

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

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In re:	:	Chapter 11
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MODEL REORG ACQUISITION, LLC, <u>et al.</u> ,	:	Case No. 17-11794 (____)
	:	
Debtors. <sup>1</sup>	:	(Joint Administration Pending)
	:	
	X	

**DEBTORS' APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO  
BANKRUPTCY CODE SECTIONS 327(a) AND 328(a) AND BANKRUPTCY RULES  
2014(a) AND 2016 AUTHORIZING EMPLOYMENT AND RETENTION OF ANKURA  
CONSULTING GROUP, LLC, AS FINANCIAL ADVISORS TO DEBTORS AND  
DEBTORS IN POSSESSION *NUNC PRO TUNC* TO THE PETITION DATE**

The debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors" and, together with their non-Debtor affiliates, the "Company"), hereby apply (this "Application") to this Court for entry of an order, under sections 327(a) and 328 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), authorizing the employment and retention of Ankura Consulting Group, LLC, together with employees of its affiliates, its wholly owned subsidiaries, and independent contractors (collectively, "Ankura") to serve as financial advisors to the Debtors, *nunc pro tunc* to Petition Date (as defined herein). In support of this Application, the Debtors rely upon and incorporate by reference the Declaration of Stephen Marotta, Senior Managing Director at Ankura, attached hereto as Exhibit B, and the Declaration of Michael W.

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Perfumania Holdings, Inc. (7964); Perfumania, Inc. (6340); Magnifique Parfumes and Cosmetics, Inc. (6420); Ten Kesef II, Inc. (1253); Perfumania.com, Inc. (4688); Model Reorg Acquisition, LLC (0318); Northern Group, Inc. (3226); Perfumania Puerto Rico, Inc. (6787); Quality King Fragrance, Inc. (4939); Scents of Worth, Inc. (1732); Jacavi, LLC (6863); Distribution Concepts, LLC (8845); Flowing Velvet, Inc. (7294); Aladdin Fragrances, Inc. (4338); Niche Marketing Group, Inc. (1943); Northern Brands, Inc. (7186); Northern Amenities, Ltd. (5387); Global Duty Free Supply, Inc. (2686); and Perfumers Art, Inc. (6616). The address of the Debtors' corporate headquarters is 35 Sawgrass Drive, Suite 2, Bellport, New York 11713.

Katz in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings (the "First Day Declaration"). In further support of this Application, the Debtors respectfully represent:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this Application under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Application in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The legal predicates for the relief requested herein are Bankruptcy Code sections 327(a), 328, and 1107(b), and Bankruptcy Rules 2014 and 2016.

3. Pursuant to Bankruptcy Rule 7008 and Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Bankruptcy Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Application if it is determined that this Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

### **BACKGROUND**

#### **A. The Chapter 11 Cases**

4. On the date hereof (the "Petition Date"), the Debtors each commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases").

5. The Debtors continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No creditors' committee has been appointed by the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee"), nor has a trustee or examiner been appointed in the Chapter 11 Cases.

**B. Background and Current Business Operations**

6. Perfumania is an independent, national, vertically integrated wholesale distributor and specialty retailer of perfumes and fragrances. The Company's wholesale business distributes designer fragrances to mass market retailers, drug, and other chain stores, retail wholesale clubs, traditional wholesalers, and other distributors throughout the United States. The Company's retail business is operated through a chain of retail stores that specialize in the sale of fragrances and related products at discounted prices up to 75% below the manufacturers' suggested retail prices and a Company-owned website that offers a selection of the Company's more popular products for sale online.

7. Contemporaneous with the commencement of the Chapter 11 Cases, the Debtors filed their prepackaged joint plan of reorganization (the "Plan"). The Plan provides for a comprehensive reorganization of the Debtors that will allow the Company to close underperforming stores and reject unfavorable lease terms to establish a foundation for sustainable long-term growth and to improve the overall returns from the Company's retail footprint going forward. All Allowed Claims are Unimpaired under the Plan, including the Debtors' general unsecured creditors, such as trade vendors, employees, and landlords. The Debtors will not solicit votes on the acceptance or rejection of the Plan because all holders of Claims against, or Interests in, the Debtors hold either (i) an unclassified Claim, (ii) a Claim or Interest that is Unimpaired, and are therefore deemed to have accepted the Plan, or (iii) an Interest that does not entitle such holder to receive or retain any property under the Plan, and are therefore deemed to have rejected the Plan.

8. Additional factual background regarding the Debtors, including their business operations, their capital structure, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the First Day Declaration.

### **RELIEF REQUESTED**

9. By this Application, the Debtors seek to employ and retain Ankura, effective as of the Petition Date, as their financial advisors. Accordingly, the Debtors respectfully request entry of an order pursuant to Bankruptcy Code sections 327(a), 328, and 1107(b), and Bankruptcy Rules 2014 and 2016, authorizing them to employ and retain Ankura as their financial advisors, effective as of the Petition Date, to perform the services that will be necessary during the Chapter 11 Cases as more fully described below.

10. For the reasons set forth herein, the Debtors submit that the relief requested herein is in the best interest of the Debtors, their estates, creditors, stakeholders and other parties in interest, and therefore, should be granted.

### **RETENTION OF ANKURA**

11. In consideration of the size and complexity of their businesses, as well as the exigencies of the circumstances, the Debtors have determined that the services of experienced financial advisors will substantially enhance their attempts to maximize the value of their estates. Ankura is well qualified to provide these services in light of its extensive knowledge and expertise with respect to chapter 11 proceedings. The Debtors are familiar with the professional standing and reputation of Ankura. The Debtors understand that Ankura has a wealth of experience in providing restructuring advisory and turnaround management services, and enjoys an excellent reputation for services it has rendered in large and complex chapter 11 cases on behalf of debtors and creditors throughout the United States.

12. Ankura is a business advisory and expert services firm whose professionals have significant experience in providing bankruptcy crisis management and consulting, and special financial advisory services. Ankura's senior managing directors have over a century of combined experience in financial consulting and turnaround management. Ankura's professionals also have provided strategic advice to debtors in numerous chapter 11 cases of similar size and complexity as the Chapter 11 Cases. Ankura has provided restructuring or crisis management services in numerous bankruptcy cases, including, but not limited to, In re Last Call Guarantor, LLC, Case No. 16-11844 (KG) (Bankr. D. Del. Sept. 2, 2016); In re SynCardia Systems, Inc., Case No. 16-11599 (MFW) (Bankr. D. Del. Aug. 1, 2016); In re SunEdison, Inc., Case No. 16-10992 (SMB) (Bankr. S.D.N.Y. Aug. 11, 2016); In re C. Wonder LLC, Case No. 15- 11127 (MBK) (Bankr. D.N.J. Jan. 28, 2015); In re The SCOOTER Store Holdings, Inc., Case No. 13-10904 (Bankr. D. Del. April 15, 2013); In re Vivaro Corporation, Case No. 12-13810 (Bankr. S.D.N.Y. Sept. 5, 2012); In re Daytop Village Found. Inc., Case No. 12-11436 (SEC) (Bankr. S.D.N.Y. May 17, 2012); In re Sbarro, Inc., Case No. 11-11527 (Bankr. S.D.N.Y. May 3, 2011); In re CoreComm N.Y., Inc., Case No. 04-10214 (Bankr. S.D.N.Y. Jan. 20, 2004); In re NV.E. Inc., Case No. 05-35692 (Bankr. D.N.J. Oct. 24, 2005).<sup>2</sup>

13. Mr. Marotta, the above-noted declarant, has more than 33 years of experience providing professional accounting and consulting services to major corporations and businesses, including 27 years of consulting to financially troubled companies. His experience includes business plan and disclosure statement development, viability assessments, reengineering and overhead reduction programs, claims and preference analyses, crisis management, forensic investigation, and litigation support. His industry experiences include

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<sup>2</sup> The foregoing list is partially comprised of cases handled by Marotta Gund Budd & Dzera, LLC, a successor in interest of Ankura.

healthcare, retail, telecommunications, manufacturing, wholesale distribution, entertainment, and financial services.

