

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM821966

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
SAM LEVIN, INC.		05/20/2020	Corporation: PENNSYLVANIA
RECEIVING PARTY DATA			
Name:	LEVIN FURNITURE LLC		
Street Address:	301 Fitz Henry Road		
City:	Smithton		
State/Country:	PENNSYLVANIA		
Postal Code:	15479		
Entity Type:	Limited Liability Company: PENNSYLVANIA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	4373616	GRAND LEGACY	
CORRESPONDENCE DATA			
Fax Number:	8144544647		
<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:	8148707600		
Email:	jmclintic@mijb.com		
Correspondent Name:	MacDonald, Illig, Jones and Britton		
Address Line 1:	100 State Street, Suite 700		
Address Line 2:	Janine McClintic		
Address Line 4:	Erie, PENNSYLVANIA 16507		
NAME OF SUBMITTER:	Janine M. McClintic		
SIGNATURE:	/Janine M. McClintic/		
DATE SIGNED:	07/05/2023		
Total Attachments: 10			
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ASSET PURCHASE AGREEMENT
BY AND AMONG
SAM LEVIN, INC., AND
LF TRUCKING, INC., AS SELLERS
and
LEVIN FURNITURE, LLC, AND
LEVIN TRUCKING, LLC, AS PURCHASERS

DATED AS OF MAY 20, 2020

G. Each Seller has determined, after consideration of the available alternatives, in consultation with its legal and financial advisors, that a sale of the Purchased Assets through a private sale in the form of this Transaction is necessary to maximize value and is in the best interests of the Debtors and their Estates, creditors and other parties in interest.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

Article I **Definitions**

1.1 Definitions. For purposes of this Agreement, certain defined terms used in this Agreement and not specifically defined in context are defined in this Section 1.1 as follows:

“ABL Lender” means Wells Fargo Bank, National Association, as administrative agent, issuing bank, collateral agent and lender under the Debtors’ Prepetition ABL Credit Facility.

“Affiliate” of any specified Person means (a) any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person and (b) any equity holder of such Person holding 51% or more of the interests in such Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” means this Agreement and includes all of the schedules and exhibits attached hereto.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as promulgated under Section 2075 of title 28 of the United States Code, and the Local Rules, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Bankruptcy Cases.

“Bill of Sale” means a bill of sale from each Seller in the form of Exhibit B attached hereto.

“Books and Records” has the meaning set forth in Section 2.1(xiii).

“Business” has the meaning set forth in the Recitals.

“Business Day” means any day other than Saturday or Sunday, or a day on which the banking institutions of the State of Delaware are authorized or obligated by Law or executive order to close.

“Cash and Cash Equivalents” means all cash (expressed in United States dollars) and cash equivalents (including marketable securities, checks, bank deposits and short term investments) of either Seller, including the amounts of any received but uncleared checks, drafts and wires issued prior to such time (excluding Prepaid Expenses), less the amounts of any outstanding checks, bank overdrafts or transfers at such time, determined in accordance with GAAP.

“Closing” means the closing of the purchase and sale of the Purchased Assets contemplated by this Agreement, following satisfaction or waiver of the conditions contained in Article VIII.

“Closing Date” means the date of execution of this Agreement by the Parties.

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

“Contract” means any contract, lease, license, purchase order, sales order or other agreement or binding commitment, whether or not in written form.

“Court Approval” means the entry of the Sale Order by the Bankruptcy Court.

“Covered Allowed Claims” has the meaning set forth in Section 6.13 hereof.

“Covered Expenses” has the meaning set forth in Section 6.13 hereof.

“Cure Amounts” means all monetary liabilities, including pre-petition monetary liabilities, of Seller that must be paid or otherwise satisfied to cure all of Seller’s monetary defaults under the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code at the time of the assumption thereof and assignment to Purchaser as provided hereunder as such amounts are determined by the Bankruptcy Court or approved pursuant to the assignment and assumption procedures provided for in the Sale Order.

“Customer Claim Advance” is defined in Section 6.13 hereof.

“Customer Deposits” means deposits made by customers of Subject Stores with respect to the sales of inventory made by SLI, which inventory remains undelivered to such customers as of the Closing of the Levin Stores; deposits made by customers with respect to purchases at or relating to the Excluded Stores shall not be deemed “Customer Deposits” hereunder.

“Debtors” has the meaning set forth in the Recitals.

