

RECITALS

A. Sellers are engaged in the sale of carpets and home furnishings (the “Business”). On September 8, 2021 (the “Petition Date”), Sellers each filed a voluntary petition for relief under Chapter 11 of Title 11, United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court,” and the pending cases arising under such petition, together, the “Bankruptcy Case”).

B. Buyer desires to purchase the Acquired Assets free and clear of Liens, Claims and Interests (other than Permitted Liens) and to assume the Assumed Liabilities, and Sellers desire to sell, convey, assign and transfer to Buyer the Acquired Assets together with the Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement and in accordance with Sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code.

C. Sellers have selected Buyer to serve, and Buyer has consented to its selection and service, as the “Stalking Horse Bidder,” all in the manner and subject to the terms and conditions set forth in this Agreement.

D. In exchange for the sale, assignment and transfer by Sellers to Buyer of the Acquired Assets, Buyer desires to provide certain consideration (as set forth below) to Sellers.

E. The Acquired Assets and Assumed Liabilities of Sellers are to be purchased and assumed by Buyer pursuant to orders of the Bankruptcy Court which is charged with establishing bidding procedures and bidder protections for the Buyer (the “Bid Procedures Order”) and approving such sale pursuant to Sections 105, 363 and 365 of the Bankruptcy Code (the “Sale Order”), which bidding procedures, bidder protections and sale contemplate the authorization for the assumption by Sellers and assignment to Buyer of certain executory contracts and unexpired Leases pursuant to Section 365 of the Bankruptcy Code, all in the manner and subject to the terms and conditions set forth in this Agreement and the Sale Order and in accordance with the applicable provisions of the Bankruptcy Code. The execution and delivery of this Agreement, Sellers’ obligations to perform this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject, among other things, to the entry of the Sale Order.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the Parties’ respective representations, warranties, covenants and agreements herein contained, and other good and

valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. PURCHASE AND SALE OF THE ACQUIRED ASSETS.

Section 1.1 Transfer of Acquired Assets. Pursuant to Sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code, at the Closing, upon and subject to the terms and conditions set forth in this Agreement, Sellers shall sell, assign and transfer to Buyer, and Buyer shall acquire from Sellers, all of Sellers' right, title and interest in and to the Acquired Assets free and clear of all Liens, Claims and Interests (other than Permitted Liens). "Acquired Assets" shall mean all right, title and interest of Sellers to or under the properties and assets of Sellers related primarily to the Business, of any kind or nature, whether real or personal, tangible or intangible, including all right, title and interest of Sellers in, to or under the following to the extent related primarily to the Business (but excluding in each case any Excluded Assets):

(a) all Accounts Receivable of Sellers as of the Closing that are related to, or otherwise arose in connection with the operation of any of the Business, the Assumed Contracts or the Assumed Leases (the "Eligible Accounts Receivable");

(b) all Inventory of Sellers as of the Closing, including all rights of Sellers to receive such Inventory which has been ordered by but not yet delivered to Sellers as of the Closing (the "Eligible Inventory");

(c) subject to assignment to Buyer pursuant to the order of the Bankruptcy Court, all Leases pursuant to which any Seller has the right to possess, use, lease or occupy (or grant others the right to possess, use, lease or occupy) any of the Leased Real Property set forth on Schedule 1.1(c), together with all security and other deposits related thereto, prepaid rent and appurtenances thereto and associated therewith (collectively, the "Assumed Leases" and the related Leased Real Property, the "Assumed Leased Real Property");

(d) subject to assignment to Buyer pursuant to the order of the Bankruptcy Court, all Contracts set forth on Schedule 1.1(d) (collectively, the "Assumed Contracts");

(e) all items of machinery, equipment, supplies, furniture, fixtures, Leasehold Improvements (to the extent they constitute personal property and to the extent of any Seller's rights to any Leasehold Improvements under the Assumed Leases) and other tangible personal property and fixed assets owned by Sellers or leased pursuant to any Contract as of the Closing (collectively, the "Tangible Assets");

(f) to the extent assignable or transferrable, all insurance policies (but excluding, for the avoidance of doubt, any Excluded Insurance Policies and any D&O Insurance Policies) covering any of the Acquired Assets, and all benefits and rights to proceeds thereunder (including rights of recovery, rights of set-off, rights of indemnity, contribution or recoupment, warranties, guarantees, rights, remedies, counter-claims, cross-claims and defenses associated with such insurance policies), in each case, only to the extent such benefits and rights first arise and accrue in periods on or after the Closing Date, and all rights of every nature and description under or arising out of such policies (including rights to refunds or adjustments relating thereto and

proceeds and recoveries therefrom, only to the extent such benefits and rights first arise and accrue in periods on or after the Closing Date) (collectively, the “Assumed Insurance Policies”);

(g) to the extent transferable under applicable Law, all Permits issued to Sellers and all pending applications therefor, including those Permits set forth on Schedule 4.1(h);

(h) all (i) Intellectual Property owned or used by Sellers and (ii) to the extent transferable under applicable Law without consent of the licensor, Intellectual Property licensed to Sellers (collectively, the “Acquired Intellectual Property”);

(i) all sales orders or other commitments of Sellers to purchasers of goods, services or products produced or sold by the Business (the “Customer Orders”);

(j) all amounts of credit card holdbacks charged to credit cards in connection with Customer Orders to the extent they relate to an Assumed Liability;

(k) all (i) rights to refunds relating to, and prepaid expenses and deposits attributable to, any Customer Orders (to the extent the foregoing relate to an Assumed Liability), Assumed Contracts and Eligible Inventory, and all rights under credit card merchant accounts (to the extent they relate to an Assumed Liability), (ii) prepaid common area maintenance expenses relating to any Assumed Lease to the extent in respect of periods on or after the Closing Date and security deposits for any Assumed Lease, (iii) prepaid premiums in respect of the Assumed Insurance Policies to the extent in respect of periods on or after the Closing Date, (iv) ordinary holdbacks (including ordinary credit card holdback payments or protection reserves) in connection with or relating to any Acquired Asset, and (v) other deposits, prepaid charges and expenses paid by Sellers and other rights of Sellers in connection with or relating to any Acquired Asset to the extent the foregoing relate to an Assumed Liability;

(l) all goodwill and other intangible assets, including all goodwill associated with the Business and the Acquired Intellectual Property;

(m) Claims related to Acquired Assets;

(n) all other tangible or intangible assets of Sellers primarily used in connection with the ownership, operation and/or management of the Business;

(o) all rights, claims, causes of action and Avoidance Actions (whether or not asserted as of the Closing Date) of Sellers, and all causes of action arising under Sections 510 and 544 through 550 of the Bankruptcy Code, or under similar state Law, including claims against Visa/Mastercard related to the class actions/interchange fees (excluding any of Sellers’ rights, defenses and objections to claims in respect of claims administration in the Bankruptcy Case); provided, however, that neither Buyer or any Affiliate of Buyer nor any Person claiming by, through or on behalf of Buyer (including by operation of law, sale, assignment, conveyance or otherwise) shall pursue, prosecute, litigate, institute or commence an Action based on, assert, sell, convey, assign or file any Claim that relates to any rights, claims or causes of action transferred under this Section 1.1(o) against any Seller or any of its Affiliates or Related Persons;

(p) to the extent transferable and to the extent related to the Acquired Assets, or used or held to be used in connection with the Business, the full benefit of all representations, warranties, guarantees, indemnities, undertakings, certificates, covenants, agreements and all security therefor received from a third party by Sellers upon Sellers' purchase or other acquisition of the Acquired Assets;

(q) the right to enforce all confidentiality, non-compete and similar agreements entered into by Sellers or any of their respective representatives in connection with the sale of the Acquired Assets (save and except for any such agreement that is an Excluded Asset);

(r) all non-compete agreements and non-solicit agreements with Transferred Employees;

(s) to the extent permitted by applicable Law (and other than all Documents of Sellers held by Sellers or Sellers' counsel related exclusively to the Retained Litigation), all Documents that are primarily used in, held for use in or intended to be used in, or that primarily relate to, the Acquired Assets, the Assumed Liabilities or the Business, including all Documents related to products of Sellers, services, marketing, advertising, promotional materials, Acquired Intellectual Property, Employee Records, customer files and documents (including credit information), supplier lists, records, literature and correspondence, whether or not physically located on any Leased Real Property; provided, that Buyer shall provide Sellers with reasonable access (during business hours with reasonable prior notice and without cost to Sellers) to such Documents following the Closing to the extent reasonably necessary to permit Sellers to wind-down and liquidate after the Closing; and provided, further, that Sellers shall keep such information confidential in accordance with all requirements of applicable Law;

(t) Store-Level Cash; and

(u) all other assets, properties, rights and claims of any Seller of any kind or nature which relate primarily to the Business, which are used or useful in or held for use in the Business, or which relate to the Acquired Assets (in each case, other than the Excluded Assets) not otherwise described above.

Section 1.2 Excluded Assets. Notwithstanding any provision to the contrary in Section 1.1, Acquired Assets shall not include any right, title or interest of any Person other than Sellers in any property or asset, or any Seller's right, title and interest in, to and under properties and assets not primarily used, held for use or intended to be used in connection with the ownership, operation and/or management of the Business, and shall specifically exclude the following properties, Contracts, Leases, and other assets, interests and rights of Sellers (all such items not being acquired by Buyer and which shall be retained by Sellers being referred to in this Agreement as the "Excluded Assets"):

(a) all intercompany obligations and receivables among any Seller and any other Seller, any Related Person or any Affiliate of any of them;

(b) all rights of every nature and description under or arising out of (including rights to refunds or adjustments relating to, Claims and proceeds and recoveries from): (i) all D&O Insurance Policies and (ii) insurance policies covering liabilities and Claims against Sellers and

their respective Affiliates relating to the Employee Liabilities (the foregoing clauses (i) and (ii) collectively, the “Excluded Insurance Policies”);

(c) any minute books, stock ledgers, corporate seals and stock certificates of Sellers, and other similar books and records that Sellers are required by Law to retain and all Tax Returns, financial statements and corporate or other entity filings; provided that, following the Closing, and to the extent permitted by applicable Law, Sellers shall make such Documents, to the extent relating to the Acquired Assets, available to Buyer upon Buyer’s reasonable request (during business hours with reasonable prior notice and without cost to Sellers);

(d) all (i) prepaid premiums in respect of all Excluded Insurance Policies and D&O Insurance Policies, (ii) retainers, prepayments or on-account cash paid to Sellers’ professionals and advisors (whether retained in the Bankruptcy Case or otherwise), including any carve-out under any DIP Facility or cash collateral arrangements, and (iii) other deposits, prepaid charges and expenses paid by Sellers, to the extent in connection with or relating to any Excluded Asset;

(e) all rights to or claims for refunds, credits, overpayments or rebates of Pre-Closing Taxes, including any refunds, credits, overpayments or rebates of Pre-Closing Taxes for any Straddle Period (including (i) any refunds or credits due from any Governmental Authority with respect to Taxes paid by any Seller or (ii) all rights of, or on behalf of, any Seller in respect of any current or future disaster relief or other similar assistance program of any Governmental Authority in respect of, or enacted in response to, COVID-19);

(f) all shares of capital stock and other equity interests of any Seller or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests of any Seller;

(g) all Documents to the extent relating to any Excluded Asset;

(h) all Documents relating to (i) any Employees provided that, to the extent permitted by applicable Law, Sellers shall make copies of such Documents available to Buyer if reasonably related to addressing or defending any such Employees’ claims against Buyer, (ii) the Retained Litigation, or (iii) the Excluded Employee Liabilities;

(i) any asset that requires the consent of a third party to be transferred, assumed or assigned as to which, by the Closing Date (and after giving effect to the entry of the Sale Order and any other Order of the Bankruptcy Court eliminating any contractual right of third parties to withhold such consent), such consent to transfer, assumption or assignment has not been obtained, effected or excused (for clarity, all liabilities associated with each such asset are excluded from Assumed Liabilities pursuant to Section 1.4(a));

(j) all Employee Benefit Plans (the “Excluded Benefit Plans”) and all assets of, and Contracts exclusively relating to, or associated with, such Excluded Benefit Plans including without limitation any underfunded pension liabilities;

(k) all Cash (excluding Store-Level Cash) and all bank accounts of Sellers (including the Professional Fee Escrow Account and the Winddown Account);

(l) all funds advanced to Sellers under any DIP Facility (including any winddown amounts, fee reserves or escrows funded with any such DIP Facility);

(m) any rights of Sellers under this Agreement or any Ancillary Agreement to which any Seller is a party, including any rights relating to the Purchase Price (including the Cash Purchase Price, the Professional Fee Escrow Amount and the Winddown Amount);

(n) the D&O Insurance Policies, the Excluded Insurance Policies and all Claims of the insured parties thereunder and all related proceeds thereof;

(o) all rights of recovery, rights of set-off, rights of indemnity, contribution or recoupment, warranties, guarantees, rights, remedies, counter-claims, cross-claims and defenses related to any Excluded Liability;

(p) (i) all properties or other assets, interests and rights of Sellers that do not primarily relate to the ownership, operation or management of the Business or (ii) Contracts or Leases that are not otherwise set forth on Schedule 1.1(c) or Schedule 1.1(d) (the “Qualifying Excluded Contracts”);

(q) those certain liquor licenses associated with those restaurants doing business as ABC Kitchen, ABC Cocina, and ABC V (the “Liquor Licenses”), which Liquor Licenses were previously sold by Home to ABC Kitchen(s), LLC, subject to the post-closing condition that the parties obtain all necessary governmental and regulatory approvals for the transfer of the Liquor Licenses; and

(r) all Documents prepared or received by any Seller or any of its Affiliates or Related Persons relating to the sale (or potential sale) of the Acquired Assets and/or the Excluded Assets (whether to Buyer or any other Person(s)), this Agreement, the Ancillary Agreements, any DIP Facility or the transactions contemplated hereby and thereby, including (i) all bids and expressions of interest received from third parties with respect to the acquisition of any of Sellers’ businesses or assets, and (ii) all privileged materials, documents and records of a Seller or any of its Affiliates; provided that any privileged.

Section 1.3 Assumption of Liabilities. At the Closing, Buyer shall assume, and Buyer agrees to thereafter pay, perform and discharge when due, and indemnify, defend and hold harmless Sellers, their respective Affiliates and all of Sellers’ and their respective Affiliates’ respective Related Persons from and against, any and all liabilities, Claims and obligations arising out of or relating to the ownership, operation or management of the Business or the Acquired Assets other than the Excluded Liabilities, including all of the following liabilities (all items in this Section 1.3 being, collectively, the “Assumed Liabilities”):

(a) all liabilities and unperformed and unfulfilled obligations of Sellers under the terms of any Assumed Contract or Assumed Lease arising from and after the Closing plus the Cure Amounts due connection with the assumption of the Assumed Leases and the Assumed Contracts, plus all unperformed and unfulfilled obligations with respect to Customer Orders included in the Acquired Assets (such as obligations or liabilities to vendors with respect thereto) (together, the “Customer Order Obligations”);

(b) all liabilities and unperformed and unfulfilled obligations of Sellers in respect of gift cards and merchandise credits;

(c) accounts payable incurred in the Ordinary Course after the Petition Date for vendors continuing to provide goods and services to the Business from and after Closing;

(d) all liabilities or obligations arising out of, resulting from, or relating to the employment or termination of employment of the Transferred Employees by Buyer following the Closing Date;

(e) all liabilities and obligations (including under applicable Environmental Laws and other Laws) arising out of or relating to Buyer's ownership or operation of the Business and the Acquired Assets after the Closing, including any liability or obligation for customer returns occurring after the Closing (regardless of the date of purchase by such customer);

(f) all Taxes relating to the Business and the Acquired Assets for a taxable period (or portion thereof) beginning on or after the Petition Date, computed in accordance with the principles in Section 8.2(d), (to the extent) not paid or reimbursed from the DIP Credit Agreement) (for the avoidance of doubt, this does not include any income Tax liability of Sellers); and

(g) all liabilities and obligations to indemnify and hold harmless any Seller D&Os for actions taken by Buyer after the Closing.

Section 1.4 Retention of Liabilities. Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of whatever nature, whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain liabilities and obligations of Sellers (all such liabilities and obligations not being assumed being herein referred to as the "Excluded Liabilities"). Subject in all respects to Section 1.3, which shall govern in the event of any inconsistency, the Excluded Liabilities shall include the following liabilities and obligations:

(a) all liabilities and obligations under or relating to the Excluded Assets;

(b) all Employee Liabilities (the "Excluded Employee Liabilities");

(c) except as set forth in Section 1.3, all liabilities and obligations for any Taxes of Sellers or any of their Affiliates or relating to the Business in respect of a taxable period (or portion thereof), including income Tax, computed in accordance with the principles in Section 8.2(d);

(d) all Seller Transaction Expenses;

(e) all shareholder liabilities;

(f) any liabilities and obligations of Sellers under this Agreement, or under any Ancillary Agreement to which any Seller is a party;

- (g) all liabilities under any Qualifying Excluded Contracts;
- (h) the Retained Litigation;
- (i) all liabilities arising in connection with any violation by Sellers of any applicable Law or Order relating to the period prior to the Closing;
- (j) all other liabilities and obligations arising out of or relating to Sellers' ownership, operation or management of the Business and the Acquired Assets prior to the Closing not otherwise assumed as an Assumed Liability;
- (k) all liabilities and obligations arising out of or related to any DIP Facility;
- (l) except with respect to any Transferred Employee, all obligations and liabilities for provision of notice or payment in lieu of notice or any applicable penalties accruing and/or arising prior to the Closing Date under the WARN Act on account of the transactions contemplated by this Agreement;
- (m) all obligations arising from any collective bargaining agreement prior to the Closing Date; and
- (n) all governmental loan obligations, including loans taken under the Paycheck Protection Program established under the CARES Act, or liabilities and obligations for the deferral of the payment of payroll taxes under the CARES Act.