14. The Debtors have selected Ankura as their restructuring advisor because of Ankura's experience and reputation for providing advisory and crisis management services in large, complex chapter 11 cases such as those listed above. In addition, Ankura is familiar with the Debtors' businesses, financial affairs, and capital structure. Ankura was initially engaged by the Debtors in connection with potential restructuring of certain leases pursuant to a joint retention agreement, dated July 1, 2016 (the "Joint Retention Agreement"). Ankura first began providing restructuring and advisory services to the Debtors with respect to the matters described herein in January 2017. An engagement letter was entered into as of January 3, 2017 (the "Engagement Agreement"), which is attached hereto as Exhibit A.<sup>3</sup> Pursuant thereto, the Debtors confirmed their retention of Ankura in connection with their efforts to respond to their financial circumstances. Since Ankura's initial engagement in July 2016, Ankura personnel have provided services to the Debtors (the "Ankura Professionals") and worked closely with the Debtors' management and other professionals in assisting with the myriad requirements of the Chapter 11 Cases. Consequently, the Debtors believe that Ankura has developed significant relevant experience and expertise regarding the Debtors' financial affairs, debt structure, operations, and related matters. For these reasons, Ankura is both well qualified and uniquely suited to deal effectively and efficiently with matters that may arise in the context of these cases. Accordingly, the Debtors submit that the retention of Ankura on the terms and conditions set

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<sup>3</sup> Upon execution of the Engagement Agreement, the Joint Retention Agreement terminated in its entirety and was superseded by the Engagement Agreement, with the exception of certain proposed restructured leases described therein. Ankura will not be seeking compensation with respect to the work it performed under the Joint Retention Agreement.

forth herein is necessary and appropriate, is in the best interests of the Debtors' estates, creditors, and all other parties in interest, and should be granted.

### **SCOPE OF SERVICES**

15. The Engagement Agreement shall govern the Debtors' retention of Ankura except as explicitly set forth herein or in any order granting this Application.

16. Among other things, Ankura will provide assistance to the Debtors with respect to management of the overall restructuring process, the development of ongoing business and financial plans, and supporting restructuring negotiations among the Debtors, their advisors and their creditors with respect to an overall exit strategy for the Chapter 11 Cases. The Debtors have filed the Chapter 11 Cases as a "prepackaged" chapter 11 plan; as such, the Debtors may require, if successful, less than the full range of services performed in traditional chapter 11 cases.

17. Ankura has provided and has agreed to provide the services set forth in the Engagement Agreement, including, but not limited to:

- (a) advise and assist management in organizing the Company's resources and activities to effectively and efficiently plan, coordinate and manage contingency planning for a possible chapter 11 process, including all necessary support required by counsel in preparing all petitions and first day motions;
- (b) develop sample scripts, communications and question and answers for customers, lenders, suppliers, employees and other parties in interest;
- (c) assist in the preparation of the Statement of Financial Affairs and Schedule of Assets and Liabilities;
- (d) assist management in refining final leasing action schedules for those locations to be assumed, rejected or modified and negotiating with Company counsel and outside real estate broker, where necessary, with landlords in connection with leases to be modified

- (e) advise and assist the Company in forecasting, planning, controlling and other aspects of managing cash, and, if necessary, obtaining debtor-in-possession financing;
- (f) perform such other professional services as may be requested by the Company and agreed to by Ankura in writing.

#### **ANKURA'S DISINTERESTEDNESS**

18. To the best of the Debtors' knowledge, information, and belief, other than as set forth in the Marotta Declaration, Ankura: (i) has no connection with the Debtors, their creditors, other parties in interest, or the attorneys or accountants of any of the foregoing, or the U.S. Trustee or any person employed in the Office of the U.S. Trustee; (ii) does not hold any interest adverse to the Debtors' estates; and (iii) believes it is a "disinterested person" as defined by section 101(14) of the Bankruptcy Code. Accordingly, the Debtors believe that Ankura is "disinterested" as such term is defined in section 101(14) of the Bankruptcy Code.

19. Pursuant to the Engagement Agreement, Ankura may hire independent contractors (each, an "Independent Contractor") during the course of its engagement. In the event Ankura hires an Independent Contractor, (a) Ankura will file, and require each Independent Contractor to file, declarations indicating that the Independent Contractor has reviewed the list of the interested parties in the Chapter 11 Cases, disclosing the Independent Contractor's relationships, if any, with the interested parties, and indicating that the Independent Contractor is disinterested, (b) each Independent Contractor will remain disinterested during the time that Ankura is involved in providing services to the Debtors, and (c) each Independent Contractor will represent that he or she will not work for the Debtors or for another party in interest in the Chapter 11 Cases during the time that Ankura is involved in providing services to the Debtors.



20. In addition, as set forth in the Marotta Declaration, if any new material facts or relationships are discovered or arise, Ankura will provide the Court with a supplemental declaration.

### **NO DUPLICATION OF SERVICES**

21. The Debtors intend that the services of Ankura will complement the services of any other professional retained in the Chapter 11 Cases. The services that Ankura will provide to the Debtors will be appropriately directed by the Debtors so as to avoid duplicative efforts among the other professionals retained in the Chapter 11 Cases. Ankura understands that the Debtors have retained and may retain additional professionals during the term of the engagement and agrees to work cooperatively with other professionals and the Debtors to integrate any respective work conducted by the professionals on behalf of the Debtors.

### **TERMS OF RETENTION**

22. Subject to approval by the Court, the Debtors propose to employ and retain Ankura to serve as the Debtors' financial advisor on the terms and conditions set forth in the Engagement Agreement.

23. Compensation. In accordance with the terms of the Engagement Agreement, Ankura will be paid by the Company for the services of the Ankura Professionals at their customary hourly billing rates which shall be subject to the following ranges:

- Senior Managing Directors \$850-950
- Other Professionals \$350-800
- Paraprofessionals \$150-250

Such rates and ranges shall be subject to adjustment annually at such time as Ankura adjusts its rates generally. In addition, Ankura will be reimbursed for the reasonable out-of-pocket expenses of the Ankura Professionals incurred in connection with this assignment, such as travel, lodging, third party duplications, messenger and telephone charges. All fees and expenses due to Ankura will be billed in accordance with any interim compensation orders entered by this Court, and the relevant sections of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

24. Indemnification. As a material part of the consideration for which the Ankura Professionals have agreed to provide the services described herein, the Debtors have agreed to certain indemnification, exculpation, contribution, and reimbursement obligations as more fully described in that certain indemnification agreement (the "Indemnification Agreement"), which is incorporated by reference into the Engagement Agreement as Schedule 1 thereto. Such terms of indemnification, as modified by the proposed order authorizing Ankura's retention, reflect the qualifications and limits on such terms that are customary in this jurisdiction and are in substantially the same form as terms that have been approved in this district in recent cases. See, e.g., In re Dendreon Corp., Case No. 14-12515 (PJW) (Bankr. D. Del. Dec. 9, 2014); In re Savient Pharm., Inc., Case No. 13-12680 (MFW) (Bankr. D. Del. Nov. 19, 2013); In re Exide Techs., Case No. 13-11482 (KJC) (Bankr. D. Del. July 11, 2013); In re A123 Sys., Inc., Case No. 12-12859 (KJC) (Bankr. D. Del. Nov. 9, 2012); In re Graceway Pharm., LLC, Case No. 11-13036 (PJW) (Bankr. D. Del. Oct. 17, 2011); In re Neb. Book Co., Case No. 11-12005 (PJW) (Bankr. D. Del. Aug. 10, 2011).