“Default” means (a) a breach, default or violation, (b) the occurrence of an event that with or without the passage of time or the giving of notice, or both, would constitute a breach, default or violation or cause an Encumbrance to arise, or (c) with respect to any Contract, the occurrence of an event that with or without the passage of time or the giving of notice, or both, would give rise to a right of termination, cancellation, amendment, renegotiation or acceleration or a right to receive damages or a payment of penalties.

“Deposit” is defined in Section 3.1 hereof.

“Employees” means the individuals currently employed by the Seller performing job functions for the Business.

“Employee Plans” means all employee benefit plans (as defined in Section 3(3) of ERISA) and all other qualified and non-qualified pension and profit-sharing, incentive compensation, commission, deferred compensation, vacation, medical, dental, life, disability or other group insurance, severance, salary continuation, death benefit and other benefit or compensation plans, arrangements, agreements and payroll practices maintained by the Seller or to which the Seller is a party or is bound, or with respect to which payments or contributions are required to be made by the Seller, or in respect of which the Seller may otherwise have any liability.

“Encumbrance” means any lien, charge, assessment, liability, agreement, lease, judgment, claim, right, demand, security interest, mortgage, pledge, easement, reservation, restriction, covenant, encumbrance and other exception of any nature whatsoever.

“Equipment Valuation” means \$150,000.00.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Estate” means the estate created for the Debtor by Section 541 of the Bankruptcy Code upon the commencement of the Bankruptcy Case.

“Excluded Inventory” means all Inventory (i) consisting of Jofran Design Goods (to be destroyed by Purchaser in accordance with Section 6.12)¹, (ii) located at the stores formally branded as “Wolf Furniture Stores,” and (iii) located at the Excluded Stores .

“Excluded Stores” means all stores other than the Subject Stores (including, without limitation, the Wolf Furniture stores) as further identified on Schedule 1.1(b).

“GAAP” means generally accepted accounting principles in effect in the United States, consistently applied.

“Governmental Authority” means any (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature, or any political subdivision thereof, (b) federal, state, local, municipal, foreign or other government or (c) governmental or quasi-governmental authority of any nature (including any governmental division, department, agency, commission, instrumentality, official, organization, body, contractor, agent or other entity and any court, arbitrator or other tribunal).

“Included Rolling Stock Value” means \$1,000,000.00.

¹ A listing of the Jofran Design Good is attached hereto at Schedule 1.1(b); provided, however, the requirements of 6.12 shall control over all such Jofran Design Good inventory and not be limited by Schedule 1.1(b).

“Inventory” means all right, title and interest of the Seller with respect to the inventory owned by Seller as of the Closing with respect to the Subject Stores, including goods owned and held for sale or to be furnished under a Contract for service, and raw materials, work in process, or materials owned by Seller and used or consumed in the Business.

“Inventory Valuation” means \$13,696,002.42.

“Jofran Design Goods” means all Inventory of Seller identified by Seller that relates to the Jofran litigation at Adv. Proceeding No. 20-50546 in the Bankruptcy Cases.

“Law” means any statute, law, ordinance, regulation, order or rule of any Governmental Authority, including those covering environmental, energy, safety, health, transportation, bribery, record keeping, zoning, antidiscrimination, antitrust, wage and hour, and price and wage control matters, as well as any applicable principle of common law.

“Levin Stores” means all Levin Furniture and Levin Mattress stores located in Ohio and Pennsylvania, including, without limitation, the Subject Stores.

“Liability” means any direct or indirect liability, indebtedness, obligation, expense, claim, loss, damage, deficiency, guaranty or endorsement of or by any Person, absolute or contingent, accrued or unaccrued, matured or unmatured, known or unknown, due or to become due, liquidated or unliquidated.

“Ordinary Course” or “Ordinary Course of Business” means an action taken by any Person, where the action: (1) was taken in the ordinary course of business consistent with past custom and practice of the Person in question, and (2) did not require authorization of or by the board of directors or stockholders of such Person (or by any Person or group of Persons exercising similar authority), in each of the foregoing cases taking into account that each Seller is a Debtor and each Seller’s distressed financial and operating condition.

“Organizational Documents” means (a) any certificate or articles of incorporation, organization or formation, any bylaws or limited liability company or operating agreement, (b) any documents comparable to those described in clause (a) as may be applicable pursuant to any Law and (c) any amendment or modification to any of the foregoing.