Section 1.5 Assumption of Material Contracts; Cure Amount.

(a) From and after the date hereof until the date that is two (2) Business Days prior to the Sale Hearing, Buyer may, in its sole discretion, (i) designate a Contract listed on Schedule 4.1(m) for assumption and assignment to Buyer, effective on and as of the Closing, which assumption and assignment is subject to approval by order of the Bankruptcy Court (such Contracts, the "Transferred Contracts"), (ii) designate an Assumed Lease listed on Schedule 4.1(m) for assumption and assignment to Buyer, effective on and as of the Closing, which assumption and assignment is subject to approval by order of the Bankruptcy Court, or (iii) reject the assignment and/or assumption of any Contract or Lease listed on Schedule 4.1(m). The Transferred Contracts and Assumed Leases as of the date hereof are set forth on Schedule 1.5(a) hereto, which will be supplemented as additional Leases and Contracts are designated for assumption and assignment or rejection prior to the Sale Hearing as set forth in this Section 1.5(a), provided that additional Contracts or Leases may be designated for assumption and assignment prior to the Sale Hearing only with the written consent of the counterparty to such Contract or Lease.

(b) Sellers shall take all actions reasonably required for Bankruptcy Court approval to assume and assign their right, title and interest in and to the Transferred Contracts and Assumed Leases to Buyer, including taking all actions reasonably necessary to facilitate any negotiations with the counterparties to such Contracts or Leases and, if necessary, to obtain an order of the Bankruptcy Court containing a finding that the proposed assumption and assignment

of the Contracts or Leases to Buyer satisfies all applicable requirements of Section 365 of the Bankruptcy Code.

(c) Buyer shall take all actions reasonably required for Sellers to assume and assign the Transferred Contracts and Assumed Leases to Buyer (including the payment of the Cure Amounts), including taking all actions reasonably necessary to facilitate any negotiations with the counterparties to such Contracts or Leases and, if necessary, to obtain an order of the Bankruptcy Court containing a finding that the proposed assumption and assignment of the Contracts or Leases to Buyer satisfies all applicable requirements of Section 365 of the Bankruptcy Code.

(d) During the period from the Petition Date until Closing, Sellers shall not terminate, amend, supplement, modify, waive any rights under, or create any adverse interest with respect to any Contract or Lease to be assumed and assigned to Buyer, without the prior written consent of Buyer (not to be unreasonably withheld, conditioned or delayed) or unless Buyer has provided written notice to Sellers designating such Contract or Lease for rejection pursuant to this Section 1.5.

Section 1.6 Preamble and Recitals. The preamble and recitals set forth above (including Recital E) are incorporated in and made a part of this Agreement.

ARTICLE 2. PURCHASE PRICE

Section 2.1 Purchase Price. The consideration for the sale and transfer of the Acquired Assets from Sellers to Buyer (collectively, the "Purchase Price") shall be (a) a credit bid of the DIP Credit Agreement and Prepetition Secured Indebtedness (which is estimated to exceed \$15 million) (the "Credit Bid Amount"); (b) the payment by or on behalf of the Buyer or its designee of the Professional Fee Escrow Amount and the Winddown Amount in an aggregate amount not to exceed the financing or funding provided pursuant to the Budget and the DIP Order, (c) cash to pay the Cure Amounts, if any, (d) cash equal to three hundred thousand dollars (\$300,000) plus the amount of the Store-Level Cash (the "Cash Purchase Price"); and (e) the assumption by Buyer of the Assumed Liabilities pursuant to the Assignment and Assumption Agreements which shall provide for, amongst other items, (x) assumption of gift card liabilities and merchandise credits, (y) assumption of Customer Order Obligations described in Section 1.3(a); and (z) the Transition Service Contribution (as defined in Section 6.2).

ARTICLE 3. CLOSING AND DELIVERIES

Section 3.1 Closing. Subject to the terms and conditions set forth herein, the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place remotely by the electronic exchange of documents and signatures, or such other place as may be agreed upon, at 10:00 a.m., Eastern Time, on the first (1st) Business Day following the satisfaction or, to the extent permitted by this Agreement, waiver of each of the conditions set forth in Article 9 of this Agreement (other than those conditions that, by their nature, are to be satisfied at the Closing, but subject to the satisfaction, or waiver to the extent permitted by this Agreement, of such conditions), or such other date as may be agreed to by Sellers and Buyer, which date shall not be earlier than the first day following the entry of the Sale Order by the Bankruptcy Court (the

“Closing Date”). The Closing shall be deemed to have occurred at 11:59 p.m. on the day prior to the Closing Date.

Section 3.2 Sellers’ Deliveries. At the Closing, Sellers shall deliver, or cause to be delivered, to Buyer:

(a) all of the Acquired Assets, which shall be delivered through one or more duly executed bills of sale and instruments of conveyance appropriate for the applicable Acquired Assets, each as reasonably requested by Buyer and otherwise in form and substance customary for transactions of this nature and reasonably acceptable to Buyer and Sellers;

(b) one or more duly executed assignment and assumption agreements for the Assumed Contracts and the Assumed Liabilities, substantially in the form attached hereto as Exhibit A (each, an “Assignment and Assumption Agreement”);

(c) one or more duly executed assignment and assumption agreements for the Assumed Leases, substantially in the form attached hereto as Exhibit B (each, an “Assignment and Assumption of Lease”);

(d) one or more duly executed assignments of (i) Registered IP, and (ii) the internet domain name registrations and applications included in the Acquired Intellectual Property registered in the name of any Seller, in a form suitable for filing with all applicable domain name registries, in each case substantially in the forms attached hereto as Exhibit C-1 and Exhibit C-2 (each, an “Acquired Intellectual Property Assignment”);

(e) the certificate required to be delivered pursuant to Section 9.3(c); and

(f) one or more affidavits executed by each Seller, in the form prescribed under Treasury Regulation Section 1.1445-2(b), that such Seller is not a foreign person within the meaning of Section 1445(f)(3) of the Code.

Section 3.3 Buyer’s Deliveries. At the Closing, Buyer shall deliver, or cause to be delivered, to Sellers:

(a) the duly executed Assignment and Assumption Agreements;

(b) the duly executed Acquired Intellectual Property Assignments;

(c) the certificate required to be delivered pursuant to Section 9.2(d);

(d) an executed release in form and substance reasonably acceptable to Sellers evidencing the satisfaction of the Credit Bid Amount by discharging and releasing Sellers from the DIP Credit Agreement and Prepetition Secured Indebtedness and any related Liens, Claims or Interests in respect thereto;

(e) the Cash Purchase Price;

(f) funding of the Professional Fee Escrow Amount and the Winddown Amount in accordance with Section 9.2(f) and Section 9.2(g), respectively, in an aggregate amount not to exceed the financing or funding provided pursuant to the Budget and the DIP Order; and

(g) such other documents, instruments and certificates as Sellers may reasonably request to transfer, assign and delegate the Assumed Liabilities to Buyer in accordance with the terms and conditions hereof.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of Seller. Seller represents and warrants to Buyer as of the Effective Date as follows:

(a) Corporate Organization. Each Seller is duly incorporated and validly existing and in good standing under the Laws of its respective jurisdiction of incorporation. Subject to any necessary authority from the Bankruptcy Court, each Seller has the requisite corporate power and authority to conduct the Business as now being conducted and to carry out its obligations under this Agreement.

(b) Authorization and Validity. Subject to (x) the Bankruptcy Court's entry of the Sale Order and (y) the receipt of the consents, waivers and approvals set forth on Schedule 4.1(d), (i) each Seller has the corporate power and authority necessary to enter into this Agreement and each Ancillary Agreement to which it is a party, (ii) the execution and delivery of this Agreement and each Ancillary Agreement to which each Seller is a party has been duly authorized by all necessary corporate action by the boards of directors (or analogous governing body) of such Seller, and no other corporate proceedings are necessary for the performance by such Seller of its obligations under this Agreement or the Ancillary Agreements to which it is a party or the consummation by such Seller of the transactions contemplated hereby and thereby, and (iii) this Agreement has been duly and validly executed and delivered by each Seller and, assuming due authorization, execution and delivery by the other parties hereto, is a valid and binding obligation of such Seller enforceable against such Seller in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(c) No Conflict or Violation. Subject to (x) the Bankruptcy Court's entry of the Sale Order and (y) the receipt of the consents, waivers and approvals set forth on Schedule 4.1(d), neither the execution and delivery by any Seller of this Agreement or any of the Ancillary Agreements to which such Seller is a party, nor any Seller's consummation of the transactions contemplated by this Agreement or any of the Ancillary Agreements to which such Seller is a party, nor compliance by any Seller with any of the provisions hereof or thereof, will (x) conflict with or result in any breach of any provision of the respective organizational and governing documents of such Seller, or (y) violate any provision of applicable Law or any Order applicable to such Seller or any of its properties or assets, except, in each case, for any such conflicts, breaches, defaults, violations or other occurrences that would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(d) Consents and Approvals. Schedule 4.1(d) sets forth a true and complete list of each consent, waiver, authorization or approval of any Governmental Authority or of any other Person that is required in connection with any Seller's execution and delivery of this Agreement and each of the Ancillary Agreements to which such Seller is a party or the performance by such Seller of its obligations hereunder and thereunder, except (i) the Bankruptcy Court's entry of the Sale Order, (ii) where failure to obtain such consent, waiver, authorization or approval would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) as may be necessary as a result of any facts or circumstances relating to Buyer or any of its Affiliates.

(e) Title to Acquired Assets. Subject to the Bankruptcy Court's entry of the Sale Order and except as a result of the commencement of the Bankruptcy Case, except as would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each Seller (as applicable) has good title to, or right by license, lease or other agreement to use, the Acquired Assets to the extent of its right, title or interest therein. Subject to the entry of the Sale Order, at the Closing, this Agreement and the instruments and documents to be delivered by Sellers to Buyer will be adequate and sufficient to transfer the Acquired Assets to Buyer free and clear of all Liens, other than Liens included in the Assumed Liabilities and Permitted Liens.

(f) Compliance with Law. Except (i) as set forth on Schedule 4.1(f), (ii) as would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (iii) as may result from the Bankruptcy Case, Sellers (x) have operated the Business in material compliance with all applicable Laws, (y) have not received written notice of any violation of any applicable Laws, and (z) are not in default with respect to any Order applicable to the Acquired Assets.

(g) [Intentionally Omitted].

(h) Permits. Schedule 4.1(h) sets forth a complete and correct list of all material Permits currently held by Sellers in connection with the Business, and all such Permits are, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, in full force and effect.

(i) Taxes. All material Tax Returns required to be filed by or on behalf of Sellers as of the Effective Date have been timely and properly filed (taking into account any extensions to file such Tax Returns), and all such Tax Returns are true, accurate and complete in all material respects. All Taxes of Seller due and payable as of August 31, 2021 have (taking into account any extension of time to pay such Taxes) been timely and properly paid. Except as set forth in Schedule 4.1(i), on the date hereof, (i) no material examination of any such Tax Return of Seller is currently in progress by any Governmental Authority; (ii) no material adjustment has been proposed in writing with respect to any such Tax Returns for the last three (3) fiscal years by any Governmental Authority that remains unresolved; and (iii) no material claim has been made in writing within the last three (3) years by any Governmental Authority in a jurisdiction where Sellers do not file Tax Returns to the effect that such filings may be required with respect to the Acquired Assets by that jurisdiction.

(j) Employees and Employee Benefit Plans.

(i) There are no material lockouts, or strikes pending, or threatened in writing between Sellers or any of their Affiliates, on the one hand, and their respective Employees, on the other hand.

(ii) Except as set forth on Schedule 4.1(j)(ii), there has been no “mass layoff” or “plant closing” (as defined by the WARN Act), or “collective redundancy” or similar process, with respect to Sellers or any of their Affiliates within the six (6) months prior to Closing, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(iii) Except as would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (v) each Employee Benefit Plan has been maintained and administered in compliance with its terms and with applicable Law, including ERISA and the Code (to the extent applicable); (w) each Employee Benefit Plan intended to be “qualified” within the meaning of Section 401(a) of the Code has received a favorable determination letter from the IRS or is entitled to rely upon a favorable opinion issued by the IRS, and, to the Knowledge of Seller, no events have occurred that would reasonably be expected to adversely affect the qualified status of any such Employee Benefit Plan; (x) neither Sellers nor any of their ERISA Affiliates has in the past six (6) years maintained an Employee Benefit Plan that was subject to Section 412 of the Code or Title IV of ERISA; (y) no Employee Benefit Plan provides benefits, including death or medical benefits (whether or not insured), with respect to current or former employees of Sellers beyond their retirement or other termination of employment, other than coverage mandated by applicable Law, severance benefits that do not exceed three (3) years following termination of employment, or group life and disability insurance policies made available to employees generally; and (z) there are no pending, or to the Knowledge of Seller, threatened claims (other than routine claims for benefits) by, on behalf of or against any of the Employee Benefit Plans or any trusts related thereto which would, individually or in the aggregate, reasonably be expected to result in any material liability of Sellers.

(k) Legal Proceedings. Except for the Bankruptcy Case and any Order entered into the Bankruptcy Case, and except as set forth in Schedule 4.1(k), neither Sellers nor any of their officers, directors, shareholders or employees in their capacity as such, is a party to any Action or, to Sellers’ Knowledge, has been threatened with, any Action, in each case other than any Actions that would not have, or would not reasonably be expected to have, individual or in the aggregate, a Material Adverse Effect. To Sellers’ Knowledge, there is no outstanding Order of any Governmental Authority to which Sellers are subject nor is any Seller in default with respect to any such Order.

(l) Insurance. Each insurance policy and insurance arrangement that covers the Acquired Assets, the Assumed Liabilities, and the Business (the “Insurance Policies”) is in full force and effect, all premiums thereon have been paid through August 31, 2021 and, to the Knowledge of Seller are otherwise in compliance in all material respects with the terms and provisions of such policies. Sellers are not in default under any of the Insurance Policies and there exists no event, occurrence, condition or act (including the purchase of the Acquired Assets hereunder) that (with or without notice, the lapse of time or both) would become a material default

thereunder. To the Knowledge of Seller: (i) there is no pending notice of cancellation or non-renewal of any such Insurance Policies, (ii) the termination of any such Insurance Policies has not been threatened, and (iii) no event, condition or act (including the purchase of the Acquired Assets hereunder) has occurred and is continuing or been taken that, with the giving of notice, the lapse of time or the happening of any other event or condition, would entitle any insurer to terminate or cancel any such Insurance Policies.

(m) Material Contracts and Leases; No Breach of Assigned Contracts or Assigned Leases. Schedule 4.1(m) sets forth a true and complete list of all Material Contracts. Except as set forth on Schedule 4.1(m), upon entry of the Sale Order and payment of the applicable Cure Amounts and assuming the validity with respect to and binding effect on the applicable counterparty thereto, each Material Contract is valid and binding on the applicable Seller, and is in full force and effect and enforceable against the applicable Seller in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law). Except with respect to payment defaults, the applicable Seller has in all material respects performed all obligations required to be performed by it to date under each Material Contract. To Seller's Knowledge, each counterparty to each Material Contract has in all material respects performed all obligations required to be performed by it under such Material Contract. The applicable Seller has not received written notice of the existence of any event or condition which constitutes, or, after notice or lapse of time or both, will constitute, a material breach or violation of or material default on the part of such Seller or the applicable counterparties under any such Material Contract. Prior to the date of this Agreement, true and correct copies of all Material Contracts (including all amendments and modifications thereto) in effect on the date hereof have been made available to Buyer.

(n) Receivables. The Eligible Accounts Receivables, (i) except for intercompany claims, have arisen out of actual sales with unaffiliated third parties in the Ordinary Course, and (ii) are free and clear of all defenses and claims of any nature whatsoever other than claims for warranties and claims made in the Ordinary Course that are not material in the aggregate to the Business.

(o) Accounts Payable. All of the accounts payable reflected on the unaudited consolidating balance sheet of Sellers as of July 31, 2021 and all accounts payable that have arisen since July 31, 2021 arose from bona fide purchases of goods and services in the Ordinary Course.

(p) Intellectual Property.

(i) Schedule 4.1(p)(i) sets forth a complete and accurate list, as of the Effective Date, of (i) each item of Registered IP in which Sellers have an ownership interest of any nature (whether exclusively, jointly with another Person or otherwise), (ii) any other Person that has an ownership interest in each such item of Registered IP and the nature of such ownership interest, (iii) all material Contracts pursuant to which Sellers obtain the right to use any Acquired Intellectual Property, and (iv) all material Contracts pursuant to which Sellers grant to any other Person the right to use any Acquired Intellectual Property.

(ii) Except as set forth on Schedule 4.1(p)(ii), to the Knowledge of Seller, Sellers are not infringing, misappropriating or otherwise violating any material Intellectual Property right of any other Person. Except as set forth on Schedule 4.1(p)(ii), Sellers have not received any written notice from any Person alleging infringement, misappropriation or any other violation of any material Intellectual Property rights or challenging the validity, enforceability, use or ownership of any material Acquired Intellectual Property or Sellers' interest in any material Acquired Intellectual Property. To the Knowledge of Seller, no Person is infringing, misappropriating or otherwise violating any material Acquired Intellectual Property. Except as set forth on Schedule 4.1(p)(ii), there are no pending or threatened in writing administrative or judicial Actions involving any material Acquired Intellectual Property or Sellers' use of any material Intellectual Property rights.

(iii) Sellers have taken commercially reasonable measures to protect the secrecy, confidentiality and value of all Trade Secrets used in the Business (collectively, "Business Trade Secrets"), including, but not limited to, entering into appropriate confidentiality agreements with all officers, directors, employees, and other Persons with access to the Business Trade Secrets. To Sellers' Knowledge, no unauthorized disclosure of any Business Trade Secrets has been made.