25. Notwithstanding anything to the contrary in the Engagement Agreement or Indemnification Agreement, the Debtors' agreement to indemnify Ankura is modified as follows during the pendency of the Chapter 11 Cases (the "Indemnification Provisions");

- (a) Ankura shall not be entitled to indemnification, contribution or reimbursement pursuant to the Indemnification Agreement (as modified by the proposed Order attached hereto) for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by this Court;
- (b) the Debtors shall have no obligation to indemnify Ankura or provide contribution or reimbursement to Ankura (i) for any claim or expense that is judicially determined (the determination having become final) to have arisen from Ankura's bad faith, self-dealing, breach of fiduciary duty (if any), willful misconduct, or gross negligence, (ii) for a contractual dispute in which the Debtors allege the breach of Ankura's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to In re United Artists Theatre Company, 315 F.3d 217 (3d Cir. 2003), or (iii) for any claim or expense that is settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c) below, to be a claim or expense for which Ankura should not receive indemnity, contribution, or reimbursement under the terms of the Indemnification Agreement, as modified by the proposed Order attached hereto; and
- (c) if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing the case, Ankura believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Indemnification Agreement, as modified by the proposed Order, including without limitation the advancement of defense costs, Ankura must file an application therefor in this Court, and the Debtors may not pay any such amounts to Ankura before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time during which this Court shall have jurisdiction over any request for compensation and expenses by Ankura for indemnification, contribution, or reimbursement and is not a provision limiting the duration of the Debtors' obligation to indemnify Ankura.

26. The terms and conditions of the Indemnification Agreement were negotiated by the Debtors and Ankura at arm's length and in good faith. The Debtors respectfully

submit that the indemnification, contribution, exculpation, reimbursement, and other provisions contained in the Indemnification Agreement, viewed in conjunction with the other terms of Ankura's proposed retention, are reasonable and in the best interests of the Debtors, their estates, and creditors, in light of the fact that the Debtors require Ankura's services to successfully reorganize. Accordingly, as part of this Application, the Debtors request that this Court approve the Indemnification Agreement and the obligations contained therein.

### **FEEES**

27. The Debtors understand that Ankura intends to apply to the Court for allowance of compensation and reimbursement of expenses for its financial and restructuring advisory services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, corresponding Local Bankruptcy Rules, orders of this Court and guidelines established by the U.S. Trustee.

28. Ankura received \$100,000.00 as a retainer in connection with preparing for and conducting the filing of the Chapter 11 Cases, as described in the Engagement Agreement. In the 90 days prior to the Petition Date, Ankura received payments totaling \$1,208,380.65 in the aggregate for fees and expenses associated with services performed for the Debtors. Ankura has applied these funds to amounts due for services rendered and expenses incurred prior to the Petition Date. A precise disclosure of the amounts or credits held, if any, as of the Petition Date will be provided in Ankura's first interim (or, if none, final) fee application for postpetition services and expenses to be rendered or incurred for or on behalf of the Debtors. The unapplied residual retainer will be held until the end of the Chapter 11 Cases and applied to Ankura's finally approved fees in these Chapter 11 Cases as directed by this Court. As of the

Petition Date, the Debtors do not owe Ankura any amount for any services performed or expenses incurred prior to the Petition Date.

29. Given the numerous issues that Ankura may be required to address in the performance of its services, Ankura's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for such services for engagements of this nature in an out-of-court context, as well as in chapter 11, the Debtors submit that the fee arrangements set forth herein are reasonable under the standards set forth in section 328(a) of the Bankruptcy Code.

#### **APPLICABLE AUTHORITY**

30. The Debtors submit that the retention of Ankura under the terms described herein is appropriate under sections 327(a), 328, and 1107(b) of the Bankruptcy Code. Section 327(a) of the Bankruptcy Code empowers the trustee, with the Court's approval, to employ professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. § 327(a). Section 101(14) of the Bankruptcy Code defines a "disinterested person" as a person that:

- (a) is not a creditor, an equity security holder, or an insider;
- (b) is not and was not, within two (2) years before the date of the filing of the petition, a director, officer, or employee of the debtor; and
- (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason. 11 U.S.C. § 101(14).

31. Further, section 1107(b) of the Bankruptcy Code provides that "a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case." 11 U.S.C. § 1107(b). Ankura's prepetition relationship with Debtors is therefore not an impediment to Ankura's retention as Debtors' postpetition financial advisor.

32. Section 328(a) of the Bankruptcy Code authorizes the employment of a professional person "on any reasonable terms and conditions of employment, including on a retainer . . . ." 11 U.S.C. § 328(a). The Debtors submit that the terms and conditions of Ankura's retention as described herein, including the proposed compensation and indemnification terms, are reasonable and in keeping with the terms and conditions typical for engagements of this size and character. Since the Debtors will require substantial assistance with the reorganization process, it is reasonable for the Debtors to seek to employ and retain Ankura to serve as their financial advisor on the terms and conditions set forth herein.

### **NOTICE**

33. Notice of this Application shall be given to the following notice parties (the "Notice Parties"): (a) the U.S. Trustee; (b) the holders of the 20 largest unsecured claims against the Debtors (on a consolidated basis); (c) Otterbourg, counsel to the agent for the Debtors' Senior Credit Facility; (d) Wells Fargo Bank, National Association, as agent for the Debtors' Senior Credit Facility; and (e) and any such other party entitled to notice pursuant to Local Bankruptcy Rule 9013-1(m). The Debtors submit that no other or further notice need be provided.

**NO PRIOR REQUEST**

34. No previous request for the relief sought herein has been made to this Court or any other court.

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**CONCLUSION**

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form annexed hereto, granting the relief requested in this Application and such other and further relief as may be just and proper.

Dated: August 26, 2017  
Bellport, NY

PERFUMANIA HOLDINGS, INC.  
(on behalf of itself and the other Debtors)

By: /s/ Michael W. Katz  
Name: Michael W. Katz  
Title: President



**EXHIBIT A**

**Engagement Agreement**



January 3, 2017

Mr. Michael Katz - CEO  
Perfumania Holdings, Inc.  
35 Sawgrass Drive  
Bellport, N.Y. 11713

Re: Perfumania Advisory Services

Dear Michael:

This letter agreement (this "**Agreement**"), entered into as of December 30, 2016 (the "**Effective Date**"), confirms the terms of the agreement between Ankura Consulting Group, LLC ("**Ankura**") and Perfumania Holdings, Inc. (collectively, with its subsidiaries and affiliates, the "**Company**") pursuant to which Ankura has been engaged to act as the advisor to Company to provide financial and restructuring advisory services as set forth below.

While we continue to provide advisory services under the joint retention agreement dated July 1, 2016 (the "July 1 Agreement"), upon the execution of this Agreement, with the exception of the proposed restructured leases currently under consideration with management that are described on Exhibit A hereto (the "Reserved Leases"), and the fees to which Ankura is entitled for its work in connection with the Reserved Leases under and pursuant to the July 1 Agreement, upon the execution of this Agreement, the July 1 Agreement will terminate in its entirety and will be superseded and replaced by this Agreement. Under this Agreement, we have been retained by the Company and will report to Jeffrey Frank for the services described herein.

1. Scope of Engagement: On the terms and subject to the conditions of this Agreement, Ankura will provide to the Company the following services (the "**Services**"), as requested by the Company and agreed to by Ankura:
  - a. Advise and assist management in organizing the Company's resources and activities to effectively and efficiently plan, coordinate and manage contingency planning for a possible chapter 11 process, including all necessary support required by counsel in preparing all petitions and first day motions;
  - b. Develop sample scripts, communications and question and answers for customers, lenders, suppliers, employees and other parties in interest;
  - c. Assist in the preparation of the Statement of Financial Affairs and Schedule of Assets and Liabilities;
  - d. Assist management in refining final leasing action schedules for those locations to be assumed, rejected or modified and negotiating with Company counsel and outside real estate broker, where necessary, with landlords in connection with leases to be modified.



- e. Advise and assist the Company in forecasting, planning, controlling and other aspects of managing cash, and, if necessary, obtaining DIP financing;
- f. Provide such other services as may be required by the Company.
- g. Perform such other professional services as may be requested by the Company and agreed to by Ankura in writing.

In the event there is a disagreement as to any direction, guidance or instruction to be given to Ankura in connection with the foregoing Services, Ankura shall take such direction, guidance or instruction from Stephen Nussdorf.