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

“Prepaid Expenses” means any deposits or prepaid expenses of Seller but not customer deposits.

“Proceeding” means any lawsuit, litigation or arbitration (in each case, whether civil, criminal or administrative) by or before any Governmental Authority or arbitrator.

“Proprietary Rights” means all fictional business names, trade names, registered and unregistered trademarks, service marks, and applications used by the Seller including, but not limited to Levin Furniture and Levin Mattress; all patents and patent applications owned or used

by the Seller and all inventions and discoveries of the Seller that may be patentable; all copyrights of the Seller in both published works and unpublished works; and all know-how, trade secrets, confidential information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints owned, URLs, websites, webpages, social media accounts, Instagram accounts, Facebook accounts and pages and domain names, (including but not limited to email addresses and accounts identified as @levinfurniture.com or @levinmattress.com) specifications, documentations, reports, catalogs, literature, and any other forms of technology or proprietary information of any kind, including all rights therein and all applications for registration or registrations and goodwill associated therewith.

“Proprietary Rights Valuation” means an amount equal to \$250,000.00.

“Receivables” means all trade accounts receivable of Seller and proceeds thereof.

“Relevant Customer Claims” is defined in Section 6.13 hereof.

“Representatives” means, with respect to any Person, the directors, officers, members, managers, partners, shareholders, employees, financial advisors, attorneys, accountants, consultants, agents and other authorized representatives of such Person.

“Sale Motion” means the motion, in form and substance reasonably satisfactory to Seller and Purchaser, to be filed by Seller pursuant to, *inter alia*, sections 363 and 365 of the Bankruptcy Code to obtain the Sale Order and approve the transactions contemplated by this Agreement.

“Sale Order” means an Order of the Bankruptcy Court, in a form reasonably satisfactory to the Trustee, the ABL Lender and Purchaser, authorizing the sale to Purchaser and is in all material respects in the form and substance of Exhibit A attached hereto.

“Seller Wiring Instructions” is defined in Section 7.2(f)(ii) hereof.

“Smithton Warehouse” means that certain real property located at 301 Fitz Henry Road, Smithton, PA 15479.

“Specifically Excluded Claims” means any and all of each Seller’s or their respective Estate’s actions, claims, demands, rights, defenses, counterclaims, Proceedings, suits and causes of action of any value whatsoever, whether known or unknown, in law, equity or otherwise, against any creditor or other third party and the proceeds or benefits thereof, relating to the Levin Stores hereunder, including any and all actions which a trustee, debtor in possession or other appropriate party in interest may assert on behalf of the applicable Debtor or Estate under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code or under any other similar applicable federal, state or common law, and each Seller’s claims or causes of action for professional negligence and director and officer liability, but excluding (i) any claim expressly released in writing by the applicable Seller, and (ii) any claim against either Seller or any Affiliate of either Seller other than as expressly provided for in this Agreement;

“Subject Stores” means collectively (i) those stores identified on Schedule 1.1(a), which are branded as “Levin Furniture” and “Levin Mattress,” respectively, and (ii) the Smithton Warehouse.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, capital gain, intangible, environmental (pursuant to Section 59A of the Code or otherwise), custom duties, capital stock, franchise, unclaimed property or escheat, imputed underpayment, employee’s income withholding, foreign withholding, social security (or its equivalent), unemployment, disability, real property, personal property, sales, use, transfer, value added, registration, alternative or add-on minimum, estimated or other tax, including any interest, assessments, governmental charges, fines, penalties or additions to tax in respect of the foregoing, whether disputed or not, and any obligation to indemnify, assume or succeed to the liability of any other Person in respect of the foregoing, and the term “Tax Liability” shall mean any Liability with respect to Taxes.

“Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Transaction Documents” means the Bill of Sale, the Assignment Agreement, the Assumption Agreement, the Intellectual Property Assignment, and any other agreements, certificates, or other documents executed in connection with this Agreement.

“Transfer Taxes” means sales, use, transfer, recording, documentary, stamp, registration and other similar Taxes or fees in connection with the purchase and sale of the Purchased Assets.

1.2 Interpretation; Headings. As used in this Agreement, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender, including the neuter gender, shall include all genders, (c) “including” has the inclusive meaning frequently identified with the phrase “but not limited to” or “including, without limitation” and (d) references to “hereunder” or “herein” relate to this Agreement. Each accounting term used herein that is not specifically defined herein shall have the meaning given to it under GAAP. The section and other headings contained in this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection, Schedule and Exhibit references are to this Agreement unless otherwise specified.