(iv) Sellers have a policy of requiring all employees, agents, consultants or contractors who have contributed to or participated in the creation, development, improvement or modification of Intellectual Property for Sellers to assign all of their rights therein to Sellers. To Sellers' Knowledge, no Person (other than Sellers) has any reasonable basis for claiming any right, title or interest in and to any such Intellectual Property.

(v) The IT Systems are adequate in all material respects for their intended use and for the operation of such businesses as are currently operated and as are currently contemplated to be operated by Sellers, and are in good working condition (normal wear and tear excepted). To the Knowledge of Seller, there has not been any malfunction with respect to any of the IT Systems during the last three (3) years that has not been remedied or replaced in all material respects.

Section 4.2 Representations and Warranties of Buyer. Buyer represents and warrants to Seller as of the Effective Date as follows:

(a) Corporate Organization. Buyer is a limited liability company duly formed, validly existing and in good standing under the Laws of the jurisdiction of its formation. Buyer has the requisite limited liability company power and authority to own its properties and assets and to conduct its business as now conducted and to carry out its obligations under this Agreement and each of the Ancillary Agreements to which Buyer is a party.

(b) Authorization and Validity. Buyer has the requisite limited liability company power and authority necessary to enter into this Agreement and each of the Ancillary Agreements to which Buyer is a party, and to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and those Ancillary Agreements to which Buyer is a party have been duly authorized by all necessary action by the board of managers (or other governing body of Buyer), and no other proceedings are necessary for the performance by Buyer of its obligations under this Agreement and each of the Ancillary Agreements to which Buyer is a

party, or the consummation by Buyer of the transactions contemplated hereby or thereby. This Agreement and each of the Ancillary Agreements to which Buyer is a party have been duly and validly executed and delivered by it and are valid and binding obligations of Buyer enforceable against it in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(c) No Conflict or Violation. Neither the execution and delivery by Buyer of this Agreement or any of the Ancillary Agreements to which Buyer is a party, nor the consummation of the transactions contemplated hereby or thereby, nor compliance by Buyer with any of the provisions hereof or thereof, will (i) conflict with or result in any breach of any provision of the organizational and governing documents of Buyer, (ii) violate any provision of applicable Law or any Order applicable to Buyer or any of its properties or assets, or (iii) result in a modification, violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any right, including but not limited to, any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Contract to which Buyer is a party or by which it is bound or to which any of its properties or assets is subject.

(d) Consents and Approvals. The execution, delivery and performance of this Agreement and the Ancillary Agreements to which Buyer is a party do not and will not require the consent or approval of, or filing with, any Governmental Authority or any other Person, other than (i) as may be required to be obtained by Buyer after the Closing in order to own or operate any of the Acquired Assets; (ii) the entry of the Sale Order by the Bankruptcy Court; or (iii) such consents, approvals and filings, of which the failure to obtain or make would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement or by the Ancillary Agreements to which Buyer is a party.

(e) Adequate Assurances Regarding Assumed Contracts and Assumed Leases. Buyer is and will be capable of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts and Assumed Leases and will provide evidence of such capability before the Bankruptcy Court, if requested by Sellers.

(f) Financial Capability. Buyer currently has or at Closing will have available funds necessary to consummate the transactions contemplated by this Agreement, including the acquisition of the Acquired Assets and assumption of the Assumed Liabilities, and the payment therefor to Sellers of the (i) Cash Purchase Price, (ii) any Cure Amount, and (iii) the Professional Fee Escrow Amount and the Winddown Amount in an aggregate amount not to exceed the financing or funding provided pursuant to the Budget and the DIP Order, and to perform its obligations under this Agreement and the Ancillary Agreements to which Buyer is a party on the terms and subject to the conditions contemplated hereby and thereby.

Section 4.3 Warranties Exclusive; Schedules.

(a) The representations and warranties contained in Article 4 are the only representations or warranties given by the Parties and all other express or implied warranties are disclaimed. The Acquired Assets are conveyed “AS IS”, “WHERE IS” and “WITH ALL FAULTS” and all warranties of merchantability or fitness for a particular purpose are disclaimed. WITHOUT LIMITING THE FOREGOING, SELLERS AND SELLERS’ AFFILIATES AND THEIR RESPECTIVE RELATED PERSONS HAVE MADE NO REPRESENTATION OR WARRANTY CONCERNING AND HEREBY EXPRESSLY DISCLAIM ANY AND ALL LIABILITY AND RESPONSIBILITY FOR, AND NONE OF BUYER OR ANY OF ITS AFFILIATES AND THEIR RESPECTIVE RELATED PERSONS IS RELYING ON, (A) ANY USE TO WHICH THE ACQUIRED ASSETS MAY BE PUT, (B) ANY FUTURE REVENUES, COSTS, EXPENDITURES, CASH FLOW, RESULTS OF OPERATIONS, FINANCIAL CONDITION OR PROSPECTS THAT MAY RESULT FROM THE OWNERSHIP, USE OR SALE OF THE ACQUIRED ASSETS OR THE ASSUMPTION OF THE ASSUMED LIABILITIES, (C) ANY OTHER INFORMATION OR DOCUMENTS MADE AVAILABLE TO BUYER OR ITS AFFILIATES OR RELATED PERSONS, OR (D) THE CONDITION OF THE ACQUIRED ASSETS, INCLUDING COMPLIANCE WITH ANY ENVIRONMENTAL LAWS OR OTHER LAWS. SELLERS AND SELLERS’ AFFILIATES AND RELATED PERSONS HAVE MADE NO REPRESENTATIONS OR WARRANTIES IN ANY OTHER AGREEMENT.

(b) The fact that any item of information is disclosed in any Schedule shall not be construed to be an admission by any Party to any third party of any liability or obligation with respect thereto or to mean that such information is material or immaterial, within or outside of the Ordinary Course, or required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms “material” or “Material Adverse Effect” or other similar terms in this Agreement. No information set forth in the Schedules will be deemed to broaden in any way the scope of Sellers’ representations and warranties. Any description of any agreement, document, instrument, plan, arrangement or other item set forth on any Schedule is a summary only and is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement or item, which terms will be deemed disclosed for all purposes of this Agreement

ARTICLE 5. COVENANTS OF THE PARTIES

Section 5.1 Covenants of Seller. Sellers covenant as follows:

(a) Commercially Reasonable Efforts. From and after the Effective Date until the earlier to occur of (x) the Closing and (y) the termination of this Agreement pursuant to Section 10.1 (such period, the “Interim Period”), Sellers shall use commercially reasonable efforts to (i) obtain all necessary consents, waivers, authorizations and approvals of all Governmental Authorities, and of all other Persons, required to be obtained by Sellers in connection with the execution, delivery and performance by them of this Agreement and the Ancillary Agreements to which Sellers are a party, and (ii) take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary or proper, consistent with applicable Law, to consummate and make

effective in an expeditious manner the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Access to Properties and Documents; Confidentiality. During the Interim Period, Sellers shall afford to Buyer, and to the accountants, counsel and representatives of Buyer, reasonable access during normal business hours to all Documents of Sellers relating to the Acquired Assets and the Assumed Liabilities. During the Interim Period, upon reasonable prior notice, Sellers shall also afford Buyer reasonable access, taking into account Sellers' resources and other commitments, during normal business hours, to all Acquired Assets, and to Sellers' executive officers, accountants, counsel, employees and other representatives.

(c) Operation of the Business. Except (i) as otherwise contemplated or permitted by this Agreement, the Ancillary Agreements or any DIP Facility, (ii) as would not have, or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (iii) with the prior consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed), (iv) in connection with any Order relating to the Bankruptcy Case, (v) any Buyer Requested Change, or (vi) any Clearance and Consignment Sales, during the Interim Period, Sellers shall (x) use their commercially reasonable efforts to operate the Business in all material respects in the Ordinary Course, (y) not enter into, materially amend or terminate any Assumed Contract or Assumed Lease outside of the Ordinary Course; and (z) notify Buyer of any notices relating to or proposed changes affecting Sellers' Insurance Policies. Notwithstanding the foregoing, nothing in this Agreement shall restrict Sellers from rejecting any (A) Contract or Lease that is not an Assumed Contract or Assumed Lease or (B) Qualifying Excluded Contracts. Sellers further agree during the Interim Period to work in good faith with Buyer to effectuate Buyer's reasonable recommendations to reduce Sellers' headcount and cut costs and expenses.

(d) Further Conveyances and Assumptions. From and after the Closing, Sellers shall take such further actions, and execute, acknowledge and deliver all documents, at the sole expense of Buyer, as may be reasonably necessary or appropriate to sell, transfer, convey, assign and deliver fully to Buyer and its successors or permitted assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be assumed by Buyer under this Agreement, and to otherwise make effective or evidence the transactions contemplated by this Agreement and the Ancillary Agreements.

Section 5.2 Covenants of Buyer. Buyer covenants as follows:

(a) Commercially Reasonable Efforts. During the Interim Period, Buyer shall use all commercially reasonable efforts to (i) obtain all necessary consents, waivers, authorizations and approvals of all Governmental Authorities, and of all other Persons, required to be obtained by Buyer in connection with the execution, delivery and performance by Buyer of this Agreement and the Ancillary Agreements to which Buyer is a party, and (ii) take, or cause to be taken, all action, and to do, or cause to be done, all things necessary or proper, consistent with applicable Law, to consummate and make effective in an expeditious manner the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Adequate Assurances Regarding Assumed Contracts and Assumed Leases. With respect to each Assumed Contract and Assumed Lease, Buyer shall provide adequate

assurance of the future performance of such Assumed Contract or Assumed Lease by Buyer; provided that, for clarity the failure to provide adequate assurance shall not be a breach of this Section 5.2(b) if Buyer has undertaken reasonable efforts to provide such assurance. Buyer agrees that it will promptly take all actions as are reasonably requested by Sellers to assist in obtaining the Bankruptcy Court's entry of the Sale Order, including furnishing affidavits, financial information or other documents or information for filing with the Bankruptcy Court and making Buyer's employees and representatives available to testify before the Bankruptcy Court.

(c) Performance under Assumed Contracts and Assumed Leases. Buyer shall (i) from and after the Closing Date, assume all obligations and liabilities of Sellers under the Assumed Contracts and Assumed Leases, including such obligations as may have accrued from the Petition Date and remain unpaid as of the Closing Date, (ii) from and after the Closing Date, take all actions necessary to satisfy its obligations and liabilities under the terms and conditions of each of the Assumed Contracts and Assumed Leases, and (iii) indemnify, defend and hold harmless Sellers from and against any damages, losses, costs, expenses and other liabilities arising out of a breach of this Section 5.2(c) or any of Buyer's other covenants contained in this Agreement to which Buyer is a party.

(d) Further Conveyances and Assumptions. From and after the Closing, Buyer shall take such further actions, and execute, acknowledge and deliver all documents, at the sole expense of Sellers, as may be reasonably necessary or appropriate for Sellers to sell, transfer, convey, assign and deliver fully to Buyer and its successors or permitted assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be assumed by Buyer under this Agreement, and to otherwise make effective or evidence the transactions contemplated by this Agreement.

(e) Personally Identifiable Information. Buyer shall honor and observe any and all policies of Sellers in effect on the Petition Date prohibiting the transfer of personally identifiable information about individuals consistent with the requirements of Section 363(b)(1)(A) of the Bankruptcy Code.

Section 5.3 Delivery of Schedules; Schedules Update.

(a) Sellers shall deliver to Buyer, not later than seven (7) days after the Effective Date, all Schedules referenced in this Agreement that were not delivered prior to the date hereof.

(b) From and after the Effective Date until and including the Closing Date, Sellers may correct, update or supplement the information contained in any Schedule by furnishing such corrected, updated or supplemented Schedule to Buyer (and such corrected, updated or supplemented information shall be deemed to amend such Schedule for all purposes). The Parties agree that corrections, updates and/or supplements to any Schedule pursuant to this Section 5.3(b) shall not be considered a failure of the representations and warranties of Sellers set forth in this Agreement to be true and correct as of the Closing Date or the Effective Date, and the Schedules as corrected, updated or supplemented in accordance with this Section 5.3(b) shall supersede the version of the Schedules delivered by Sellers to Buyer on the Effective Date or after the Effective Date pursuant to Section 5.3(a) hereof.

Section 5.4 Employee Matters.

(a) Buyer may, but has no obligation to, offer employment effective on the Closing Date to all current or former Employees, including Employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence (the current or former Employees who accept such employment and commence employment on or within thirty (30) days after the Closing Date, the “Transferred Employees”). If the Buyer does hire a Transferred Employee, the Buyer shall offer the Transferred Employee market compensation and benefits commensurate with the position in question.

(b) This Section 5.4 shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Section 5.4, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 5.4. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The parties hereto acknowledge and agree that the terms set forth in this Section 5.4 shall not create any right in any Transferred Employee or any other Person to any continued employment with Buyer or, subject to Section 5.4(a), compensation or benefits of any nature or kind whatsoever.

Section 5.5 Refunds and Remittances.

(a) After the Closing: (i) if Sellers or any of their Affiliates receive any refund or other amount that is an Acquired Asset or is otherwise properly due and owing to Buyer in accordance with the terms of this Agreement, Sellers promptly shall remit, or shall cause to be remitted, such amount to Buyer in accordance with this Agreement, and (ii) if Buyer or any of its Affiliates receive any refund or other amount that is an Excluded Asset or is otherwise properly due and owing to Sellers or any of their Affiliates in accordance with the terms of this Agreement, Buyer promptly shall remit, or shall cause to be remitted, such amount to Sellers in accordance with this Agreement.

(b) In the event that, from and after the Closing, (i) Sellers or any of their Affiliates have retained ownership of an Acquired Asset, then, for no additional consideration to Sellers or any of their Affiliates, Sellers shall, and shall cause their Affiliates to, convey, assign or transfer promptly such Acquired Asset to Buyer or its designees in accordance with this Agreement, and the Parties shall execute all other documents and instruments, and take all other lawful actions reasonably requested, in order to convey, assign and transfer such Acquired Asset to Buyer or its designees in accordance with this Agreement, or (ii) any Excluded Asset has been conveyed to or is received by Buyer, then, for no additional consideration to Buyer or any of its Affiliates, Buyer shall convey, assign or transfer promptly such Excluded Asset to Sellers in accordance with this Agreement, and the Parties shall execute all other documents and instruments, and take all other lawful actions reasonably requested, in order to convey, assign and transfer such Excluded Asset to Sellers or their designees in accordance with this Agreement.

ARTICLE 6. ADDITIONAL AGREEMENTS

Section 6.1 Bankruptcy Matters.

(a) Bid Procedures.

(i) Sellers have selected Buyer to serve, and Buyer has consented to its selection and service, as the “Stalking Horse Bidder,” whereby this Agreement shall serve as a base by which other offers for a potential Alternative Transaction (whether as a going concern sale, liquidation, plan of reorganization or otherwise) may be measured and is subject to competing offers for an Alternative Transaction by way of the auction process contemplated by and more fully set forth in the Bid Procedures Order. In accordance therewith, and notwithstanding anything herein to the contrary, Sellers may at any time prior to the Closing Date (whether before, during or after the auction process contemplated by the Bid Procedures Order) furnish information concerning the Business or the Acquired Assets and the Assumed Liabilities to any Person in connection with a potential Alternative Transaction and negotiate, enter into and consummate an Alternative Transaction. As consideration for and as a material inducement to Buyer conducting its due diligence and entering into this Agreement, in the event this Agreement is terminated pursuant to Sections 10.1(i), Buyer shall be entitled to receive (A) the Break-Up Fee and (B) reimbursement of Buyer’s and its attorneys’, accountants’, investment bankers’ and representatives’ reasonable, documented fees and expenses actually and reasonably incurred in negotiating and preparing this Agreement, and in preserving and protecting Buyer’s rights and interests as Buyer in the Bankruptcy Case, provided that such amount will not exceed \$330,000 (the amount of such expenses actually and reasonably incurred, the “Expense Reimbursement”), each of which shall only be payable in accordance with, and at the time set forth in, Section 10.2(b). In the event that Buyer is designated as the “Backup Bidder” in accordance with and as defined in the Bid Procedures Order, Buyer agrees that it will keep the Backup Bid (as defined in the Bid Procedures Order) open and irrevocable until the earlier of 5:00 p.m. (prevailing Eastern Time) on the date that is thirty (30) days after the date of entry of the Bankruptcy Court’s Order approving the Alternative Transaction.

(ii) In connection with Section 6.1(a)(i), promptly, but no later than five (5) calendar days, following the Effective Date, Sellers shall file a motion in form and substance reasonably acceptable to Buyer with the Bankruptcy Court requesting the entry of a Bid Procedures Order and seek a hearing on such motion to occur not later than twenty-eight (28) calendar days after the Petition Date. Sellers and Buyer shall use commercially reasonable efforts to cooperate, assist and consult with each other to secure the entry of the Bid Procedures Order on or before the date that is thirty (30) calendar days after the Petition Date. The Bid Procedures Order shall be in form and substance satisfactory to Sellers and Buyer, each acting reasonably, and, subject to the approval of the Bankruptcy Court, shall provide for, among other things:

(A) approval of the Break-Up Fee and the Expense Reimbursement on the terms and conditions set forth in Section 10.2;

(B) the date by which bids for an Alternative Transaction must be submitted by bidders and the date of the auction, which dates shall be on or before the date that is fifty (50) after the Petition Date; and

(C) procedures for the auction process, including requiring (i) bidders to provide good faith purchase price deposits and (ii) evidence of ability to perform that is reasonably satisfactory to Sellers.

(b) Notice to Holders of Liens, Claims and Interests. Sellers shall provide notice of the sale to all known holders of Liens, Claims and Interests in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules for the Bankruptcy Court and any other applicable Order of the Bankruptcy Court.