It is our intention to work closely with you and management throughout the course of our engagement. Regular discussions with you regarding our progress should provide you with an opportunity to confirm or request that we modify the scope of our engagement to best serve your needs. Ankura will exercise its best efforts to minimize the time needed for this project by drawing upon the resources of the Company for data and related analysis to the extent possible. In addition, Ankura will utilize the services of personnel at lower hourly rates for analysis and data assembly and organization to the extent possible. The Services and compensation arrangements set forth herein do not encompass other financial advisory services not set forth in this Section 1. If the Company and Ankura later determine to expand the scope of Services to include other services not otherwise set forth herein, such future agreement will be the subject of a further and separate written agreement of the parties.

2. Company Information and Reports:

In order to fulfill the Services under this Agreement, it will be necessary for Ankura personnel to have access to the Company's facilities and certain books, records and reports of the Company. In addition, Ankura will need to have discussions with the Company's management and certain other personnel. Ankura will perform the Services in a manner that will permit the business operations of the Company to proceed in an orderly fashion, subject to the requirements of this engagement. We understand that the Company has agreed it will furnish Ankura with such information as Ankura believes appropriate to its assignment (all such information so furnished being the "*Information*"). The Company recognizes and confirms that Ankura (i) will use and rely on the accuracy and completeness of the Information and on Information available from generally recognized public sources without independently verifying the same, (ii) does not assume responsibility for the accuracy, completeness or reasonableness of the Information and such other Information, and (iii) will not make an appraisal of any assets or liabilities (contingent or otherwise) of the Company. The Company shall advise Ankura promptly upon obtaining any actual knowledge of the occurrence of any event or any other change in fact or circumstance upon which Ankura formed part or all of its opinions, advice, or conclusions, or which could reasonably be expected to result in some or all of the Information being incorrect, inaccurate, or misleading. To the best of the Company's knowledge, the Information to be furnished by or on behalf of the Company, when delivered, will be true and correct in all material respects and will not contain any material misstatement of fact or omit to state any material fact necessary to make the statements contained therein not misleading.

Ankura will submit oral reports highlighting our findings and observations based upon the Services we perform pursuant to this Agreement. Our reports will encompass only matters that come to our attention in the course of our work that we perceive to be significant in relation to the objectives of our



engagement. The depth of our analyses and extent of our authentication of the information on which our advice to you will be based may be limited in some respects due to the extent and sufficiency of available Information, time constraints dictated by the circumstances of our engagement, and other factors. We do not contemplate examining any such Information in accordance with generally accepted auditing or attestation standards. It is understood that, in general, we are to rely on Information disclosed or supplied to us by employees and representatives of the Company without audit or other detailed verification of their accuracy and validity. Accordingly, we will be unable to and will not provide assurances in our reports concerning the integrity of the Information used in our analyses and on which our findings and advice to you may be based. In addition, we will state that we have no obligation to, and will not update our reports or extend our activities beyond the scope set forth herein unless you request and we agree to do so.

3. Fees and Expenses: For Ankura's Services hereunder, the Company agrees to pay to Ankura the following non-refundable fee (the "*Fee*") based on the actual hours expended at our standard hourly rates that are in effect when the Services are rendered. Our rates generally are revised annually. Ankura will provide a weekly report to the Company of time expended in this engagement. Our current hourly rates are as follows:

Professional	Rates per hour
Senior Managing Directors	\$850-950
Other professionals	\$350-800
Paraprofessionals	\$150-250

a. Expenses Reimbursement: Ankura shall be entitled to reimbursement of actual, reasonable out-of-pocket and direct expenses incurred in connection with the Services to be provided under this Agreement (including for Ankura's reasonable out-of-pocket fees and expenses for outside legal counsel and other third-party advisors) incurred in connection with this Agreement, including the negotiation and performance of this Agreement and the matters contemplated hereby) (collectively, "*Expenses*").

b. Estimate of Fees: Ankura estimates, based upon the scope of services to be provided above, our fees will range between \$200,000 and \$225,000 up to the time of filing. Estimated fee subsequent to a filing should approximately \$75,000 to \$80,000 per month. Actual fee may be higher or lower than these ranges depending upon the level of effort provided by Company personnel and the requirements needed to properly support Company counsel. Ankura agrees to discuss the level of activities being performed and the fees incurred, on a weekly basis with Jeffrey Frank.

c. Reasonableness of Fees: The Company acknowledges that it believes that Ankura's general restructuring experience and expertise will inure to the benefit of the parties hereto, that the value to the parties hereto of Ankura's Services derives in substantial part from that experience and expertise and that, accordingly, the structure and amount of the Fees to be paid to Ankura hereunder



are reasonable. The Company acknowledges that a substantial professional commitment of time and effort will be required of Ankura and its professionals hereunder, and that such commitment may foreclose other opportunities for Ankura. Given the numerous issues which may arise in engagements such as this, Ankura's commitment to the variable level of time and effort necessary to address such issues, the expertise and capabilities of Ankura that will be required in this engagement, and the market rate for Ankura's services of this nature, whether in-court or out-of-court, the parties agree that the fee arrangement provided for herein is reasonable, fairly compensates Ankura, and provides the requisite certainty to the parties hereto.

d. Testimony: Subpoena Requests. The Company agrees that if any of the principals or professionals of Ankura are required to testify at the request of the Company, on the Company's behalf or by legal, regulatory, administrative, arbitration or judicial order, at any proceeding related to the Services or this Agreement, Ankura will be compensated by the Company for our associated time charges at our regular hourly rates, in effect at the time and reimbursed for our reasonable out-of-pocket expenses, including counsel fees. In addition, Ankura will be compensated for any time and expense (including, without limitation, reasonable legal fees and expenses) that Ankura may incur in considering or responding to discovery requests or other requests for documents or information in any legal, regulatory, administrative, arbitration or other proceeding as a result of, or in connection with the Services or this Agreement.

#### 4. Retainer

a. In connection with the foregoing, it is Ankura's policy to receive an advance retainer for the Fees and Expenses. Upon execution of this Agreement, the Company shall provide Ankura with such retainer in the amount of \$100,000 (the "**Retainer**"). The Retainer will be maintained throughout the engagement and returned to the Company upon completion of Ankura's Services. In addition, the Company agrees to provide one or more additional Retainers upon request of Ankura so that the amount of any Retainer remains at or above Ankura's estimated Fees and Expenses. Ankura reserves the right to apply the Retainer to outstanding Fees and Expenses as Services are rendered and to Expenses as they are incurred. The Company understands and acknowledges that any Retainer is earned by Ankura upon receipt, any Retainer becomes the property of Ankura upon receipt, the Company no longer has a property interest in any Retainer upon Ankura's receipt, any Retainer will be placed in Ankura's general account and will not be held in a client trust account, and the Company will not earn any interest on any Retainer; *provided, however*, that solely to the extent required under applicable law, at the conclusion of the engagement, if the amount of any Retainer held by Ankura is in excess of the amount of Ankura's outstanding and estimated Fees and Expenses, Ankura will pay to the Company the amount by which any Retainer exceeds such Fees and Expenses. The Company further understands and acknowledges that the use of retainers is an integral condition of the engagement, is necessary to ensure that the Company continues to have access to Ankura's Services, Ankura is compensated for the Services provided to the Company; Ankura is not a pre-petition creditor in the event of a bankruptcy filing and that in light of the foregoing, the provision of the Retainers is in the Company's best interests.

b. If any of the Company's entities files a petition or has commenced against it any proceeding under Title 11 of the United States Code (the "**Bankruptcy Code**"), some Fees and Expenses (whether or not billed) incurred before the filing of bankruptcy petitions (voluntary or involuntary)



might remain unpaid as of the date of the filing. The unused portion, if any, of the Retainer will be applied to any such unpaid pre-petition Fees and Expenses. Ankura will then hold any portion of the Retainer not otherwise properly applied for payment of any such unpaid pre-filing Fees and Expenses (whether or not billed) as on account cash to be applied to our final invoice in any case under the Bankruptcy Code.