Article II **Purchase and Sale**

2.1 Purchase and Sale. Subject to the provisions of Section 2.2 below, at the Closing, each Seller shall sell, transfer, assign, convey and deliver to each respective Purchaser, and each respective Purchaser agrees to purchase from the applicable Seller, all of such Seller’s assets of every kind and type, tangible or intangible, real and personal, used exclusively in connection with the Business, to the extent located at or in the Subject Stores, free and clear of all Encumbrances

to the extent provided in the Sale Order, including, the following (collectively, but specifically excluding all Excluded Assets, the "Purchased Assets"):

(i) all tangible personal property, fixtures data processing hardware and software, fixtures, furniture, furnishings, appliances, and other tangible personal property of every kind and description and all replacement parts therefor located at the Subject Stores, including the items set forth on Schedule 2.1(a) (collectively, the "Equipment")

(ii) all such rolling stock and vehicles of Seller (and all replacement parts therefor) that are specifically listed or identified on Schedule 2.1(b) attached hereto (collectively, the "Included Rolling Stock");

(iii) all Inventory, excluding Excluded Inventory;

(iv) to the full extent transferable by Law, but subject to Section 2.2(xvi) hereof, all personnel and other records (including hard, electronic and microfiche copies), and all manuals, books and records, including personnel policies, files and manuals, accounting records and computer software, in each case, to the extent relating exclusively to the Subject Stores;

(v) to the full extent transferable by Law, all licenses, permits, registrations, certificates, consents, accreditations, approvals and franchises, together with assignments thereof, if required, and all waivers which it currently has, if any, of any requirements pertaining to such licenses, permits, registrations, certificates, consents, accreditations, approvals and franchises, in each case, to the extent relating exclusively to the Subject Stores;

(vi) all guarantees, warranties, indemnities and similar rights in favor of Seller related to the Purchased Assets, and all other rights, claims, and/or causes of action against any person related exclusively to the Purchased Assets or the Assumed Contracts, if any;

(vii) the Assumed Contracts (as defined herein);

(viii) all Prepaid Expenses under and to the extent relating to the Assumed Contracts;

(ix) to the full extent transferable by Law or pursuant to applicable contractual provision, all Proprietary Rights owned, leased, licensed or possessed by it and used exclusively in the operation of the Business, including the domain name www.levinfurniture.com, the names "Levin Furniture", "Levin Mattress" and all derivatives thereof;

(x) to the full extent transferable by Law, all information relating solely to the Levin Stores regarding the Seller's past, current and prospective customers and suppliers (including any and all lists thereof (including contact information), purchase and sale history, correspondence, complaints, and any and all other data, reports, and information of any kind kept or maintained by or on behalf of the Seller), pricing and cost information, and business and marketing plans and proposals;

(xi) all telephone and facsimile numbers and telephone directory listings related exclusively to the Subject Stores;

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

PURCHASER:

LEVIN FURNITURE, LLC

By: Robert Levin
Name: ROBERT LEVIN
Title: AUTHORIZED SIGNATORY

LEVIN TRUCKING, LLC

By: Robert Levin
Name: ROBERT LEVIN
Title: AUTHORIZED SIGNATORY

SELLER:

SAM LEVIN, INC.

By: _____
Name: Alfred T. Giuliano, solely in his capacity
as Chapter 7 Trustee of Sam Levin, Inc.

LF TRUCKING, INC.

By: _____
Name: Alfred T. Giuliano, solely in his capacity
as Chapter 7 Trustee of LF Trucking, Inc.

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

PURCHASER:

LEVIN FURNITURE, LLC

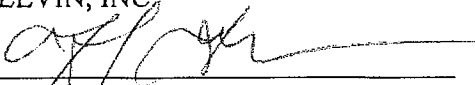
By: _____
Name: _____
Title: _____

LEVIN TRUCKING, LLC


By: _____
Name: _____
Title: _____

SELLER:

SAM LEVIN, INC

By: 
Name: Alfred T. Giuliano, solely in his capacity
as Chapter 7 Trustee of Sam Levin, Inc.

LF TRUCKING, INC.

By: 
Name: Alfred T. Giuliano, solely in his capacity
as Chapter 7 Trustee of LF Trucking, Inc.