(c) Entry of Sale Order. Promptly, but no later than five (5) calendar days, following the Effective Date, Sellers shall file with the Bankruptcy Court one or more motions (which may be part of the motion seeking entry of the Bid Procedures Order) which, collectively, seek the entry of the Sale Order. The Sale Order shall provide that, without limitation and notwithstanding anything to the contrary in this Agreement (including any Assumed Contract), Buyer is not liable for, and is taking the Acquired Assets free of, any Excluded Liability and the Buyer is a good faith buyer entitled to the protections of Section 363(m) and (n) of the Bankruptcy Code. Sellers and Buyer shall use reasonable best efforts to cooperate, assist and consult with each other to secure the entry of the Sale Order on or before the date that is fifty (50) calendar days after the Petition Date, and to consummate the transactions contemplated by this Agreement (including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Buyer under this Agreement) on or before October 31, 2021. In the event that any Orders of the Bankruptcy Court relating to this Agreement shall be appealed by any Person (or a petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to any such Order), Sellers and Buyer will cooperate in determining and pursuing the response to any such appeal, petition or motion and Sellers and Buyer shall use their commercially reasonable efforts to obtain an expedited resolution of any such appeal, petition or motion. For purposes of this Section 6.1(c), commercially reasonable efforts shall, without limitation, require each party to this Agreement to pay its costs and expenses reasonably required in connection with preparing and seeking entry of the Sale Order by the Bankruptcy Court and resolution of any appeal therefrom, with Buyer's fees, costs and expenses included in the Expense Reimbursement. The Sale Order shall include that the Sellers and the Buyer shall use their commercially reasonable efforts and cooperate in good faith to reduce or exempt the sale and transfer of the Acquired Assets from any Transaction Taxes, including a request (as part of the Sale Order) that the Sellers' sale of the Acquired Assets be exempted from transfer taxes pursuant to Section 1146 of the Bankruptcy Code, to the extent applicable.

Section 6.2 Transition Services. Upon reasonable request from Sellers, during reasonable hours, Buyer will, until the Bankruptcy Case is closed, provide to Sellers, and the accountants, counsel and representatives of Sellers, including any administrator or liquidator of Sellers' estate, such access to the pre-Closing books and records relating to the Business as is reasonably necessary to permit Sellers to monetize any Excluded Assets and otherwise administer or liquidate its estate or assets after the Closing and to conclude the Bankruptcy Case, including the reconciliation and litigation of claims and making of distributions to creditors or otherwise (the "Transition Service Contribution"). Such Transition Service Contribution shall include (i) reasonable access to Buyer's personnel, information technology systems and books and records and (ii) the use of office space for individuals and office support of appropriate secretaries or clerks

for employees, administrators or liquidators engaged in such wind-down and liquidation process. Buyer will provide such Transition Service Contribution free of any charges, fees or rents, as additional consideration for the Acquired Assets.

ARTICLE 7. Intentionally Omitted.

ARTICLE 8. TAXES.

Section 8.1 Taxes Related to Purchase of Assets. All recording and filing fees and all federal, state and local sales, transfer, excise, value-added, use, goods and services, harmonized sales, real property, property transfer or gains, gross receipts, documentary, stamp, registration, recording or other similar Taxes, including all state and local Taxes payable in connection with the sale or transfer of the Acquired Assets and the assumption of the Assumed Liabilities and not exempted under the Sale Order or by Section 1146(a) of the Bankruptcy Code, but excluding all income taxes based upon gain realized by Sellers as a result of the sale of the Acquired Assets (collectively, "Transaction Taxes"), that may be imposed by reason of the sale, transfer, assignment and delivery of the Acquired Assets and the assumption of the Assumed Liabilities, shall be paid by Buyer. Buyer and Sellers agree to cooperate to determine the amount of Transaction Taxes payable in connection with the transactions contemplated under this Agreement, and Sellers agree to assist Buyer reasonably in the preparation and filing of any and all required returns for or with respect to such Transaction Taxes with any and all appropriate taxing authorities.

Section 8.2 Cooperation on Tax Matters.

(a) Buyer and Sellers agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Acquired Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other proceeding relating to Tax matters and for the answer to any Governmental Authority inquiry relating to Tax matters.

(b) Buyer agrees to retain possession, at its own expense, of all accounting, business, financial and Tax records and information (i) relating to the Business, the Acquired Assets or the Assumed Liabilities that are in existence on the Closing Date and transferred to Buyer hereunder and (ii) coming into existence after the Closing Date that relate to the Business, the Acquired Assets or the Assumed Liabilities before the Closing Date, for a period of at least six (6) years from the Closing Date, and will give Sellers notice and an opportunity to retain any such records in the event that Buyer determines to destroy or dispose of them after such period. In addition, from and after the Closing Date, Buyer agrees that it will provide access to Sellers and their attorneys, accountants and other representatives (after reasonable notice and during normal business hours and without charge) to the books, records, documents and other information relating to the Business, the Acquired Assets or the Assumed Liabilities as Sellers may reasonably deem necessary to (x) properly prepare for, file, prove, answer, prosecute and/or defend any such Tax Return, claim, filing, tax audit, tax protest, suit, proceeding or answer or (y) administer or complete any cases under the Bankruptcy Code of Sellers. Such access shall include, without limitation,

access to any computerized information retrieval systems relating to the Acquired Assets or the Assumed Liabilities.

(c) If Buyer receives any refund, overpayment or rebate of or relating to Pre-Closing Taxes (including any refund, overpayment or rebate relating to any Straddle Period), it shall promptly, and in no case later than ten (10) Business Days after receipt thereof, pay such refund, overpayment or rebate over to Sellers net of any reasonable cost or expense incurred in connection with such refund, overpayment or rebate.

(d) Buyer shall prepare and file, or cause to be prepared and filed (with Sellers' reasonable cooperation) all Tax Returns with respect to Taxes imposed on the Acquired Assets and the Business for any Straddle Period and Pre-Closing Tax Period that have not been filed prior to the Closing; provided, however, that Buyer shall deliver to Sellers for their review and comment all such Tax Returns at least fifteen (15) Business Days prior to the due date for filing thereof and no such Tax Return shall be filed without Sellers' prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The portion of any Taxes payable for a Straddle Period treated as Pre-Closing Taxes shall equal (i) in the case of ad valorem or property Taxes, the total amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the Straddle Period ending on the Closing Date and the denominator of which is the number of days in the entire Straddle Period and (ii) in the case of any other Tax, the amount which would be payable computed on closing of the books basis as if the relevant Tax period ended as of the close of business on the Closing Date. All Tax Returns with respect to a Straddle Period shall be filed, and any Taxes reflected thereon shall be paid, on or prior to the applicable due dates (taking into account any permitted extension of the time to file in accordance with applicable Law) thereof. Buyer and Sellers shall reasonably cooperate in the preparation of any Tax Returns described in this Section 8.2(d).

Section 8.3 Allocation of Purchase Price. Within ninety (90) days after the Closing, Buyer will prepare and deliver to Sellers an allocation of the consideration payable pursuant to this Agreement (and all other capitalized costs) among the Acquired Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any similar provision of state, local or non-U.S. Law, as appropriate) (the "Allocation"). Buyer will permit Sellers to review and comment on such Allocation and shall consider in good faith such changes as are reasonably requested by Sellers. The Parties agree to prepare and file all Tax Returns (including Internal Revenue Service Form 8594) in a manner consistent with the Allocation except as required by the IRS or any other applicable Taxing Authority or as required by applicable Law. Furthermore, the Parties shall not take any position inconsistent with the Allocation except (i) to the extent otherwise required following a Tax audit by a Governmental Authority, (ii) as required by the IRS or any other applicable Taxing Authority, or (iii) as required by applicable Law.

ARTICLE 9. CONDITIONS PRECEDENT TO PERFORMANCE BY THE PARTIES.

Section 9.1 Conditions Precedent to Performance by Each Party. The respective obligations of Buyer and Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or before the Closing Date, of the following conditions:

(a) Sale Order. The Bankruptcy Court shall have entered the Sale Order, and no Order staying, modifying, or amending the Sale Order in any material respect shall be in effect on the Closing Date, after the Parties have sought and been denied modifications to the Sale Order by the Bankruptcy Court to give the Parties the benefit of their bargain, as applicable.

(b) No Order. There shall not be in effect on the Closing Date any Order that declares this Agreement invalid or unenforceable in any material respect that the Parties cannot amend pursuant to the last sentence of Section 11.6 or which prevents or makes illegal the consummation of the transactions contemplated by this Agreement.

Section 9.2 Conditions Precedent to Performance by Sellers. The obligation of Sellers to consummate the transactions contemplated by this Agreement is subject to the fulfillment, on or before the Closing Date, of the following conditions, any one or more of which may be waived by Sellers in their sole discretion:

(a) Representations and Warranties of Buyer. All representations and warranties made by Buyer in Section 4.2 shall be accurate in all material respects on and as of the Closing Date as if again made by Buyer on and as of such date, except for (i) those representations and warranties that speak solely as of a specific date and that were true and correct as of such date and (ii) inaccuracies that do not result in a material adverse effect on Buyer's ability to perform its obligations hereunder.

(b) Performance of the Obligations of Buyer. Buyer shall have performed in all material respects all obligations required under this Agreement to be performed by it on or before the Closing Date (except with respect to the obligation to pay the Purchase Price in accordance with the terms of this Agreement, which obligations shall be performed in all respects on the Closing Date).

(c) Cure of Defaults. At or prior to the Closing, Buyer shall have cured, or made arrangements, satisfactory to Sellers in its sole discretion, to promptly cure, any and all defaults under the Assumed Contracts and Assumed Leases (other than Qualifying Excluded Contracts) that are required to be cured under the Bankruptcy Code, so that such Assumed Contracts and Assumed Leases may be assumed by Sellers and assigned to Buyer in accordance with the provisions of Section 365 of the Bankruptcy Code.

(d) Closing Certificate. Sellers shall have received a certificate, dated as of the Closing Date and executed by an authorized officer of Buyer, certifying that the conditions set forth in Sections 9.2(a) and 9.2(b) have been satisfied.

(e) Buyer's Deliveries. Buyer shall have delivered to Sellers all of the items set forth in Section 3.3.

(f) Professional Fee Escrow. The Professional Fee Escrow Amount shall have been deposited by Buyer or its designee into one or more segregated escrow accounts (collectively, the "Professional Fee Escrow Account"), which shall not be property of Sellers' bankruptcy estates, solely for the applicable professionals to Sellers and the official committee of unsecured creditors appointed in the Bankruptcy Case (the "Creditors' Committee") retained under Section 327, 328 and/or 1102 of the Bankruptcy Code (as well as B. Riley Retail Solutions) (the

“Estate Professionals”) and for no other Persons until the fee and expense claims of the applicable Estate Professionals allowed by the Bankruptcy Court (the “Professional Fee Claims”) have been allowed on a final basis and irrevocably paid in full to such Estate Professionals pursuant to one or more final Orders of the Bankruptcy Court. As used herein, “Professional Fee Escrow Amount” means an amount equal to the aggregate amount needed to satisfy all unpaid Professional Fee Claims and other unpaid fees and expenses the Estate Professionals have incurred or will incur in rendering services to Sellers or the Creditors’ Committee (including for the avoidance of doubt, any transaction or success fee) up to and through the Closing and the consummation of this Agreement.

(g) Winddown Amount. The Winddown Amount shall have been deposited by Buyer or its designee into one or more segregated accounts of Sellers (collectively, the “Winddown Account”), which shall not be property of Sellers’ bankruptcy estates, solely for the winddown of Sellers’ estate.

Section 9.3 Conditions Precedent to Performance by Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or before the Closing Date, of the following conditions, any one or more of which may be waived by Buyer in its sole discretion:

(a) Representations and Warranties of Sellers. All representations and warranties made by Sellers in Section 4.1 shall be accurate in all material respects on and as of the Closing Date as if again made by Sellers on and as of such date, except for (i) those representations and warranties that speak solely as of a specific date and that were true and correct as of such date, and (ii) inaccuracies that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Performance of the Obligations of Sellers. Seller shall have performed all material obligations required under this Agreement to be performed by them on or before the Closing Date, other than failures of performance that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Closing Certificate. Buyer shall have received a certificate, dated as of the Closing Date and executed by an authorized officer of Sellers, certifying that the conditions set forth in Sections 9.3(a) and 9.3(b) have been satisfied

(d) Sellers’ Deliveries. Sellers shall have delivered to Buyer all of the items set forth in Section 3.2.

ARTICLE 10. TERMINATION.

Section 10.1 Termination. This Agreement may be terminated at any time before the Closing:

- (a) by mutual written consent of Sellers and Buyer;
- (b) by Buyer or Sellers, if a Governmental Authority of competent jurisdiction over Sellers or Buyer has issued an Order that declares this Agreement invalid or unenforceable in

any material respect or which prevents or makes illegal the consummation of the transactions contemplated by this Agreement, and such Order has become final and non-appealable;

(c) by Buyer or Sellers, if the Closing does not occur by October 31, 2021 (the “Outside Date”); provided that if on the Outside Date the conditions set forth in Section 9.1 have not been satisfied but all other conditions set forth in Article 9 shall have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but provided that such conditions shall then be capable of being satisfied if the Closing were to take place on such date), then the Outside Date shall be extended automatically by one (1) period of three (3) Business Days and such later date shall become the Outside Date for purposes of this Agreement; provided further that the right to terminate this Agreement under this Section 10.1(c) shall not be available to any Party if such Party is then in material breach of this Agreement that is the cause of the failure of the Closing to occur prior to such date;

(d) by Sellers, if: (i) Buyer has breached or failed to perform any of its obligations contained in this Agreement to be complied with by it such that the closing condition set forth in Section 9.2(b) would not be satisfied; or (ii) there exists an inaccuracy of any representation or warranty of Buyer contained in Section 4.2 such that the closing condition set forth in Section 9.2(a) would not be satisfied and, in the case of each of clauses (i) and (ii) above, such breach or failure to perform has not been waived in writing by Sellers or cured by Buyer within seven (7) days after receipt of written notice thereof or is incapable of being cured by Buyer by the Outside Date; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(d) shall not be available to Sellers if Sellers are in breach of any of their representations, warranties, covenants or obligations set forth in this Agreement;

(e) by Buyer, if: (i) Sellers have breached or failed to perform any of their obligations contained in this Agreement to be complied with by them such that the closing condition set forth in Section 9.3(b) would not be satisfied; or (ii) there exists an inaccuracy of any representation or warranty of Sellers contained in Section 4.1 such that the closing condition set forth in Section 9.3(a) would not be satisfied and, in the case of each of clauses (i) and (ii) above, such breach or failure to perform has not been waived in writing by Buyer or cured by Sellers within seven (7) days after receipt of written notice thereof or is incapable of being cured by Sellers by the Outside Date; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(e) shall not be available to Buyer if Buyer is in breach of any of its representations, warranties, covenants or obligations set forth in this Agreement;

(f) by Sellers, if Sellers are not in material breach of this Agreement, and if (i) Sellers have provided Buyer with written notice that they are prepared to consummate the transactions contemplated by this Agreement, (ii) the conditions to Closing set forth in Section 9.1 and Section 9.3 have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at the Closing, and (iii) the Closing does not occur within five (5) Business Days of Sellers providing Buyer with such notice;

(g) by Sellers, if Sellers are not in material breach of this Agreement, and if Sellers have complied in all material respects with any Buyer Requested Change and Buyer has failed to provide necessary funding as set forth in the DIP Credit Agreement, as determined by Order of the Bankruptcy Court;

(h) by Buyer, by notice to Sellers, or by Sellers, by notice to Buyer, if the Bankruptcy Court enters an Order dismissing or converting the Bankruptcy Case into a case under Chapter 7 of the Bankruptcy Code, appointing a trustee in the Bankruptcy Case, or appointing an examiner with enlarged power related to the operation of the Business (beyond those set forth in Section 1106(a)(3) or (4) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code, or the occurrence of any of the foregoing; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(h) shall not be available to Buyer if the foregoing occurs as a result of any Buyer Requested Change;

(i) automatically, upon Sellers consummating an Alternative Transaction; and

(j) by Sellers, if the board of directors of any Seller determines in good faith in the exercise of its sole authority that proceeding with the transactions contemplated by this Agreement would be inconsistent with its fiduciary duties; provided, however, Sellers may not terminate this Agreement pursuant to this Section 10.1(j) with the intention or purpose to circumvent the obligations of Sellers upon the termination of this Agreement pursuant to Section 10.1(i).

Section 10.2 Effect of Termination; Remedies; Timing of Payment of Break-up Fee and Expense Reimbursement.

(a) In the event of termination pursuant to Section 10.1, this Agreement shall become null and void and have no effect (other than Article 10, Article 11 and Article 12, which shall survive termination), with no liability on the part of Sellers or Buyer, or their respective Affiliates or Related Persons, with respect to this Agreement, except for (i) the liability of a Party for its own expenses pursuant to Section 11.4, and (ii) any liability provided for in Section 10.2(b) through Section 10.2(d), inclusive.

(b) If this Agreement is terminated by Buyer pursuant to Section 10.1(i), then (i) Sellers shall pay to Buyer, an amount in cash equal to \$750,000 (the “Break-Up Fee”), and (ii) Sellers shall pay to Buyer an amount in cash equal to the Expense Reimbursement. The amounts set forth in this Section 10.2(b) shall be Buyer’s sole and exclusive recourse in the event this Agreement is terminated pursuant to Section 10.1(i). Sellers shall pay the Break-up Fee to Buyer upon closing of an Alternative Transaction by wire transfer from the proceeds of such Alternative Transaction and the order approving such Alternative Transaction shall provide for such payment to Buyer. The order approving such Alternative Transaction shall also provide for Sellers’ counsel to hold in a segregated escrow account the sum of \$330,000 from the sale proceeds from the Alternative Transaction pending Bankruptcy Court approval or agreement of Sellers and Buyer as to the amount of the Expense Reimbursement. If this Agreement is terminated pursuant to Section 10.1(j) and it is determined that the board of directors of any Seller utilized Section 10.1(j) with the intention or purpose to circumvent the Break-Up Fee or Expense Reimbursement, then Sellers shall pay to Buyer the Break Up Fee, Expense Reimbursement Fee and Buyer’s their reasonable out of pocket costs and expenses (including reasonable attorneys’ fees) incurred in connection with such proceeding and enforcing its rights hereunder.