5. Payment Obligations and Billing

a. Payment Obligations:

i. The obligations of the Company under this Agreement (including the indemnification, reimbursement and contribution obligations described in Schedule I) shall be joint and several obligations. The payment of the Fees and Expenses hereunder are the exclusive obligations of the Company. Prior to commencing any proceedings under any insolvency regime, the Company shall pay all invoiced amounts, whether for Fees or Expenses or otherwise, to Ankura by wire transfer of immediately available funds.

b. Billing: In addition to the Retainer, the Company agrees to pay all Fees and Expenses immediately upon receipt of an invoice to the Company for all Services rendered and Expenses incurred. Payment of the Fees, Expenses and Retainer (including any additional amounts to replenish the Retainer) shall be made via wire transfer to the following account:

Receiving Bank:	JP Morgan Chase, NA 270 Park Avenue New York, New York 10017
ABA Number:	021000021
Account Number:	672653925
Account Name:	Ankura Consulting Group LLC

c. Currency; Taxes: All Fees, Expenses and any other amounts payable hereunder will be invoiced and are payable in U.S. dollars, free and clear of any withholding taxes or deductions.

6. Term of Agreement: Unless terminated earlier as set forth below, this engagement shall terminate upon completion of the Services. This Agreement may be terminated at any time by Ankura or Company on thirty (30) days' prior written notice to the other. Any termination of this Agreement shall not affect any provisions that survive the termination hereof, including, (i) the indemnification, reimbursement, contribution and other obligations set forth in this Agreement, including Schedule I, and (ii) Ankura's right to receive payment of Fees earned and Expenses incurred by Ankura through the date of termination, and the Company shall immediately pay or cause to be paid all such reasonable Fees and Expenses due and owing. If the Agreement is terminated, the parties hereto agree that Ankura may pursue, advise and/or provide services to any third party(ies) relating to or involving the Company.

7. Court Approval: In the event that a filing under the Bankruptcy Code is necessary or required, the Company will use its best efforts to ensure that the court authorizes the Company to continue to honor its



obligations under this Agreement, including all indemnification obligations hereunder (including Schedule I) and payment by the Company of all Fees and Expenses in accordance with the terms hereunder (including Ankura's counsel's fees and expenses) and, if necessary, approves this Agreement, *nunc pro tunc* to the date the insolvency proceeding was commenced.

8. Nature of Services; Use of Advice:

a. Ankura shall act as an independent contractor under this Agreement, and not in any other capacity including as a fiduciary, and any obligations arising out of its engagement shall be owed solely to the Company. Any advice rendered pursuant to this Agreement is intended solely for the use of the Company in considering the matters to which this Agreement relates, and such advice may not be relied upon by any other person or used for any other purpose. Nothing in this Agreement, expressed or implied, is intended to confer or does confer on any person or entity, other than the parties hereto, the Indemnified Persons (as such term is defined in Schedule I) and each of their respective successors, heirs and assigns, any rights or remedies under or by reason of this Agreement or as a result of the services to be rendered by Ankura hereunder.

b. Any advice rendered by or other materials prepared by, or any communication from, Ankura (in each case, the "Ankura Advice") may not be disclosed, or used, in whole or in part, to or by, any third party, or summarized, quoted from, or otherwise referred to in any manner, without the prior written consent of Ankura. Ankura Advice may only be used by the Company for the purposes set forth in this Agreement. The terms of this Agreement shall not be referred to without Ankura's prior written consent.

c. At the direction of legal counsel, certain communications and correspondence between Ankura and reports and analyses prepared by Ankura, in connection with this Agreement and the matters contemplated hereby, will be considered in preparation for litigation, and accordingly, will be subject to the attorney-client privilege and work-product privilege between Ankura and the Company.

9. Confidentiality and Internal Use: In connection with this engagement, either party (the "**Receiving Party**") may come into the possession, whether orally or in writing, of Confidential Information of the other party (the "**Disclosing Party**"). The Receiving Party hereby agrees that it will not disclose, publish or distribute such Confidential Information to any third party without the Disclosing Party's consent, which consent shall not be unreasonably withheld. For purposes of this Agreement, "**Confidential Information**" means (a) the terms of this Agreement and (b) any and all non-public, confidential or proprietary knowledge, data, or information of or concerning the Disclosing Party. For the avoidance of doubt, Confidential Information includes without limitation, research, analyses, names, business plans, valuations, databases and management systems. Confidential Information shall not include information that: (i) was publicly known and made generally available in the public domain prior to the time of disclosure; (ii) is already in the lawful possession of the Receiving Party at the time of disclosure; (iii) is lawfully obtained from a third party lawfully in possession of such information and without a breach of such third party's obligations of confidentiality; (iv) is independently developed without use of or reference to any Confidential Information or (v) is required to be disclosed to governmental agencies or regulatory bodies having regulatory authority or other authority over the Receiving Party, or as is required by law provided that Receiving Party shall, to the extent legally permitted to do so, use its best efforts to promptly give Disclosing Party written prior notice to any disclosure under this clause (v) so that Disclosing Party can seek a protective order. Nothing in this Section 9 or this Agreement shall prohibit Ankura from using the



Company's name and logo as part of a general client listing and as a specific citation in proposals or similar directed marketing efforts. Ankura acknowledges that it is aware, and it agrees that it will advise those of its employees, agents, contractors and representatives who are informed of the matters that are the subject of this Agreement and any information that is provided to Ankura in connection with Ankura's Services hereunder, of the restrictions imposed by the United States securities laws on the purchase or sale of securities by any person who has received material, non-public information from the issuer of such securities and on the communication of such information to any other person.

10. **Indemnification:** The Company shall provide indemnification, contribution and reimbursement as set forth in Schedule I hereto. The terms and provisions of Schedule I are an integral part hereof, are hereby incorporated by reference, are subject in all respects to the provisions hereof and shall survive any termination or expiration of this Agreement. Further, if an Indemnified Person (as defined in Schedule I) is requested or required to appear as a witness in any Action (as defined in Schedule I) that is brought by or on behalf of or against the Company or that otherwise relates to this Agreement or the Services rendered by Ankura hereunder, the Company shall, jointly and severally, reimburse Ankura and the Indemnified Person for all documented, actual out of pocket expenses incurred by them in connection with such Indemnified Person appearing or preparing to appear as such a witness, including without limitation, the fees and disbursements of legal counsel.

11. **Entire Agreement; Amendments:** This Agreement (including Schedule I) represents the entire agreement between the parties, supersedes all previous agreements relating to the subject matter hereof (should they exist) and may not be modified or amended except in writing signed by all of the parties hereto.

12. **Counterparts:** This Agreement may be executed in counterparts (and by facsimile or other electronic means), each of which shall constitute an original and all of which together will be deemed to be one and the same document.

13. **Severability:** The invalidity or unenforceability of any provision of this Agreement (including Schedule I) shall not affect the validity or enforceability of any other provision.

14. **Announcements:** Ankura shall be entitled to identify the Company and use the Company's name and logo in connection with marketing and pitch materials upon conclusion of the Services. In addition, if requested by Ankura, the Company agrees that in any press release related to the Services or outcome of the Services provided hereunder, the Company will include in such press release a mutually acceptable reference to Ankura's role as restructuring advisor to the Company.