(c) If this Agreement is terminated by Sellers pursuant to Sections 10.1(d), (f) or (g), then Buyer shall pay to Sellers an amount in cash equal to \$2,000,000 (the “Termination”).

Fee”). The amount set forth in this Section 10.2(c) shall be Sellers’ sole and exclusive recourse in the event this Agreement is terminated pursuant to Sections 10.1(d), (f) or (g). Buyer shall pay the Termination Fee to Sellers no later than three (3) Business Days after such termination by wire transfer of immediately available proceeds to an account designated by Sellers. If the Termination Fee is due pursuant to this Section 10.2(c), and, in order to obtain the payment, Sellers commence a proceeding which results in a judgment (or any settlement payment) against Buyer or any other party for payment of the Termination Fee, Buyer shall pay Sellers their reasonable out of pocket costs and expenses (including reasonable attorneys’ fees) incurred in connection with such proceeding and enforcing its rights hereunder.

(d) Notwithstanding anything to the contrary herein, and subject to and without limiting Sellers’ right to compel specific performance pursuant to Section 11.10, the remedies set forth in this Section 10.2 (to the extent that this Agreement is terminated in accordance with Section 10.1), and the right to enforce covenants as set forth in Article 6 (if the Closing shall have occurred) shall be the exclusive remedies of the parties for breaches of this Agreement or any of its provisions, and are in derogation of all other rights and remedies available to the parties to this Agreement at law, in equity or otherwise. The Parties acknowledge and agree that Buyer’s entitlement to the Break-Up Fee and Expense Reimbursement will constitute liquidated damages (and not a penalty) and, if Buyer retains such amount, then notwithstanding anything to the contrary contained herein, such Break-Up Fee and Expense Reimbursement shall be the sole and exclusive remedy available to Buyer and any other Person against Sellers and any of their respective Affiliates and Related Persons (in the case of the Break-Up Fee and Expense Reimbursement) in connection with this Agreement and the transactions contemplated hereby (including as a result of the failure to consummate the Closing or for a breach or failure to perform hereunder or otherwise) and none of Sellers or any of their respective Affiliates or Related Persons shall have any further liability relating to or arising out of this Agreement or the transactions contemplated hereby. The Parties also acknowledge and agree that Sellers’ entitlement to the Termination Fee will constitute liquidated damages (and not a penalty) and, if Sellers retain such amount, then notwithstanding anything to the contrary contained herein, such Termination Fee shall be the sole and exclusive remedy available to Sellers and any other Person against Buyer and any of its Affiliates and Related Persons (in the case of the Termination) in connection with this Agreement and the transactions contemplated hereby (including as a result of the failure to consummate the Closing or for a breach or failure to perform hereunder or otherwise) and none of Buyer or any of its Affiliates or Related Persons shall have any further liability relating to or arising out of this Agreement or the transactions contemplated hereby. Each Party acknowledges that the agreements contained in this Section 10.2 are an integral part of the transactions contemplated by this Agreement, that without these agreements such Party would not have entered into this Agreement.

ARTICLE 11. MISCELLANEOUS.

Section 11.1 Successors and Assigns. Prior to the Closing, neither Buyer nor Sellers shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other, and any such attempted assignment without such prior written consent shall be void ab initio and of no force and effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties to this Agreement.

Section 11.2 Governing Law; Jurisdiction. This Agreement shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of New York (without giving effect to the principles of conflicts of Laws thereof), except to the extent that the Laws of such State are superseded by the Bankruptcy Code. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties to this Agreement irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court. After Sellers are no longer subject to the jurisdiction of the Bankruptcy Court, the parties to this Agreement irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the jurisdiction of, any state or federal court having competent jurisdiction in New York, New York.

Section 11.3 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.3.

Section 11.4 Expenses. Except as expressly otherwise provided herein, each of the parties to this Agreement shall pay its own expenses in connection with this Agreement and the transactions contemplated by this Agreement, including any legal and accounting fees, whether or not the transactions contemplated by this Agreement are consummated. For all purposes under this Agreement, unless otherwise specified herein, any obligation of Sellers to exercise commercially reasonable efforts shall not require the incurrence of any out-of-pocket expenses by Sellers.

Section 11.5 Broker's and Finder's Fees. Each of the parties to this Agreement represents and warrants that it has dealt with no broker or finder in connection with any of the transactions contemplated by this Agreement other than B. Riley Securities, Inc., whose fees and expenses shall, as between the parties to this Agreement, be the responsibility of Sellers, and, to such party's Knowledge, no other broker or other Person is entitled to any commission or broker's or finder's fee in connection with any of the transactions contemplated by this Agreement or the Ancillary Agreements.

Section 11.6 Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void or unenforceable, said provision shall survive to the extent it is not so declared, and all of the other provisions of this Agreement shall remain in full force and effect only if, after excluding the portion deemed to be null, void or unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated by this Agreement in substantially the same manner as originally set forth at the later

of the date this Agreement was executed or last amended. If that is not the case, the Parties shall amend the provision deemed null, void or unenforceable to provide the affected Party the maximum intended benefit of its bargain such that the transactions contemplated by this Agreement can be consummated.

Section 11.7 Notices.

(a) All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (i) on the date of service, if served personally on the party to whom notice is to be given; (ii) when transmitted via electronic mail to the applicable electronic mail address set forth below if confirmation of receipt is obtained promptly after completion of transmission; (iii) on the day after delivery to Federal Express or similar overnight courier or the Express Mail service maintained by the United States Postal Service; or (iv) on the fifth (5th) day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to Sellers:

ABC Home & Carpet
888 Broadway
New York, NY 10003
Attention: Aaron Rose
Email: arose@abchome.com

With a copy to (which copy alone shall not constitute notice):

Greenberg Traurig, LLP
200 Park Avenue
New York, NY 10166
Attention: Oscar N. Pinkas, Esq.
Email: pinkaso@gtlaw.com

If to Buyer:

888 Capital Partners LLC
1350 Broadway
New York, New York 10018
Attention: Brian J. Beller, Esq.
Email: bbeller@tarterkrinsky.com

With a copy to (which copy alone shall not constitute notice):

Robinson Brog Leinwand Greene Genovese & Gluck P.C.
875 3rd Avenue – 9th Floor
New York, New York 10022
Attention: Adam J. Greene, Esq. and Fred B. Ringel, Esq.
Email: ajg@robinsonbrog.com and fbr@robinsonbrog.com

(b) Any party may change its address for the purpose of this Section 11.7 by giving the other party written notice of its new address in the manner set forth above.

Section 11.8 Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties to this Agreement, or in the case of a waiver, by the Party waiving compliance. Any waiver by any Party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not be deemed to be or construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement. Notwithstanding anything in this Section 11.8 to the contrary, Section 9.2(f) may not be amended or waived in a manner that is adverse to any Estate Professional without the written consent of such Estate Professional and this sentence is intended to be for the benefit of each Estate Professional and may be enforced by each such Person as if such Person were a party to this Agreement.

Section 11.9 Time of Essence. Time is of the essence in the performance of each and every term of this Agreement.

Section 11.10 Specific Performance. The provisions of this Agreement are uniquely related to Sellers' and their Affiliates' desire to consummate the transactions contemplated by this Agreement, and such transactions represent a unique business opportunity at a unique time for Sellers and their Affiliates. As a result, irreparable damage would occur to Sellers and their Affiliates in the event that any of the obligations of Buyer under this Agreement were not performed in accordance with their specific terms. Although liquidated or other monetary damages may be available for the breach of covenants and undertakings contained in this Agreement, monetary damages would be difficult to ascertain and an inadequate remedy therefor. Accordingly, if Buyer breaches or threatens to breach any provision of this Agreement, then without limitation to Sellers' rights under Article 10 (including Section 10.2(c)), Sellers shall be entitled to an injunction or injunctions, specific performance and any and all other equitable relief to prevent or restrain breaches or threatened breaches of this Agreement, this being in addition to any other remedies to which it is entitled at Law or equity. If Sellers seek an injunction or injunctions to prevent breaches of this Agreement or seeking to enforce specifically the terms and provisions of this Agreement, Sellers shall not be required to provide, furnish or post any bond or other security in connection with or as a condition to obtaining any such Order or injunction. Buyer irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security. If any Action should be brought in equity to enforce the provisions of this Agreement, Buyer shall not allege, and hereby waives the defense, that there is an adequate remedy at Law.

Section 11.11 Public Announcements. Promptly after the execution and delivery of this Agreement, Sellers shall make a press release in form and substance reasonably satisfactory to the Parties regarding the transactions contemplated herein. Thereafter, no party shall make any press release or public announcement concerning the transactions contemplated by this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld, conditioned or delayed) unless a press release or public announcement is required by Law or Order of the Bankruptcy Court. If any such announcement or other disclosure is required by Law or

Order of the Bankruptcy Court, the disclosing party agrees to give the nondisclosing party prior notice of, and an opportunity to comment on, the proposed disclosure (unless previously disclosed after providing such notice). Notwithstanding anything to the contrary in this Section 11.11, Sellers (a) shall file this Agreement and any schedules hereto with the Bankruptcy Court in connection with obtaining the Sale Order and (b) may disclose this Agreement to its equity holders and lenders to the extent required by the provisions of any of Sellers' bylaws, credit agreements and other pre-existing contractual obligations.

Section 11.12 Entire Agreement. This Agreement (including the Ancillary Agreements referenced herein), the Sale Order and the Confidentiality Agreement between the parties contain the entire understanding between the parties to this Agreement with respect to the transactions contemplated by this Agreement and supersede and replace all prior and contemporaneous agreements and understandings, oral or written, with regard to such transactions. All schedules to this Agreement and any documents and instruments delivered pursuant to any provision of this Agreement are expressly made a part of this Agreement as fully as though completely set forth in this Agreement.

Section 11.13 Parties in Interest. Except as specifically set forth in Section 11.8, nothing in this Agreement is intended to or shall confer any rights or remedies under or by reason of this Agreement on any Persons other than Sellers and Buyer and their respective successors and permitted assigns. Nothing in this Agreement is intended to or shall relieve or discharge the obligations or liability of any third Persons to Sellers or Buyer. This Agreement is not intended to nor shall give any third Persons any right of subrogation or action over or against Sellers or Buyer.

Section 11.14 Bulk Sales Laws. Buyer waives compliance by Sellers and Sellers waive compliance by Buyer, with the provisions of the "bulk sales", "bulk transfer" or similar laws of any state other than any Laws which would exempt any of the transactions contemplated by this Agreement from any Tax liability which would be imposed but for such compliance.

Section 11.15 Construction. The article and section headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. The parties to this Agreement have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. As used in this Agreement, the word "including" and its derivatives means "without limitation" and its derivatives, the word "or" is not exclusive and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole.

Section 11.16 Counterparts and Facsimile. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. Executed signature pages to this Agreement may be delivered by electronic mail and such electronic copies will be deemed as sufficient as if actual signature pages had been delivered.

Section 11.17 Survival of Representations, Warranties and Covenants. The representations, warranties and covenants of Sellers and Buyer set forth in this Agreement and any

Ancillary Agreement and in any certificate delivered pursuant to Section 9.2(d) or Section 9.3(c) shall terminate at, and not survive, the Closing; provided that this Section 11.17 shall not limit any covenant or agreement of the Parties (other than representations and warranties) to the extent that its terms require performance after the Closing.

ARTICLE 12. DEFINITIONS.

Section 12.1 Certain Terms Defined. As used in this Agreement, the following terms have the following meanings:

“Accounts Payable” means money owed by Sellers to its trade creditors for goods and services; provided that “Accounts Payable” shall not include Seller Transaction Expenses or Excluded Liabilities.

“Accounts Receivable” means any and all current (within 90 days) accounts receivable, notes receivable and other amounts receivable owed to Sellers (which are current), together with all security or collateral therefor and any interest or unpaid financing charges accrued thereon, including all Actions pertaining to the collection of such amounts payable, or that may become payable, to Sellers with respect to products sold or services performed on or prior to the Closing Date.

“Action” means any claim, charge, investigation, audit, complaint, action, suit, arbitration or proceeding by or before any Governmental Authority, other than an Avoidance Action.

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such particular Person. For purposes of this definition, “control” (including with correlative meanings, the terms “controlling,” “controlled by” and under “common control with”) means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Alternative Transaction” means any transaction or series of transactions, whether a going concern sale, liquidation or otherwise, that involves a sale of all or substantially all of the Business or the Acquired Assets by Sellers to a purchaser or purchasers other than Buyer.

“Ancillary Agreements” means, collectively, the Assignment and Assumption Agreements, Assignment and Assumption of Leases, Acquired Intellectual Property Assignments, and other certificates, affidavits and releases delivered pursuant to Article 3.

“Avoidance Actions” means any and all claims and remedies of Sellers under Sections 510 and 542 through 553 of the Bankruptcy Code or under similar state Laws, including fraudulent conveyance claims, and all other causes of action of a trustee and debtor-in-possession under the Bankruptcy Code.

“Budget” has the meaning given to such term in the DIP Credit Agreement.

“Business Day” means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in New York, New York are authorized by Law or

other Governmental Authority action to close.

“Business Name” means “ABC,” either alone or in combination with other words, graphics or designs, including all rights in said term as a trade name, trade mark, corporate name, service mark and domain name, including those set forth on Schedule 12.1(a), and any confusingly similar variation, derivative or transaction thereof, but excluding “ABC Kitchens”.

“Buyer Requested Change” means (a) any action taken (or any failure to take an action) by Sellers at the request of Buyer or any Affiliate or designee of Buyer (including in Buyer’s or any Affiliate’s or designee’s capacity as lender pursuant to the DIP Credit Agreement or the Prepetition Secured Indebtedness) or that is reasonably necessary for Sellers to comply with (or is otherwise required by) the DIP Credit Agreement, the Prepetition Secured Indebtedness or this Agreement (whether such action (or failure to act) is operational, financial or otherwise and whether such action (or failure to act) was taken before or after the Effective Date), including, without limitation, the layoff of employees or the limitations on Sellers as a result of the Budget, or (b) any operational constraints or impediments on Sellers resulting from actions taken (or any failure to take any actions) by Buyer or any Affiliate or designee of Buyer (including in Buyer’s or any Affiliate’s or designee’s capacity as lender pursuant to the DIP Credit Agreement or the Prepetition Secured Indebtedness), including, without limitation, any funding (or lack of funding) by Buyer (in Buyer’s capacity as lender under the Prepetition Secured Indebtedness) to Sellers since August 3, 2021 of Sellers’ business expenses as proposed by Sellers to Buyer.

“CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act of 2020, and applicable rules and regulations thereunder, as amended from time to time.

“Cash” means all cash and cash equivalents held by Sellers, including all petty cash, Store-Level Cash, register cash, restricted cash, undeposited checks, cash in transit and marketable securities, in each case as of immediately prior to the Closing (and including the Professional Fee Escrow Amount and the Winddown Amount, (b) any other components of the Purchase Price, and (c) any other fee reserves or escrows established by, on behalf of, or for the benefit of, Sellers).

“Clearance and Consignment Sales” means any clearance and/or consignment sales conducted at any Stores or other facilities of Sellers, pursuant to which any Seller or its designated agents may sell all or any portion of the Inventory, Tangible Assets or other assets of Sellers.

“Claims” encompasses the definition in Bankruptcy Code §101(5) and under this Agreement also includes any and all liabilities, rights, credits, defenses, allowances, rebates, choses in action, rights of recovery, set-off, causes of action, civil or criminal, any contributions received from or owed to charitable or other organizations, assertions of legal or moral responsibility, in each case known or unknown, pending or threatened, at law or in equity, direct or derivative, liquidated or unliquidated, matured or unmatured, disputed or undisputed, choate or inchoate, judgments, demands, rights of first refusal or offer, recoupment, rights of recovery, reimbursement, contribution, indemnity, exoneration, rights under products liability, alter ego, environmental, intellectual property (including any infringement thereof), tort, contract and any other legal or equitable basis of liability, charges of any kind or nature, debts arising in any way in connection with any agreements, acts or failures to act, and all pending, threatened, asserted or unasserted actions against Sellers or any of their Affiliates, or any of their respective current or

former officers, employees, agents or independent contractors, any of their assets or properties, the Business, or any of their operations or activities arising out of or relating to any matter, occurrence, action, omission or circumstance, and includes any Claims against Buyer under doctrines of successor liability or any other ground or theory (which Claim may also be an Interest or Lien).

“Code” means the Internal Revenue Code of 1986, as amended.

“Contract” means any contract, indenture, note, bond, lease, license, premium finance arrangement, purchase order, sales order or other agreement to which any Seller is a party; provided that Contracts do not include any Lease or any employment or similar Contracts.

“COVID-19” means SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), coronavirus disease or COVID-19.

“COVID-19 Measures” means any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, shut down, closure, sequester or any other similar Law, Order, directive, guidelines or recommendations by any Government Authority in connection with or in response to COVID-19, including the CARES Act.

“Cure Amount” means the payment amount necessary to cure a monetary default under a particular Contract or Lease and to allow the Buyer to take assignment of such Contract or Lease under Section 365(a) of the Bankruptcy Code.

“D&O Insurance Policies” means the policies in effect as of the Effective Date that provide for insurance from liability for current and former directors and officers of Sellers, including insurance from liabilities with respect to all claims (including, under “tail” insurance coverage, those claims brought within six (6) years from the Closing Date) arising out of or relating to events which occurred on or prior to the Closing Date (including in connection with the transactions contemplated by this Agreement).

“DIP Credit Agreement” means that certain Post-Petition Loan and Security Agreement, dated on or about the date hereof, by and among Sellers and Buyer, as amended, supplemented, or otherwise modified from time to time.

“DIP Facility” means all loans to and obligations of Sellers in respect of any debtor-in-possession financing advanced to Sellers in the Bankruptcy Case, including the DIP Credit Agreement.

“DIP Order” means the “Interim Order” or the “Final Order” (each as defined in the DIP Credit Agreement), as then applicable.

“Documents” means all files, documents, communications, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, ledgers, journals, title policies, surveys, customer lists, regulatory filings, operating data and plans, technical documentation (design specifications, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic

form.

“Employee Benefit Plans” means (a) all “employee benefit plans,” as defined in Section 3(3) of ERISA, (b) all employment, consulting or other individual compensation agreements, and (c) all bonus or other incentive, equity or equity-based compensation, deferred compensation, severance pay, sick leave, vacation pay, salary continuation, retirement, disability, hospitalization, medical, life insurance, scholarship programs or other plans, contracts, policies or arrangements that provide for compensation or employee benefits, in each case maintained or contributed to by Sellers or as to which Sellers have any material obligation or liability, contingent or otherwise.

“Employee Liabilities” means all liabilities of Sellers to or with respect to all Employees, except for any Transferred Employees, accrued and/or arising prior to the Closing Date and liabilities of the type specified in Section 1114 of the Bankruptcy Code owing to employees of Sellers who have retired prior to the Closing Date.

“Employee Records” means all employment and benefit records (in whatever form maintained) in the possession of Sellers.

“Employees” means all individuals, as of the Effective Date, who are employed by any Seller in connection with the ownership, operation and management of the Business.

“GAAP” means generally accepted accounting principles in the United States.

“Governmental Authority” means any federal, municipal, state, provincial, local or foreign governmental, administrative or regulatory authority, department, agency, commission or body (including any court or similar tribunal).

“Intellectual Property” means (a) all patents and applications therefore, including continuations, divisionals, continuations-in-part, or reissues of patent applications and patents issuing thereon, (b) all trademarks, service marks, trade names, service names, brand names, all trade dress rights, logos, Internet domain names and corporate names and general intangibles of a like nature, including the Business Name, together with the goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof, (c) copyrights and registrations and applications therefore and works of authorship, and mask work rights, (d) all Software of Sellers, (e) confidential information, know-how, trade secrets and inventions, and (f) all other intellectual property including Facebook, Twitter, Instagram, Pinterest, and Google analytical data.

“Interests” means all rights and entitlements of any nature, including security interests, assignments of Liens or Claims, licenses, leases, contract rights, indentures, instruments, licenses, options, escheatment, abandoned property, unclaimed property, covenants, conditions, zoning, planning and any other restrictions, easements, encroachments, Permits or other interests in property or limitations on the use of real property or irregularities in title, rights of first refusal, rights to injunctive or other legal relief, any attributes of ownership, rights or restrictions of any kind and nature, whenever incurred, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, matured or unmatured, legal or equitable (which Interests may also be Liens or Claims).

“Inventory” means all inventory of Sellers (including raw materials, products in-process and finished products) owned by Sellers, whether in transit to or from Sellers and whether located at the Leased Real Property or third parties’ warehouses, distribution facilities, Stores or outlets.

“IT Systems” means the hardware, software, data, databases, data communication lines, network and telecommunications equipment, internet-related information technology infrastructure, wide area network and other information technology equipment, owned, leased or licensed by Sellers.

“IRS” means the United States Internal Revenue Service.

“Knowledge of Seller” means the actual knowledge of Aaron Rose and Dave Lauber, in each case, without independent investigation or inquiry (and will in no event encompass constructive, imputed or similar concepts of knowledge).

“Law” means any federal, state, provincial, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance, code, edict, decree, proclamation, treaty, convention, rule, regulation, ruling, directive, pronouncement, requirement, determination, decision or opinion of any Governmental Authority.

“Leased Real Property” means all leasehold or subleasehold estates and other rights of Sellers to possess, use or occupy (or to grant others the right to possess, use or occupy) any land, buildings, structures, improvements, fixtures or other interest in real property, in each of the foregoing cases, to the extent possessed, used or occupied in connection with the Business.

“Leasehold Improvements” means all buildings, structures, improvements and fixtures that are owned by Sellers and located on any Leased Real Property, regardless of whether title to such buildings, structures, improvements or fixtures are subject to reversion to the landlord or other third party upon the expiration or termination of the Lease for such Leased Real Property.

“Leases” means all leases, ground leases, subleases, licenses and other agreements, including all amendments, extensions, renewals, and other agreements with respect thereto, pursuant to which any Seller has the right to possess, use, lease or occupy (or to grant others the right to possess, use or occupy) any Leased Real Property.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement, other than (a) a lessor’s interest in, and any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement on or affecting a lessor’s interest in, property underlying any leases; (b) any imperfection of title with respect to any asset that does not materially interfere with the present occupancy, use or marketability of such asset and the continuation of the present occupancy or use of such asset; and (c) such covenants, conditions, restrictions, easements, encroachments or encumbrances that are not created pursuant to mortgages or other financing or security documents, or any other state of facts, that do not materially interfere with the present occupancy or use of an asset.

“Material Adverse Effect” means any change, effect, event, occurrence, state of facts or development that has had a materially adverse effect on the value of the Acquired Assets taken as a whole; provided, however, that a “Material Adverse Effect” shall not include any “Material

Adverse Effect” that is cured prior to the earlier of the Closing and the date this Agreement is terminated in accordance with Section 10.1 or any change, effect, event, occurrence, state of facts or development in or attributable to: (a) general economic or business conditions; (b) the United States or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including (i) any disruption in any of the foregoing markets, (ii) debt defaults or other restructuring events of any country with respect to which bondholders take a discount to the debt of any country or any increases in the interest rates for any country’s debt, (iii) any change in the currency exchange rates, (iv) any decline or rise in the price of any security, commodity, contract or index, (v) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the transactions contemplated by this Agreement); (c) acts of God or other calamities, national or international political or social conditions (including any Protest Event and any Protest Measure), including the engagement and/or escalation by the U.S. in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or any of its territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S.; (d) the occurrence, escalation, spread or reemergence of any epidemic, pandemic or disease outbreak, including COVID-19 and any COVID-19 Measures; (e) conditions affecting generally the industry in which Sellers participate; (f) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the transactions contemplated by this Agreement, or the identity of the parties, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with Sellers; (g) the identity or business plans of Buyer or any of its Affiliates; (h) changes in applicable Laws or the interpretation thereof; (i) any change in GAAP or other accounting requirements or principles; (j) national or international political, labor or social conditions; (k) the failure of Sellers to meet or achieve the results set forth in any internal projections; (l) any item or items set forth in the Schedules; (m) changes resulting from, or from any motion, application, pleading or Order filed relating to, the Bankruptcy Case; (n) any existing event or state of facts with respect to which Buyer has knowledge as of the date hereof; (o) any planned or existing Clearance and Consignment Sales or employee layoffs; (p) any action of Sellers taken pursuant to, or any failure of Sellers to take any action prohibited by, any Order of the Bankruptcy Court, this Agreement or any of the Ancillary Agreements to which Sellers is a party; or (q) any Buyer Requested Change.

“Material Contract” means any of the following Contracts relating to, connected with or used in the Business, to which any Seller is a party, or by which any of the Acquired Assets or any of the assets and properties of any Seller are bound:

(i) any limited liability company agreement, joint venture, partnership agreement, profit sharing arrangement or other similar agreement or arrangement relating to the formation, creation, operation, management or control of any partnership or joint venture with regard to which a Seller is a party;

(ii) any Contract for the purchase or sale of goods, services, assets, properties, rights and claims resulting in expenses by any Seller in excess of \$250,000;

(iii) any Contract for the sale of goods, services, assets, properties, rights or claims resulting in revenue to any Seller in excess of \$250,000;

(iv) any Contract relating to (A) any outstanding capital lease obligations requiring annual payments in excess of \$250,000 or (B) conditional sale arrangements;

(v) a loan, guarantee of Indebtedness or Contract relating to indebtedness of Sellers, or pursuant to which Sellers have mortgaged, pledged or otherwise placed an encumbrance on any portion of the properties or assets of Sellers;

(vi) any Contract that requires any Seller to make a loan or capital contribution to or investment in any Person;

(vii) any material Contract for the lease of tangible personal property;

(viii) any material Contract providing for the indemnification by a Seller;

(ix) any Contract which purports to limit the right of any Seller to engage freely or compete in any line of business or to compete with any Person or operate in any location;

(x) any Contract that relates to the development, ownership, licensing or use of Intellectual Property (other than a shrink wrap or similar license for generally available “off-the-shelf” software);

(xi) a settlement or similar agreement with any Governmental Authority or Order or Consent of a Governmental Authority to which any Seller is subject involving future performance by such Seller which is material to Sellers, taken as a whole; and

(xii) any Lease.

“Order” means any order, writ, injunction, decree, stipulation, judgment, award, determination, direction or demand of a Governmental Authority.

“Ordinary Course” means the ordinary course of business consistent with past custom and practice for the month prior to the Petition Date and including any Buyer Requested Change (including with respect to quantity and frequency), including, for the avoidance of doubt, recent past practice in light of COVID-19 and as reasonably necessary or appropriate in connection with any COVID-19 Measures or any Protest Measures.

“Participant” means Ms. Paulette Cole.

“Permit” means any material permit, license, authorization, registration or certificate obtained from any Governmental Authority.

“Permitted Liens” mean: (a) all Liens set forth on Schedule 12.1(b); (b) Liens and Interests consisting of (X) current Taxes and assessments, Liens for Taxes that are not yet delinquent or that are being contested in good faith, reservations in patents, and all easements, rights-of-way, encumbrances, Liens, covenants, conditions, restrictions, obligations, liabilities and other matters

as may appear on record, and (Y) the applicable zoning and use regulations or other Laws of any Governmental Authority; (c) purchase money Liens securing payments under capital lease arrangements; (d) all terms, conditions and restrictions under any Permit; (e) Liens securing Sellers' obligations under the DIP Credit Agreement and the Prepetition Secured Indebtedness; (f) Liens that will attach to the proceeds of the sale under this Agreement pursuant to Section 363 of the Bankruptcy Code or that will not survive the Closing; (g) all Liens in respect of any Assumed Contract or Assumed Liability, and (h) Liens that Buyer agrees in writing to accept.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or Governmental Authority.

“Pre-Closing Taxes” means any Taxes paid, payable, or that become payable, in connection with Sellers or any of their Affiliates or relating to the Business in respect of a taxable period (or portion thereof) ending as of 11:59 p.m. E.T. on the day prior to the Closing Date.

“Prepetition Secured Indebtedness” means all loans to and obligations of Sellers relating to the Loan and Security Agreement dated as of October 1, 2020 (as amended, restated, modified and/or supplemented from time to time, including by the Agreement and Modification dated August 16, 2021 and the Agreement and Modification dated September 1, 2021) between Sellers and Gerber Finance Inc., a New York corporation and the Assignment of Loans, Liens and Loan Documents dated as of August 3, 2021 by and between Gerber Finance Inc. and Buyer whereby Gerber Finance Inc. assigned the Loan and Security Agreement, the Revolving Credit Advances (as defined therein) made under the Loan and Security Agreement and the other Loan Documents (as defined in the Assignment of Loans, Liens and Loan Documents) to Buyer subject to the Participant's interest therein (including in the outstanding Revolving Credit Advances under the Loan Agreement) pursuant to the Participation Agreement dated as of July 21, 2021, as amended, modified or supplemented from time to time, by and between Buyer, as successor to Gerber Finance Inc., and Participant.

“Protest Event” means any protests, riots, demonstrations or public disorders or any escalation or worsening of protests, riots, demonstrations or public disorders (including any such event related to any U.S. election (including any disputes concerning the results of any such election) or the orderly transition of power).

“Protest Measures” means any measures taken in response to any Protest Event, including any temporary closures of any properties and including compliance with any curfew, closure, hut down, directive, order, policy, guidance or recommendation by any Governmental Authority or any disaster plan of Sellers or any change in applicable Laws related to, arising from or as a result of any Protest Event.

“Registered IP” means all Acquired Intellectual Property that is registered, filed or issued under the authority of, with or by any Governmental Authority, including all patents, registered copyrights, registered mask works and registered trademarks and all applications for any of the foregoing.

“Related Person” means, with respect to any Person, all past, present and future directors, officers, members, managers, stockholders, employees, controlling persons, agents, professionals,

attorneys, accountants, investment bankers or representatives of any such Person.

“Retained Litigation” means all litigation, claims and cause of action, and related rights and defenses of Sellers, other than litigation, claims and causes of action, and related rights and defenses of Sellers, which are Acquired Assets pursuant to Section 1.1 arising or related to events prior to the Closing.

“Sale Hearing” means a hearing conducted by the Bankruptcy Court pursuant to the Bid Procedures Order to consider approval of the sale of Sellers’ assets.

“Seller D&Os” means the current or former directors and officers of a Seller.

“Seller Transaction Expenses” means all liabilities and obligations of Sellers arising under or incurred in connection with the negotiation, preparation, execution and performance of this Agreement, the Ancillary Agreements to which any Seller is a party and the transactions contemplated hereby and thereby, including fees and expenses of counsel, accountants, consultants, bankers, brokers, advisors and others.

“Software” means any and all (a) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (b) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (c) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, (d) screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (e) all Documents related to any of the foregoing.

“Store” means a store operated by any Seller.

“Store-Level Cash” means all Cash located at the Stores as of the Closing.

“Straddle Period” means any taxable period beginning prior to, and ending after, the Closing Date.

“Tax Return” means any report, return, information return, filing or other information, including any schedules, exhibits or attachments thereto, and any amendments to any of the foregoing required to be filed or maintained in connection with the calculation, determination, assessment or collection of any Taxes (including estimated Taxes).

“Taxes” means all taxes, however denominated, including any interest, penalties or additions to tax that may become payable in respect thereof, imposed by any Governmental Authority, which taxes shall include all income taxes, payroll and employee withholding, unemployment insurance, social security (or similar), sales and use, excise (whether or not deferred), franchise, gross receipts, occupation, real and personal property, stamp, transfer, worker’s compensation, customs duties, registration, documentary, value added, alternative or add-on minimum, estimated, environmental (including taxes under section 59A of the Code) and other obligations of the same or a similar nature, whether arising before, on or after the Closing Date; and “Tax” shall mean any one of them.

“Taxing Authority” means a Governmental Authority responsible for the assessment, collection, determination or administration of any Tax.

“WARN Act” means the Worker Adjustment and Retraining Notification Act and any similar state or local Law.

“Winddown Amount” means \$250,000 drawn at the Closing pursuant to the DIP Credit Agreement.

Section 12.2 All Terms Cross-Referenced. Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Acquired Assets	Section 1.1
Acquired Intellectual Property	Section 1.1(h)
Acquired Intellectual Property Assignment	Section 3.2(d)
Agreement	Preamble
Allocation	Section 8.3
Assignment and Assumption Agreement	Section 3.2(b)
Assignment and Assumption of Lease	Section 3.2(c)
Assumed Contracts	Section 1.1(d)
Assumed Insurance Policies	Section 1.1(f)
Assumed Leased Real Property	Section 1.1(c)
Assumed Leases	Section 1.1(c)
Assumed Liabilities	Section 1.3
Bankruptcy Case	Recitals
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bid Procedures Order	Recitals
Break-Up Fee	Section 10.2(b)
Business	Recitals
Business Trade Secrets	Section 4.1(p)(iii)
Buyer	Preamble
Carpet	Preamble
Cash Purchase Price	Section 2.1
Closing	Section 3.1
Closing Date	Section 3.1
Credit Bid Amount	Section 2.1
Creditors’ Committee	Section 9.2(f)
Customer Order	Section 1.1(i)
Customer Order Obligations	Section 1.3(a)
Effective Date	Preamble
Eligible Accounts Receivable	Section 1.1(a)
Eligible Inventory	Section 1.1(a)
Estate Professionals	Section 9.2(f)
Excluded Assets	Section 1.2


Excluded Benefit Plans	Section 1.2(j)
Excluded Employee Liabilities	Section 1.4(b)
Excluded Insurance Policies	Section 1.2(b)
Excluded Liabilities	Section 1.4
Expense Reimbursement	Section 6.1(a)(i)
Home	Preamble
Interim Period	Section 5.1(a)
Insurance Policies	Section 4.1(l)
Liquor Licenses	Section 1.2(r)
Oriental	Preamble
Outside Date	Section 10.1(c)
Petition Date	Recitals
Purchase Price	Section 2.1
Qualifying Excluded Contracts	Section 1.2(p)
Party(ies)	Preamble
Professional Fee Claims	Section 9.2(f)
Professional Fee Escrow Account	Section 9.2(f)
Professional Fee Escrow Amount	Section 9.2(f)
PTO	Section 5.4(b)
Sale Order	Recitals
Seller(s)	Preamble
Tangible Assets	Section 1.1(e)
Termination Fee	Section 10.2(c)
Transaction Taxes	Section 8.1
Transferred Contracts	Section 1.5(a)
Transferred Employees	Section 5.4(a)
Transition Service Contribution	Section 6.2
Winddown Amount	Section 9.2(g)

[Signatures are on the following pages.]

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the Effective Date.

BUYER:

888 Capital Partners, LLC

By: 
Name: Brian Beller
Title: Authorized Signatory

[Signature Page to Asset Purchase Agreement]

SELLERS:

A.B.C. Carpet Co., Inc.

By: ARR
Name: Aaron R Rose
Title: CEO

A.B.C. Home Furnishings, Inc.

By: ARR
Name: Aaron R Rose
Title: CEO

A.B.C. Oriental Carpets, Inc.