15. **GOVERNING LAW; JURY TRIAL WAIVER; JURISDICTION:** THIS AGREEMENT WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN SUCH STATE. ANKURA AND THE COMPANY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF OR IN CONNECTION WITH THE ENGAGEMENT OF ANKURA PURSUANT TO, OR THE PERFORMANCE BY ANKURA OF THE SERVICES CONTEMPLATED BY, THIS AGREEMENT. REGARDLESS OF ANY PRESENT OR FUTURE DOMICILE OR PRINCIPAL PLACE OF BUSINESS OF THE PARTIES HERETO, EACH PARTY HEREBY IRREVOCABLY CONSENTS AND AGREES THAT ANY CLAIMS OR DISPUTES BETWEEN OR AMONG THE PARTIES HERETO





ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE BROUGHT AND MAINTAINED IN ANY FEDERAL OR STATE COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK, WHICH COURTS SHALL HAVE EXCLUSIVE JURISDICTION OVER THE ADJUDICATION OF SUCH MATTERS; PROVIDED HOWEVER, THAT IF ANY ENTITY COMPRISING THE COMPANY BECOMES A DEBTOR UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, AND IF A COMPANY ENTITY IS A PARTY TO SUCH DISPUTE WITH RESPECT TO THIS AGREEMENT, ANKURA AND THE COMPANY IRREVOCABLY AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION AND FORUM OF THE BANKRUPTCY COURT IN WHICH SUCH CHAPTER 11 CASE IS PENDING. BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO FURTHER IRREVOCABLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND HEREBY WAIVES IN ALL RESPECTS ANY CLAIM OR OBJECTION WHICH IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON-CONVENIENS. EACH PARTY HERETO AGREES THAT A FINAL NON-APPEALABLE JUDGMENT IN ANY SUCH ACTION BROUGHT IN ANY SUCH COURT SHALL BE CONCLUSIVE AND BINDING UPON IT AND MAY BE ENFORCED IN ANY OTHER COURT(S) HAVING JURISDICTION OVER IT BY SUIT UPON SUCH JUDGMENT. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ALL SUCH DISPUTES BY THE MAILING OF COPIES OF SUCH PROCESS TO THE NOTICE ADDRESS FOR EACH SUCH PERSON AS SET FORTH IN SECTION 16 HEREOF. EACH OF THE PARTIES HERETO HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF ANY OTHER PARTY HERETO HAS REPRESENTED EXPRESSLY OR OTHERWISE THAT SUCH PARTY WOULD NOT SEEK TO ENFORCE THE PROVISIONS OF THIS WAIVER. EACH OF THE PARTIES HERETO HEREBY ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY AND IN RELIANCE UPON, AMONG OTHER THINGS, THE PROVISIONS OF THIS SECTION 15.

16. Notices: Notice given pursuant to any of the provisions of this Agreement shall be in writing and shall be mailed or delivered (including via email so long as the recipient acknowledges receipt) at the address set forth in the signature blocks of each such person below.

17. Miscellaneous:

a. Conflicts:

i. Ankura is involved in a wide range of other activities from which conflicting interests, or duties, may arise. We have undertaken an inquiry of our records in accordance with our standard business practices based on the parties identified to us, and have determined that we may proceed. Due to the diversity of Ankura's experts and advisory services, Ankura cannot be certain all relationships have or will come to light. Should an actual conflict come to the attention of Ankura during the course of this engagement, we will notify you immediately and take appropriate actions, as necessary. The Company represents and warrants that it has informed Ankura of the parties-in-interest to this matter and agrees that it will inform Ankura of additions to, or name changes for, those parties-in-interest. Ankura is not restricted from working on other engagements involving the parties in this matter; however, during the course of this engagement, services of the nature described in this Agreement which are directly adverse to the Company shall not be provided by personnel working on this engagement without prior written consent of the Company.



ii. The Company acknowledges that Ankura and its affiliates may have provided professional services to, may currently provide professional services to, or may in the future provide such services to other parties-in-interest. The Company agrees that Ankura, its affiliates, subsidiaries, subcontractors and their respective personnel will have no responsibility to the Company in relation to such professional services, nor any responsibility to use or disclose information Ankura possesses by reason of such services, whether or not such information might be considered material to the Company. Information which is held elsewhere within Ankura but is not publicly available will not for any purpose be taken into account in determining Ankura's responsibilities to the Company under this engagement. Ankura will not have any duty to disclose to the Company or any other party or utilize for the benefit of any such party's or any other party any non-public information, or the fact that Ankura is in possession of such information, acquired in the course of providing services to any other person, engaging in any transaction (on its own account or otherwise) or otherwise carrying on its business.

b. Liability:

No (i) direct or indirect holder of any equity interests or securities of Ankura whether such holder is a limited or general partner, member, stockholder or otherwise, (ii) affiliate of Ankura, or (iii) director, officer, employee, representative, or agent of Ankura, or of an affiliate of Ankura or of any such direct or indirect holder of any equity interests or securities of Ankura (collectively, the "*Party Affiliates*") shall have any liability or obligation of any nature whatsoever in connection with or under this Agreement or the transactions contemplated hereby, and the Company waives and releases all claims against such Party Affiliates related to any such liability or obligation.

c. Authority; Due Authorization; Enforceability:

Each party hereto represents and warrants that it has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. Each party hereto further represents and warrants that this Agreement has been duly and validly authorized by all necessary corporate action and has been duly executed and delivered by each such party and constitutes the legal, valid and binding agreement of each such party, enforceable in accordance with its terms.

d. Independent Contractors:

In connection with the Services, Ankura may, without consent from the Company utilize employees, agents or independent contractors or its own affiliates or its own agents or independent contractors. References in this Agreement to Ankura personnel shall apply equally to employees, agents or independent contractors of Ankura and its affiliates. The parties intend that an independent contractor relationship will be created by this Agreement. As an independent contractor, Ankura will have complete and exclusive charge of the management and operations of its business, including hiring and paying the wages and other compensation of all its employees and agents, and paying all bills, expenses and other charges incurred or payable with respect to the operations of its business. Ankura employees will not be entitled to receive from the Company any vacation, sick pay, leave, retirement, pension or social security benefits, workers' compensation, disability, unemployment insurance benefits or any other employee benefits. Ankura will be responsible for all withholding, income and other taxes incurred in connection with the operation and conduct of its business. Nothing in this Agreement is intended to create, nor shall be deemed or construed to create a fiduciary or agency relationship between Ankura and the Company.



e. Limitations of Engagement:

The Company acknowledges that Ankura is being retained solely to assist the Company as described in this Agreement. The Company agrees that it will be solely responsible implementing any advice or recommendations and for ensuring that any such implementation complies with applicable law. The Company understands that Ankura is not undertaking to provide any legal, regulatory, accounting, insurance, tax or other similar professional advice and the Company confirms that it is relying on its own counsel, accountants and similar advisors for such advice. This engagement shall not constitute an audit or review, or any other type of financial statement reporting engagement. It is expressly agreed that, other than as set forth above, Ankura will not evaluate or attest to the Company's internal controls, financial reporting, illegal acts or disclosure deficiencies and Ankura shall be under no obligation to provide formal fairness or solvency opinions with respect to any bankruptcy case or otherwise, or any transaction contemplated thereby or incidental thereto. In rendering its Services pursuant to this Agreement, and notwithstanding anything to the contrary herein, Ankura is not assuming any responsibility for any decision to pursue (or not to pursue) any business strategy or to effect (or not to effect) any transaction. Ankura shall not have any obligation or responsibility to provide legal, regulatory, accounting, tax, audit, "crisis management" or business consultant advice or services hereunder, and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements.

f. Limitations on Actions.

No action, regardless of form, relating to this engagement, the Services provided hereunder or this Agreement, may be brought by either party more than one (1) year after the cause of action has accrued, except than an action for nonpayment may be brought no later than one (1) year following the due date of the last payment owing to the party bringing such action.

g. Counsel Representation: The terms of this Agreement have been negotiated by the parties hereto, who have each been represented by counsel, there shall be no presumption that any of the provisions of this Agreement shall be construed adverse to any party as "drafter" in the event of a contention of ambiguity in this Agreement, and the parties waive any statute or rule of law to such effect.

h. Assignment: This Agreement may not be assigned by any party hereto without the prior written consent of the other parties. Any attempted assignment of this Agreement made without such consent shall be void and of no effect, at the option of the non-assigning parties. This Agreement shall be binding on the parties hereto and their successors and permitted assigns.

i. Headings: Headings used herein are for convenience of reference only and shall not affect the interpretation or construction of this Agreement.

j. Survival: Upon any termination of this Agreement, Section 2-4 and 6-11, 13-15, 17(b), 17(d), 17(e), 17(f), 17(g), 17(j), 17(l) and Schedule I hereto shall survive such termination and shall remain in effect. The obligations under Section 9 shall survive for two (2) years after termination of this Agreement.

k. Force Majeure: Neither party shall be liable for any delays or nonperformance directly or indirectly resulting from circumstances or causes beyond its reasonable control, including but not limited



to, fire, epidemic or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

l. Non-Solicitation: During the Term of this engagement and for a period of one (1) year thereafter, the Company agree that it will not directly or indirectly employ, solicit, engage, or retain the services of such personnel whom they had substantive contact within the course of this engagement without the payment to Ankura of two (2) times the total direct compensation paid to such personnel in the preceding twelve (12) months, provided however that this section shall not apply to Ankura personnel who do not have substantive contact within the course of this engagement and who respond to a general solicitation or advertisement not specifically directed to Ankura personnel.

[Signature pages follow.]



If the foregoing correctly sets forth our understanding, please indicate your acceptance thereof in the space provided below, whereupon this Agreement and your acceptance shall constitute a binding agreement between us.

If you have any questions, please call Stephen Marotta at (212) 818-1118. We look forward to working with you on this important matter.

**Ankura Consulting Group, LLC**

By: Ankura Consulting Group, LLC  
Name: Stephen Marotta  
Title: Senior Managing Director

Accepted and agreed to as of the Effective Date:

**Perfumania Holdings, Inc.**

By: Michael Katz  
Name: Michael Katz  
Title: CEO Perfumania Holdings, Inc.  
Address: 35 Sawgrass Drive  
Bellport, NY 11713

[Signature page to Engagement Agreement]



### Schedule I

This Schedule I is a part of and incorporated into the letter agreement (the "Agreement"), dated as of December 1, 2016 between Ankura Consulting Group, LLC ("Ankura"), and Perfumania Holdings, Inc. (the "Company"), pursuant to which Ankura has been engaged to act as the advisor to the Company to provide financial and restructuring advisory services as set forth in the Agreement. Capitalized terms not defined herein shall have the same meaning assigned in the Agreement.

As a material part of the consideration for the agreement of Ankura to furnish its Services under the Agreement, the Company, jointly and severally, agrees that it shall defend, indemnify and hold harmless Ankura and its affiliates and their respective directors, officers, employees, attorneys and other agents appointed by any of the foregoing and each other person, if any, controlling Ankura or any of its affiliates (Ankura and each such person and entity being referred to as an "Indemnified Person"), from and against any losses, claims, damages, judgments, assessments, costs and other liabilities (collectively, "Liabilities"), and will reimburse each Indemnified Person for all reasonable fees and expenses (including the reasonable fees and expenses of counsel) (collectively, "Expenses") as they are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation, whether or not in connection with pending or threatened litigation and whether or not any Indemnified Person is a party (collectively, "Actions"), in each case, related to or arising out of or in connection with the Services rendered or to be rendered by an Indemnified Person pursuant to the Agreement or any Indemnified Persons' actions or inactions in connection with any such Services; provided that the Company will not be responsible for any Liabilities or Expenses of any Indemnified Person that are determined by a judgment of a court of competent jurisdiction, which judgment is no longer subject to appeal or further review, to have resulted primarily from such Indemnified Person's gross negligence or willful misconduct in connection with any of the Services. The Company shall also reimburse such Indemnified Person for all Expenses as they are incurred in connection with enforcing such Indemnified Persons' rights under the Agreement (including without limitation its rights under this Schedule I). Such Indemnified Person shall reasonably cooperate with the defense of any Actions.

The Company shall, if requested by Ankura, assume the defense of any such Action including the employment of counsel reasonably satisfactory to Ankura. The Company will not, without prior written consent of Ankura (which shall not be unreasonably withheld), settle, compromise or consent to the entry of any judgment in or otherwise seek to terminate any pending or threatened Action in respect of which indemnification or contribution may be sought hereunder (whether or not any Indemnified Person is a party thereto) unless such settlement, compromise, consent or termination (i) includes an unconditional release of such Indemnified Person from all Liabilities arising out of such Action and (ii) does not include any admission or assumption of fault or culpability on the part of any Indemnified Person.

No Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or its respective owners, parents, affiliates, security holders or creditors for, or in connection with advice or Services rendered or to be rendered by any Indemnified Person pursuant to the Agreement, the transactions contemplated thereby or any Indemnified Person's actions or inactions in connection with the Services except for Liabilities (and related Expenses) of the Company that are determined by a judgment of a court of competent jurisdiction, which judgment is no longer subject to appeal or further review, to have resulted from such Indemnified Person's gross negligence or willful misconduct in connection with any such Services, provided that, in no event shall any Indemnified Person be liable to the Company in an aggregate amount in excess of the amount of fees actually received by



Ankura pursuant to the Agreement. In no event shall Ankura be liable to the Company for any loss of use, data, goodwill, revenues or profits (whether or not deemed to constitute a direct claim), or any consequential, special, indirect, direct, incidental, punitive or exemplary loss, damage or expense relating to this engagement, the Services or this Agreement.

Prior to entering into any agreement or arrangement with respect to, or effecting, any (i) merger, statutory exchange or other business combination or proposed sale, exchange, dividend or other distribution or liquidation of all or a significant portion of its assets, or (ii) significant recapitalization or reclassification of its outstanding securities that does not directly or indirectly provide for the assumption of the obligations of the Company set forth in this Agreement, the Company will notify Ankura in writing thereof, if not previously so notified, and shall arrange in connection therewith alternative means of providing for the obligations of the Company set forth in this Agreement, including the assumption of such obligations by another party, insurance, surety bonds, the creation of an escrow, or other credit support arrangements, in each case in an amount and upon terms and conditions reasonably satisfactory to Ankura.

These indemnification, contribution and other provisions of this Schedule I shall (i) remain operative and in full force and effect regardless of any termination of the Agreement or completion of the engagement by Ankura; (ii) inure to the benefit of any successors, assigns, heirs or personal representative of any Indemnified Person; and (iii) be in addition to any other rights that any Indemnified Person may have.

#### EXHIBIT A – RESERVED LEASES

NOTE: To the extent that any of these leases are outright rejected in a bankruptcy proceeding, then no fee pursuant to this Exhibit A will be payable to Ankura.

\*The Fee, when payable, will be calculated by the formula in the July 1, 2016 Agreement.



***EXHIBIT A***

<b><u>Facility</u></b>	<b><u>Potential Fee*</u></b>
Harlem Irving Plaza	\$
North Riverside Park	\$
Laughlin Outlet Center	\$
Westfield Roseville	\$
Mall of America #89	\$
Ford Coty Mall	\$
Eastland Center	\$
West Oaks Mall	\$
Longview Mall	\$



**EXHIBIT B**

**Marotta Declaration**

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

----- X  
In re: : Chapter 11  
MODEL REORG ACQUISITION, LLC, et al., : Case No. 17-11794 (\_\_\_\_)  
Debtors.<sup>1</sup> : (Joint Administration Pending)  
----- X

**DECLARATION OF STEPHEN MAROTTA IN SUPPORT OF DEBTORS'  
APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY  
CODE SECTIONS 327(a) AND 328(a) AND BANKRUPTCY RULES 2014(a) AND  
2016 AUTHORIZING EMPLOYMENT AND RETENTION OF ANKURA  
CONSULTING GROUP, LLC, AS FINANCIAL ADVISORS TO DEBTORS AND  
DEBTORS IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE**

Stephen Marotta being duly sworn, hereby states as follows:

1. I am a Senior Managing Director with Ankura Consulting Group, LLC (together with employees of its affiliates, its wholly owned subsidiaries, and independent contractors, "Ankura"), a consulting firm that specializes in corporate restructuring, operations improvements; litigation analytics, liquidation and asset sales, and case management services, and maintains offices at 800 Lanidex Plaza, Suite 210, Parsippany, NJ 07054 and 750 Third Avenue, 28th Floor, New York, NY 10017.
2. I have more than 33 years of experience providing professional accounting and consulting services to major corporations and businesses, including 27 years of consulting to

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Perfumania Holdings, Inc. (7964); Perfumania, Inc. (6340); Magnifique Parfumes and Cosmetics, Inc. (6420); Ten Kesef II, Inc. (1253); Perfumania.com, Inc. (4688); Model Reorg Acquisition, LLC (0318); Northern Group, Inc. (3226); Perfumania Puerto Rico, Inc. (6787); Quality King Fragrance, Inc. (4939); Scents of Worth, Inc. (1732); Jacavi, LLC (6863); Distribution Concepts, LLC (8845); Flowing Velvet, Inc. (7294); Aladdin Fragrances, Inc. (4338); Niche Marketing Group, Inc. (1943); Northern Brands, Inc. (7186); Northern Amenities, Ltd. (5387); Global Duty Free Supply, Inc. (2686); and Perfumers Art, Inc. (6616). The address of the Debtors' corporate headquarters is 35 Sawgrass Drive, Suite 2, Bellport, New York 11713.

financially troubled companies. My experience includes business plan and disclosure statement development, viability assessments, reengineering and overhead reduction programs, claims and preference analyses, crisis management, forensic investigation, and litigation support. My industry experiences include healthcare, retail, telecommunications, manufacturing, wholesale distribution, entertainment, and financial services.