By: ARR
Name: Aaron R Rose
Title: CEO

[Signature Page to Asset Purchase Agreement]

Exhibit A

Form of Assignment and Assumption Agreement

(see attached)

Assignment and Assumption Agreement

This Assignment and Assumption Agreement (the “**Agreement**”), effective as of [●], 2021, is by and among A.B.C. Carpet Co., Inc., a New York corporation (“**Carpet**”), A.B.C. Home Furnishings, Inc., a New York corporation (“**Home**”), and A.B.C. Oriental Carpets, Inc., a New York corporation (“**Oriental**,” and together with Carpet and Home, each a “**Seller**” and collectively “**Sellers**”), and 888 Capital Partners, LLC, a New York limited liability company (“**Buyer**”).

WHEREAS, Sellers and Buyer have entered into a certain Asset Purchase Agreement, dated as of September 8, 2021 (the “**Purchase Agreement**”), pursuant to which, among other things, Sellers have agreed to assign all of their right, title and interest in, and Buyer has agreed to assume all of Sellers’ duties and obligations under, the Assumed Contracts and the Assumed Liabilities (each as defined in the Purchase Agreement).

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. All capitalized terms used in this Agreement but not otherwise defined herein are given the meanings set forth in the Purchase Agreement.

2. Assignment and Assumption. Each Seller hereby sells, assigns, grants, conveys and transfers to Buyer all of such Seller’s right, title and interest in and to the Assumed Contracts and the Assumed Liabilities, and Buyer hereby accepts such assignment and assumes all of each Seller’s duties and obligations under the Assumed Contracts and Assumed Liabilities and agrees to pay, perform and discharge, as and when due, all of the obligations of such Seller under the Assumed Contracts and Assumed Liabilities in accordance with the Purchase Agreement.

3. Terms of the Purchase Agreement. The terms of the Purchase Agreement, including, but not limited to, the representations, warranties, covenants and agreements relating to the Assumed Contracts and Assumed Liabilities are incorporated herein by this reference. The parties hereto acknowledge and agree that the representations, warranties, covenants and agreements contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. 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.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

5. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

6. Further Assurances. Each of the parties hereto shall execute and deliver, at the reasonable request of the other party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

SELLERS:

A.B.C. Carpet Co., Inc.

By: _____
Name: _____
Title: _____

A.B.C. Home Furnishings, Inc.

By: _____
Name: _____
Title: _____

A.B.C. Oriental Carpets, Inc.

By: _____
Name: _____
Title: _____

BUYER:

888 Capital Partners, LLC

By: _____
Name: _____
Title: _____

Exhibit B

Form of Assignment and Assumption of Lease

(see attached)

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

FOR VALUE RECEIVED, A.B.C. Carpet Co., Inc., a New York corporation (“**Carpet**”), A.B.C. Home Furnishings, Inc., a New York corporation (“**Home**”), and A.B.C. Oriental Carpets, Inc., a New York corporation (“**Oriental**,” and together with Carpet and Home, each an “**Assignor**” and collectively “**Assignors**”) each hereby assigns, conveys, transfers, and sets over to and 888 Capital Partners, LLC, a New York limited liability company (“**Assignee**”), its successors and assigns, all of such Assignor’s right, title, and interest in, to, and under the Assumed Leases (as defined in the Purchase Agreement, which is defined below) set forth on Exhibit A-1 attached hereto, covering the premises identified in the Assumed Leases, together with all options, rights, contracts, licenses, permits, deposits, and profits appurtenant to or related to the Assumed Leases. This Assignment and Assumption of Lease Agreement (the “**Assignment**”) is subject to the terms and conditions of that certain Asset Purchase Agreement, dated September 8, 2021, by and among Assignee and Assignors (the “**Purchase Agreement**”).

Assignee hereby accepts the foregoing assignment and assumes all of the obligations of Assignors as tenant under the Assumed Leases accruing from and after the date hereof and agrees, for the benefit of Assignors, its successors and assigns, and for the benefit of the Landlords, their successors and assigns, to pay, perform, discharge when due, and otherwise satisfy in due course all of such obligations and liabilities of the Assignors under and in accordance with the provisions of each such Assumed Lease.

The terms of the Purchase Agreement, including, but not limited to, the representations, warranties, covenants and agreements relating to the Assumed Leases are incorporated herein by this reference. The parties hereto acknowledge and agree that the representations, warranties, covenants and agreements contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. 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.

This Assignment shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Assignment delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Assignment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment and Assumption of Lease Agreement as of [●], 2021.

ASSIGNORS:

A.B.C. Carpet Co., Inc.

By: _____
Name: _____
Title: _____

A.B.C. Home Furnishings, Inc.

By: _____
Name: _____
Title: _____

A.B.C. Oriental Carpets, Inc.

By: _____
Name: _____
Title: _____

ASSIGNEE:

888 Capital Partners, LLC

By: _____
Name: _____
Title: _____

EXHIBIT A-1

Assumed Leases

Agreement Title	Agreement Date	Agreement Landlord	Agreement Premises

Exhibit C-1

Form of Acquired Intellectual Property Assignment (Registered IP)

(see attached)

INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

This INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT (“**IP Assignment**”), dated as of [●], 2021, is by and among A.B.C. Carpet Co., Inc., a New York corporation (“**Carpet**”), A.B.C. Home Furnishings, Inc., a New York corporation (“**Home**”), and A.B.C. Oriental Carpets, Inc., a New York corporation (“**Oriental**,” and together with Carpet and Home, each a “**Seller**” and collectively “**Sellers**”), and 888 Capital Partners, LLC, a New York limited liability company (“**Buyer**”), pursuant to an Asset Purchase Agreement by and among Sellers and Buyer, dated as of September 8, 2021 (the “**Asset Purchase Agreement**”).

WHEREAS, under the terms of the Asset Purchase Agreement, Sellers have conveyed, transferred, and assigned to Buyer, among other assets, certain intellectual property of Sellers, and has agreed to execute and deliver this IP Assignment, for recording with the United States Patent and Trademark Office, the United States Copyright Office and corresponding entities or agencies in any applicable jurisdictions;

NOW THEREFORE, the parties agree as follows:

1. Assignment. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sellers hereby irrevocably convey, transfer, and assign to Buyer, and Buyer hereby accepts, all of Sellers’ right, title, and interest in and to the following (the “**Assigned IP**”):

(a) the patents and patent applications set forth on Schedule 0 hereto and all issuances, divisions, continuations, continuations-in-part, reissues, extensions, reexaminations, and renewals thereof (the “**Patents**”);

(b) the trademark registrations and applications set forth on Schedule 0 hereto and all issuances, extensions, and renewals thereof (the “**Trademarks**”), together with the goodwill of the business connected with the use of, and symbolized by, the Trademarks; provided that, with respect to the United States intent-to-use trademark applications set forth on Schedule 2 hereto, the transfer of such applications accompanies, pursuant to the Asset Purchase Agreement, the transfer of Sellers’ business, or that portion of the business to which the trademark pertains, and that business is ongoing and existing;

(c) the copyright registrations, applications for registration, and exclusive copyright licenses set forth on Schedule 0 hereto and all issuances, extensions, and renewals thereof (the “**Copyrights**”);

(d) all rights of any kind whatsoever of Sellers accruing under any of the foregoing provided by applicable law of any jurisdiction, by international treaties and conventions, and otherwise throughout the world;

(e) any and all royalties, fees, income, payments, and other proceeds now or hereafter due or payable with respect to any and all of the foregoing;

(f) all other Acquired Intellectual Property (as such term is defined in the Asset Purchase Agreement); and

(g) any and all claims and causes of action with respect to any of the foregoing, whether accruing before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, dilution, misappropriation, violation, misuse, breach, or default, with the right but no obligation to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.

2. Recordation and Further Actions. Sellers hereby authorizes the Commissioner for Patents and the Commissioner for Trademarks in the United States Patent and Trademark Office, the Register of Copyrights in the United States Copyright Office, and the officials of corresponding entities or agencies in any applicable jurisdictions to record and register this IP Assignment upon request by Buyer. Following the date hereof, upon Buyer's reasonable request, and at Buyer's sole cost and expense, Sellers shall take such steps and actions, and provide such cooperation and assistance to Buyer and its successors, assigns, and legal representatives, including the execution and delivery of any affidavits, declarations, oaths, exhibits, assignments, powers of attorney, or other documents, as may be reasonably necessary to effect, evidence, or perfect the assignment of the Assigned IP to Buyer, or any assignee or successor thereto.

3. Terms of the Asset Purchase Agreement. The parties hereto acknowledge and agree that this IP Assignment is entered into pursuant to the Asset Purchase Agreement, to which reference is made for a further statement of the rights and obligations of Sellers and Buyer with respect to the Assigned IP. The representations, warranties, covenants and agreements contained in the Asset Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Asset Purchase Agreement and the terms hereof, the terms of the Asset Purchase Agreement shall govern.

4. Counterparts. This IP Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same agreement. A signed copy of this IP Assignment delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this IP Assignment.

5. Successors and Assigns. This IP Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

6. Governing Law. This IP Assignment and any claim, controversy, dispute, or cause of action (whether in contract, tort, or otherwise) based upon, arising out of, or relating to this IP Assignment and the transactions contemplated hereby shall be governed by, and construed in accordance with, the laws of the United States and the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

[signature page follows]

IN WITNESS WHEREOF, Sellers have duly executed and delivered this IP Assignment as of the date first above written.

SELLERS:

A.B.C. Carpet Co., Inc.

By: _____
Name: _____
Title: _____

A.B.C. Home Furnishings, Inc.

By: _____
Name: _____
Title: _____

A.B.C. Oriental Carpets, Inc.

By: _____
Name: _____
Title: _____

AGREED TO AND ACCEPTED:

888 CAPITAL PARTNERS, LLC

By: _____
Name:
Title:

Address for Notices:

SCHEDULE 1

ASSIGNED PATENTS AND PATENT APPLICATIONS

Patents

Title	Jurisdiction	Patent Number	Issue Date

Patent Applications

Title	Jurisdiction	Application/ Publication Number	Filing Date

SCHEDULE 2

ASSIGNED TRADEMARK REGISTRATIONS AND APPLICATIONS

Trademark Registrations

Mark	Jurisdiction	Registration Number	Registration Date

Trademark Applications

Mark	Jurisdiction	ITU Status	Application Serial Number	Filing Date

SCHEDULE 3

ASSIGNED COPYRIGHT REGISTRATIONS AND APPLICATIONS

Copyright Registrations

Title	Jurisdiction	Registration Number	Registration Date
[under exclusive license between [LICENSOR] and [LICENSEE] pursuant to [AGREEMENT TITLE] dated [DATE]]			

Copyright Applications

Title	Jurisdiction	Application Number	Filing Date
[under exclusive license between [LICENSOR] and [LICENSEE] pursuant to [AGREEMENT TITLE] dated [DATE]]			

Exhibit C-2

Form of Acquired Intellectual Property Assignment (Domain Names)

(see attached)

Domain Name Transfer Agreement

This Domain Name Transfer Agreement (“**Agreement**”), dated as of [●], 2021, is by and among A.B.C. Carpet Co., Inc., a New York corporation (“**Carpet**”), A.B.C. Home Furnishings, Inc., a New York corporation (“**Home**”), and A.B.C. Oriental Carpets, Inc., a New York corporation (“**Oriental**,” and together with Carpet and Home, each a “**Seller**” and collectively “**Sellers**”), and 888 Capital Partners, LLC, a New York limited liability company (“**Buyer**”), pursuant to an Asset Purchase Agreement by and among Sellers and Buyer, dated as of September 8, 2021 (the “**Asset Purchase Agreement**”).

WHEREAS, the applicable Sellers are the owner of all right, title, and interest in the domain names set forth on Schedule 1 annexed hereto (the “**Domain Names**”) and is the registrant of the Domain Names with the registrars set forth on Schedule 1.

WHEREAS, pursuant to the terms and conditions of the Asset Purchase Agreement, Buyer wishes to acquire all right, title, and interest in the Domain Names and the registration thereof; and

WHEREAS, the parties have agreed to the applicable Sellers’ sale of the Domain Names to Buyer on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Domain Name Assignment. Each Seller hereby irrevocably sells, assigns, transfers, and conveys to Buyer:

(a) all right, title, and interest in and to the Domain Names, including the current registration thereof with the registrars set forth on Schedule 1; and

(b) any other rights (including, but not limited to, trademark rights in any jurisdiction) Sellers may have in the Domain Names, including any goodwill associated therewith.

2. Assistance. Sellers agree to perform all acts deemed necessary or desirable by Buyer to permit and assist Buyer in perfecting and enforcing the full benefits, enjoyment, rights, title and interest in the Domain Names, and the intellectual property rights therein assigned to Buyer hereunder. Such acts may include execution of documents, including any and all powers of attorney, applications, assignments, declarations, affidavits, and any other papers in connection therewith reasonably necessary to perfect such benefits, enjoyment, rights, title and interest in Buyer, assistance and cooperation in the registration and enforcement of applicable intellectual property rights or other legal proceedings, including providing documents and materials in the possession or control of Sellers, testifying in any legal proceedings, signing lawful papers and making all lawful oaths at Buyer’s expense, and generally doing everything that is reasonably necessary to aid Buyer in obtaining and enforcing proper protection for applicable intellectual property rights.

3. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the United States and the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

(b) This Agreement shall be binding upon and shall inure to the benefit of Sellers and Buyer and their respective successors and assigns.

(c) Nothing herein shall be deemed to modify or diminish, and the sale and assignment set forth herein is subject to and qualified by, the representations, warranties, covenants, obligations, and limitations thereon of the parties hereto provided in the Asset Purchase Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Asset Purchase Agreement, the Asset Purchase Agreement shall govern.

(d) This Agreement, together with the Asset Purchase Agreement and all of the Ancillary Agreements (as defined in the Asset Purchase Agreement) all related exhibits and schedules, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

(e) This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto, and any of the terms thereof may be waived, only by a written document signed by each party to this Agreement or, in the case of waiver, by the party or parties waiving compliance.

(f) This Agreement may be executed in multiple counterparts and by facsimile signature, each of which shall be deemed an original and all of which together shall constitute one instrument. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLERS:

A.B.C. Carpet Co., Inc.

By: _____

Name: _____

Title: _____

A.B.C. Home Furnishings, Inc.

By: _____

Name: _____

Title: _____

A.B.C. Oriental Carpets, Inc.

By: _____

Name: _____

Title: _____

BUYER:

888 Capital Partners, LLC

By: _____

Name: _____

Title: _____

SCHEDULE 1

DOMAIN NAMES

Domain Name	Registrar

Exhibit B

Assigned Contracts and Cure Amounts

Assigned Contracts* and Cure Amounts

*Regardless of whether included below, this Exhibit includes any and all amendments, modifications, supplements, etc. with respect to the Contracts and Leases included below.

No.	Counterparty Name	Counterparty Address	Debtor	Description	Cure Amount
1	1-10 Bush Terminal Owner LP d/b/a Industry City	1. c/o Stempel Bennett Claman & Hochberg, P.C Attn: Edmond P. O'Brien, Esq. 675 Third Avenue, 31st Floor New York, NY 10017 2. Attn: Legal Department Andrew Kimball 220 36th Street, Suite 2A Brooklyn, NY 11232	A.B.C. Home Furnishings, Inc.	Lease, dated as of March 31, 2021, for Brooklyn Outlet, 220 36th Street, Brooklyn, NY 11232, referred to as Building #2, Suite 2-B-A, 2-1-A, and 2-2-AW	\$0.00 ¹
2	Barbara Freeman Bogatin, Inc. d/b/a Simply Down	400 East 55 th Street, Apt. 4-B New York, NY 10022	A.B.C. Home Furnishings, Inc.	License Agreement, dated September 2014	\$0.00 ²
3	Canto, Inc.	625 Market Street, Ste 600 San Francisco, CA 94105	A.B.C. Home Furnishings, Inc.	Canto Licensing Agreement, dated April 17, 2020	\$12,250.00
4	Denis Trading, Inc. d/b/a Hamam	1. Sanayi Ve Ticaret Limited Sirket Organize Sanayi Bolgesi, Seyrerg Caddesi, No. 7 Denizli, Turkey 20065	A.B.C. Home Furnishings, Inc.	License Agreement, dated August 29, 2017	\$23,216.40

¹ Cure Amount is subject to an Adjudged Cure Objection. See Exhibit E.

² Cure Amount was previously paid pursuant to the Critical Vendor Orders [Docket Nos. 37, 119].

No.	Counterparty Name	Counterparty Address	Debtor	Description	Cure Amount
		2. 230 Fifth Avenue, Ste. 1904A New York, NY 10001		1. 1 Industrial Tract Annex, Ste. 6 Hudson, NY 12534	
5	Hawkins New York LLC	2. c/o Bond Schoeneck & King Attn: Sara Temes One Lincoln Center Syracuse, NY 13202-1355	A.B.C. Home Furnishings, Inc.	License Agreement, dated January 13, 2021	\$0.00 ³
6	Industrial Tractor Parts, Co., Inc.	28-15 14 th Street Call Box 2506 Long Island City, NY 11102	A.B.C. Carpet Co., Inc.	Lease, dated October 14, 2020	\$0.00
7	Kevin O'Brien Studio, Inc.	1412 S. Broad Street Philadelphia, PA 19146	A.B.C. Home Furnishings, Inc.	License Agreement, dated May 15, 2018	\$0.00 ⁴

³ Cure Amount was previously paid pursuant to the Critical Vendor Orders [Docket Nos. 37, 119].

⁴ Cure Amount was previously paid pursuant to the Critical Vendor Orders [Docket Nos. 37, 119].

Exhibit C

Retained Contracts*

*Regardless of whether included below, this Exhibit includes any and all amendments, modifications, supplements, etc. with respect to the Contracts and Leases included below.

1. Quote 12478996 between CenturyLink Communications, LLC d/b/a Lumen Technologies Group and its affiliated entities and A.B.C. Carpet Co., Inc., prepared 6/25/21 and executed on 7/4/21, for internet/ethernet services for 882 3rd Avenue, Brooklyn, NY 11232.

2. Service Order (No. 11398875), between Charter Communications Operating, LLC d/b/a Spectrum and A.B.C. Carpet Co., Inc. for internet and ethernet services for 3906 2nd Avenue, Fl 1, Brooklyn, NY 11232.

3. Agreement for Services by and between Windstream and A.B.C. Carpet Co., Inc., dated December 19, 2018.

4. FedEx Transportation Services Agreement, dated October 28, 2019, by and between A.B.C. Carpet Co., Inc. and FedEx.

5. Managed Services Contract, by and between Presidio Networked Solutions, Inc. and A.B.C. Carpet Co., Inc., dated July 24, 2018.

a. Quote issued by Presidio Networked Solutions Group, LLC and A.B.C. Carpet Co., Inc., dated March 29, 2019.

b. Renewal commencing April 1, 2019.

6. Warehouse, Transportation and Delivery Services Agreement, dated as of February 4, 2020, by and between A.B.C. Home Furnishings, Inc. and Ryder Last Mile, Inc.

Exhibit D

Rejected Contracts

Rejected Contracts*

*Regardless of whether included below, this Exhibit includes any and all amendments, modifications, supplements, etc. with respect to the Contracts and Leases included below.

No.	Counterparty Name	Counterparty Address	Debtor	Description
1.	Aaron Probyn	33 2 nd Place Brooklyn, NY 11231	A.B.C. Home Furnishings, Inc.	License and Distribution Agreement, dated February 3, 2020
2.	Access Point, Inc.	1100 Crescent Green, Suite 109 Cary, NC 27518	A.B.C. Carpet Co., Inc.	Commercial Service Agreement, dated June 23, 2017
3.	Access Point, Inc.	1100 Crescent Green, Suite 109 Cary, NC 27518	A.B.C. Carpet Co., Inc.	Service Authorization Agreement, dated June 17, 2017
4.	ACI Worldwide Corp.	6060 Coventry Drive Elkhorn, NE 68022	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Software License and Services Master Agreement, dated March 3, 2014
5.	ADP	Attn: Christine Sever New York Metro Region P.O. Box 7247-0372 Philadelphia, PA 19170-0372	A.B.C. Home Furnishings, Inc.	Onboarding & Document Cloud Contract, dated February 4, 2020
6.	AMDX LLC	159 20 th Street, 1B-22 Brooklyn, NY 11232	A.B.C. Home Furnishings, Inc.	Affiliate Marketing Management Agreement, dated November 2, 2016
7.	AMMAA421, LLC	Address on file.	A.B.C. Carpet Co., Inc.	Sublease, dated December 12, 2017 for a portion of the Upper Unit of the 880 Broadway Condominium, 880-888 Broadway, New York, NY 10003

No.	Counterparty Name	Counterparty Address	Debtor	Description
8.	AMMA421, LLC	Address on file.	A.B.C. Carpet Co., Inc.	Sub-Sublease, dated December 12, 2017 for Third Floor of 33-35 East 18 th Street at/k/a 32-38 East 19 th Street, New York, NY
9.	AMMA421, LLC	Address on file.	A.B.C. Home Furnishings, Inc.	Sub-Sublease, dated December 12, 2017
10.	Anna Sovva LP d/b/a Anna Sovva At ABC	10455 North Central Expressway Suite 108 Dallas, TX 75335	A.B.C. Home Furnishings, Inc.	License Agreement, dated April 21, 2021
11.	AVE Investments Inc.	1085 Bluff Drive Osage Beach, Missouri 65065 Attn: James Dean Turner jayt@pecashdrawer.com	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Hardware Proposal with Associated Professional Services Agreement, dated April 8, 2014
12.	CenturyLink Communications, LLC d/b/a Lumen Technologies Group and its affiliated entities	1919 Park Avenue Weehawken, NJ 07086	A.B.C. Carpet Co., Inc.	Internet Services Contract (No. DOC-0000934874/SM1745919), dated July 19, 2021 for 2813 14 th Street, Long Island City, NY 11102
13.	CenturyLink Communications, LLC d/b/a Lumen Technologies Group and its affiliated entities	1919 Park Avenue Weehawken, NJ 07086	A.B.C. Carpet Co., Inc.	IP Addressing Justification Form [Doc No. DOC-0000946798/SM100021051], dated August 3, 2021, for servers and routers for 1115 West Middlesex Avenue, Port Reading, New Jersey 07064
14.	Cisco Systems Capital Corporation	170 West Tasman Drive San Jose, CA 95134 Attn: Tim Veitz	A.B.C. Carpet Co., Inc.	Lease Financing on Equipment and Services Agreement, dated July 13, 2018

No.	Counterparty Name	Counterparty Address	Debtor	Description
		twertz@cisco.com		
15.	Coalfire Systems, Inc.	11000 Westmoor Circle, Suite 450 Westminster, CO 80021	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Service Order, dated April 10, 2019
16.	Coalfire Systems, Inc.	11000 Westmoor Circle, Suite 450 Westminster, CO 80021 Attn: Grace Lawrence	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Service Order, dated March 9, 2018
17.	Coalfire Systems, Inc.	11000 Westmoor Circle, Suite 450 Westminster, CO 80021	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Service Order Agreement, dated April 3, 2019
18.	Convergence Consulting Group	2502 North Rocky Point Drive, Suite 650 Tampa, FL 33607	A.B.C. Home Furnishings, Inc.	BI Analytics Services SOW, dated July 9, 2019
19.	Convergence Consulting Group	2502 North Rocky Point Drive, Suite 650 Tampa, FL 33607	A.B.C. Home Furnishings, Inc.	Rapid Roadmap SOW, dated July 9, 2019
20.	Crest Circle Management Consultants	4 South Orange Avenue, #256 South Orange, NJ 07079 Attn: Mike Morris mike@crestcirclemgmt.com	A.B.C. Home Furnishings, Inc.; A.B.C.	Statement of Work, dated October 29, 2017

No.	Counterparty Name	Counterparty Address	Debtor	Description
			Carpet Co., Inc.	
21.	Crest Circle Management Consultants	4 South Orange Avenue, #256 South Orange, NJ 07079 Attn: Mike Morris mike@crestcirclemgmt.com	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Interim Statement of Work Agreement, dated June 8, 2018
22.	Dito, LLC	9913 Sugarwood Lane Manassas, VA 20110	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Google Agreement, dated October 21, 2016
23.	Earthlink Business, LLC and/or its affiliates	2150 Holmgren Way Green Bay, WI 54304	A.B.C. Carpet Co., Inc.	Service Agreement for Brooklyn location, dated November 9, 2016
24.	Earthlink Business, LLC and/or its affiliates	2150 Holmgren Way Green Bay, WI 54304	A.B.C. Carpet Co., Inc.	3-Year Service Agreement (Quote ID 1178705), dated December 19, 2018, for 2813 14 th Street, Astoria, NY 11102
25.	FedEx	PO Box 371461 Pittsburgh, PA 15250-7461	A.B.C. Carpet Co., Inc.; A.B.C. Home Furnishings, Inc.	Domestic Agreement
26.	FedEx	PO Box 371461 Pittsburgh, PA 15250-7461	A.B.C. Carpet Co., Inc.	U.S. Import Express Services Agreement (No. 3631252) for Account No. ending 2947
27.	Forter, Inc.	12 East 49 th Street New York, NY 10017	A.B.C. Carpet Co., Inc.; A.B.C.	Merchant Services Agreement, dated February 14, 2020

No.	Counterparty Name	Counterparty Address	Debtor	Description
			Home Furnishings, Inc.	
28.	Goods & Services, LLC	905 Bernina Avenue, Suite D Atlanta, GA 30307	A.B.C. Home Furnishings, Inc.	Master Services Agreement - SOW (No. ABC001), dated July 29, 2019
29.	Hudnuf Realty, L.L.C.	Address on file.	A.B.C. Home Furnishings, Inc.	2019 Indenture of Lease
30.	IBM Credit LLC	4111 Northside Pkwy Atlanta, GA 30327-3015 Attn: Juliana Gusmao	A.B.C. Carpet Co., Inc.	Term Lease Master Agreement (No. 0324207), dated December 18, 2009
31.	IBM Credit LLC	North Castle Drive Armonk, NY 10503-1785	A.B.C. Carpet Co., Inc.	Addendum to Term Lease Supplement (Term Lease Master Agreement No. 0324207), dated March 28, 2013
32.	IBM Credit LLC	IBM Credit LLC – Mail Drop A2-181 6303 Barfield Road Ave. Atlanta, GA 30328 Attn: Jaime A. Pena Alarcon x 3128	A.B.C. Carpet Co., Inc.	Term Lease Supplement (Supplement Number D00H52632), dated September 30, 2013
33.	IBM Credit LLC	7100 Highlands Parkway Smyrna, GA 30082 IGFLEASE@us.ibm.com	A.B.C. Carpet Co., Inc.	Master Lease and Finance Agreement Schedule, dated June 27, 2016
34.	IBM Credit LLC	7100 Highlands Parkway Smyrna, GA 30082 IGFLEASE@us.ibm.com	A.B.C. Carpet Co., Inc.	Master Lease and Finance Agreement No. 011884087G, dated June 27, 2016

No.	Counterparty Name	Counterparty Address	Debtor	Description
35.	International Business Machines Corporation	IBM Corporation 4111 Northside Parkway Atlanta, GA 30327	A.B.C. Carpet Co., Inc.	Statement of Work for ServiceElite Agreement, dated December 28, 2009
36.	International Integrated Solutions, LTD	137 Commercial St Plainview, NY 11803 Attn: Paul Spero Account Executive 516-396-6746	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	WAN and RF Assessment with Architecture Design Recommendations Statement of Work (Opportunity # 12819)
37.	Jerome Weinrib	Address on file.	A.B.C. Carpet Co., Inc.	Promissory Note, dated March 2, 2015, in the original principal amount equal to \$5.0 million.
38.	Lindsay Mueller	610 Fifth Ave, Apt. # 2 Brooklyn, NY 11215 Tel.# (203) 671-0433 Lindsay@well-aware.com	A.B.C. Home Furnishings, Inc.	Consulting Agreement, dated October 26, 2019
39.	Local 810 International Brotherhood of Teamsters	24-09 38th Avenue Long Island City, NY 11101 Attn: Michael Smith, President	A.B.C. Carpet Co., Inc.; A.B.C. Oriental Carpets, Inc.	Collective Bargaining Agreement, dated January 30, 2018 - Supplemental Memorandum of Agreement, dated August 5, 2019 - Supplemental Memorandum of Agreement, dated February 11, 2021
40.	Magento, Inc.	10451 Jefferson Blvd. Culver City, CA 90232 Attn: Corey Menkes cmenkes@magento.com	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	EE Renewal Order, dated August 2, 2017
41.	Margery Hirschey, Inc.	4233 Quince Ct. Boulder, CO 80301	A.B.C. Home Furnishings, Inc.	Memorandum of Understanding and Consignment Agreement

No.	Counterparty Name	Counterparty Address	Debtor	Description
42.	Michelle Meick	12 Monitor St, Apt. # 4B Brooklyn, NY 11222 Michelle.meick@gmail.com	A.B.C. Carpet Co., Inc.; A.B.C. Home Furnishings, Inc.	Consulting Agreement, dated August 1, 2019
43.	New Engen, Inc.	4201 4 th Avenue, Ste 700 Seattle, WA 98121	A.B.C. Home Furnishings, Inc.	New Engen Services Agreement, dated June 11, 2020
44.	Rakuten Marketing LLC	1. 215 Park Avenue South, 9 th Floor New York, New York 10003 Attn: President president@mail.rakuten.com 2. 215 Park Avenue South, 9 th Floor New York, New York 10003 Attn: Legal Department generalcounsel@mail.rakuten.com 3. PO Box 415613 Boston, MA 02241-5613	A.B.C. Home Furnishings, Inc.	Master Service Agreement, dated as of November 4, 2016 - Order Form and Pricing Schedule, dated as of November 4, 2016
45.	Reliant Info Security, Inc.	450 7 th Avenue, Suite 503 New York, NY 10123	A.B.C. Home Furnishings, Inc.	Master Services Agreement, dated December 20, 2018
46.	Retail Process Engineering, LLC	20547 Amberfield Drive Land O' Lakes, FL 34638	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Statement of Work Agreement, dated April 8, 2016

No.	Counterparty Name	Counterparty Address	Debtor	Description
47.	Retail Process Engineering, LLC	20547 Amberfield Drive Land O' Lakes, FL 34638	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Statement of Work Agreement, dated June 24, 2016
48.	Sirius Computer Solutions, Inc.	613 N.W. Loop 410, Suite 1000 San Antonio, TX 78216 Attn: Bonnie M. Johnson	A.B.C. Carpet Co., Inc.	Customer Agreement, dated December 28, 2009
49.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Statement of Work Agreement (V7000 Implementation Services), dated March 28, 2013
50.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Proposal Agreement, dated March 28, 2013
51.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Solution Proposal Agreement, dated March 13, 2018
52.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216 Attn: Bonnie M. Cerrito	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Maintenance Entitlement Agreement, dated April 8, 2013
53.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216 Attn: Bonnie M. Cerrito	A.B.C. Carpet Co., Inc.	V7000 Implementation Services, dated April 9, 2013
54.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Customer Agreement, dated September 30, 2013
55.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216 Attn: Richard Levin Richard.levin@siriuscom.com	A.B.C. Carpet Co., Inc.	Netop Remote Control Agreement, dated February 13, 2017

No.	Counterparty Name	Counterparty Address	Debtor	Description
56.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Solution Proposal Agreement, dated February 13, 2017
57.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Solution Proposal Agreement, dated June 26, 2017
58.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Solution Proposal Agreement
59.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Sirius Customer Agreement
60.	Sirius Computer Solutions, Inc.	10100 Reunion Place, Suite 500 San Antonio, TX 78216	A.B.C. Carpet Co., Inc.	Solution Proposal Agreement, dated March 20, 2019
61.	The Northern Trust Company	1. c/o Foley & Lardner LLP Attn: Katherine R. Caranese 90 Park Avenue New York, NY 10016 2. c/o Foley & Lardner LLP Attn: Mark J. Wolfson 100 N. Tampa Street, Ste 2700 Tampa, FL 33602	A.B.C. Carpet Co., Inc.	Master Note, dated as of April 6, 2021, in the original principal amount equal to \$7.0 million
62.	The Northern Trust Company	1. c/o Foley & Lardner LLP Attn: Katherine R. Caranese 90 Park Avenue New York, NY 10016 2. c/o Foley & Lardner LLP Attn: Mark J. Wolfson 100 N. Tampa Street, Ste 2700	A.B.C. Home Furnishings, Inc.	Master Note, dated as of March 25, 2021, in the original principal amount equal to \$10.0 million

No.	Counterparty Name	Counterparty Address	Debtor	Description
63.	Towerstream Corporation	76 Hammarlund Way Tech 3 Building Middletown, RI 02842	A.B.C. Carpet Co., Inc.; A.B.C. Home Furnishings, Inc.	Move of Service Addendum, dated December 17, 2019, for services at 38 East 19th Street, 9th Floor, New York, NY 10003
64.	UPS	Attn: Tauber Gayle 7660 Fay Ave. H 383 La Jolla, CA 92037	A.B.C. Carpet Co., Inc.; A.B.C. Home Furnishings, Inc.	Carrier Agreement
65.	Urban Pixels	342 Broadway, Ste. 291 New York, NY 10013	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Proposal for Development Support, dated October 3, 2013
66.	Urban Pixels	342 Broadway #291 New York, NY 10013	A.B.C. Home Furnishings, Inc.; A.B.C. Carpet Co., Inc.	Development Support Agreement, dated October 8, 2013
67.	Webair Internet Development Co., Inc.	501 Franklin Avenue, Ste 200 Garden City, NY 11530	A.B.C. Home Furnishings, Inc.	Cloud Services Agreement, dated January 29, 2008
68.	Windstream	225 West 34th Street New York, NY 10122	A.B.C. Carpet Co., Inc.	Amendment to November 12, 2018 Service Terms and Conditions (Proposal/Quote ID 1701564), dated December 11, 2018

No.	Counterparty Name	Counterparty Address	Debtor	Description
			A.B.C. Home Furnishings, Inc.;	- Adding internet services for 2813 14 th Street, Astoria, NY 11102
69.	X commerce, Inc. d/b/a Magento, Inc.	10451 Jefferson Blvd. Culver City, CA 90232	Home Furnishings, Inc.;	Customer Agreement
70.	Yotta Digital Ventures Inc.	1. 113 Cherry Street PMB 66768 Seattle, WA 98104 2. 10400 NE 4 th Street, Ste 500 Bellevue, WA 98004	A.B.C. Home Furnishings, Inc.	Master Services Agreement, dated July 10, 2019, - YDV Order Form – Subscription, dated as of July 9, 2019

Exhibit E

Adjourned Cure Objection

No.	Counterparty Name	Counterparty Address	Debtor	Description	Cure Cost Reserve
1	1-10 Bush Terminal Owner LP d/b/a Industry City	1. c/o Stempel Bennett Claman & Hochberg, P.C Attn: Edmond P. O'Brien, Esq. 675 Third Avenue, 31st Floor New York, NY 10017 2. Attn: Legal Department Andrew Kimball 220 36th Street, Suite 2A Brooklyn, NY 11232	A.B.C. Home Furnishings, Inc.	Lease, dated as of March 31, 2021, for Brooklyn Outlet, 220 36th Street, Brooklyn, NY 11232, referred to as Building #2, Suite 2-B-A, 2-1-A, and 2-2-AW	\$110,698.04

TRADEMARK

REEL: 007690 FRAME: 0568