3. I submit this declaration on behalf of Ankura (the "Declaration") in support of the Debtors' Application for Entry of an Order Pursuant to Bankruptcy Code Sections 327(a) and 328(a) and Bankruptcy Rules 2014(a) and 2016 Authorizing Employment and Retention of Ankura Consulting Group, LLC, as Financial Advisors to Debtors and Debtors in Possession *Nunc Pro Tunc* to the Petition Date (the "Application") on the terms and conditions set forth in the Application and Engagement Agreement.<sup>2</sup> Except as otherwise noted, I have personal knowledge of the matters set forth herein.<sup>3</sup>

#### **DISINTERESTEDNESS AND ELIGIBILITY**

4. In connection with this proposed retention, Ankura undertook a lengthy conflicts analysis process to determine whether it had any relationships adverse to the Debtors' estates. Specifically, Ankura has undertaken a thorough review of its database that contains the names of the clients and other parties of interest with respect to certain matters. Ankura has run all parties listed on the potential parties in interest list (the "Potential Parties in Interest"), which is attached to the Application as Schedule A. These parties include, among others, (a) the Debtors; (b) the Debtors' current officers and directors; (c) the Debtors' secured lenders; and (d) the Debtors' twenty (20) largest unsecured creditors. Ankura's investigation has not revealed any

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.

<sup>3</sup> Certain of the disclosures herein relate to matters within the personal knowledge of other professionals at Ankura and are based on information provided by them.

actual or potential conflict of interest with respect to Ankura's proposed representation of the Debtors.

5. Based on that review, Ankura represents that, to the best of its knowledge, Ankura knows of no fact or situation that would represent a conflict of interest for Ankura with regard to the Debtors. Ankura, however, wishes to disclose that it has had previous engagements in which the Potential Parties in Interest, set forth on Schedule B annexed hereto, were also involved, but, unless otherwise disclosed on Schedule B, were not represented by Ankura or its predecessor. While the disclosures refer to Ankura, the conflict search was performed and results were disclosed as to Ankura and Marotta Gund Budd & Dzera, LLC, to which Ankura is a successor in interest. Unless otherwise noted, references to Ankura in the disclosures on Schedule B collectively refer to Ankura and Marotta Gund Budd & Dzera, LLC.

6. As part of its diverse practice, Ankura appears in numerous cases, proceedings, and transactions involving many different attorneys, accountants, investment bankers, and financial consultants, some of which may represent claimants and parties-in-interest in the Chapter 11 Cases. Further, Ankura, or companies in which it has investments, has in the past, and may in the future, be represented by several attorneys and law firms in the legal community, some of whom may be involved in this proceeding. In addition, Ankura has in the past, and will likely in the future, be working with or against other professionals involved in this case in matters unrelated to the Debtors or the Chapter 11 Cases. Based on our current knowledge of the professionals involved, and to the best of my knowledge, none of these business relations constitute interests materially adverse to the Debtors herein in matters upon which Ankura is to be employed.

7. Ankura has represented, and will in the future represent, many different clients with various business interests in numerous industries. These clients are often referred to Ankura by intermediaries such as lawyers, investment bankers, lenders and accountants.

8. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, except as otherwise disclosed herein, neither I nor any of Ankura's professional employees or representatives: (a) have any connection with the Debtors, their creditors or any other Potential Parties in Interest in these Chapter 11 Cases; or (b) are related or connected to any United States Bankruptcy Judge for the District of Delaware, any of the District Judges for the District of Delaware who handle bankruptcy cases, the U.S. Trustee or any employee in the Office of the U.S. Trustee.

9. To the best of my knowledge, Ankura has not been retained to assist any entity or person other than the Debtors on matters relating to, or in direct connection with, these Chapter 11 Cases. If the Debtors are authorized by the Court to employ and retain Ankura, Ankura will not accept any engagement or perform any service for any other entity in these Chapter 11 Cases. Ankura will, however, continue to provide professional services to entities that may be creditors or equity security holders of the Debtor or parties in interest in this Case, provided that such services do not relate to, or have any direct connection with, these Chapter 11 Cases.

10. Ankura intends that all of the services that Ankura will provide to the Debtors will be appropriately directed by the Debtors so as to avoid duplication of efforts among the other professionals retained in these Chapter 11 Cases and performed in accordance with applicable standards of the profession. Ankura will work collaboratively with the Debtors' senior management team, board of directors and other professionals to avoid duplication of

services among professionals. Ankura intends that the services will complement and will not be duplicative of any services of the Debtors' other professionals.

11. Certain individuals affiliated with Ankura may render crisis and management services to the Debtors on a part-time basis, while others have been and/or will continue to be engaged full-time. To the extent such individuals are employed on a part-time basis, Ankura submits that there are no simultaneous or prospective engagements existing which would constitute a conflict or adverse interest as to the matters for which it has been employed by the Debtors.

12. Despite the efforts described above to identify and disclose Ankura's connections with parties-in-interest, because the Debtor is a large enterprise with hundreds of creditors and other relationships, Ankura is unable to state with certainty that every client relationship or other connection has been disclosed. In this regard, if Ankura discovers additional information that requires disclosure, Ankura will file a supplemental disclosure with the Court.

13. In accordance with section 504 of the Bankruptcy Code and Bankruptcy Rule 2016, neither I nor Ankura has entered into any agreements, express or implied, with any other party in interest, including the Debtors, any creditor, or any attorney for such party in interest in these Chapter 11 Cases.

14. Accordingly, to the best of my knowledge, Ankura is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, in that Ankura: (i) is not a creditor, equity security holder, or insider of the Debtors; (ii) was not, within two years before the date of filing of the Debtors' chapter 11 petitions, a director, officer, or employee of

the Debtors; and (iii) does not have an interest materially adverse to the interest of the Debtors' estates or of any class of creditors or equity security holders.

15. If any new, material, relevant facts or relationships are discovered or arise, Ankura will promptly file a supplemental declaration.

### **COMPENSATION**

16. Subject to Court approval and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, applicable U.S. Trustee guidelines, and the Local Bankruptcy Rules, Ankura will seek from the Debtors payment for compensation on an hourly basis and reimbursement of actual and necessary expenses incurred by Ankura. Ankura's customary hourly rates as charged in bankruptcy and non-bankruptcy matters of this type by the professionals assigned to this engagement are outlined in the Application. These hourly rates are adjusted annually.

17. To the best of my knowledge, (i) no commitments have been made or received by Ankura with respect to compensation or payment in connection with these cases, other than in accordance with applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and (ii) Ankura has no agreement with any other entity to share with such entity any compensation received by Ankura in connection with the Chapter 11 Cases.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing  
is true and correct to the best of my knowledge.

Dated: August 26, 2017

By: /s/ Stephen Marotta  
Stephen Marotta  
Senior Managing Director



**SCHEDULE A**

**List of Potential Parties in Interest**

<b><u>PARTY IN INTEREST</u></b>	
<b>(1)</b>	<b><u>Debtors and Affiliates</u></b>
	<b><u>Debtors</u></b>
	Aladdin Fragrances, Inc.
	Distribution Concepts, LLC
	Flowing Velvet, Inc.
	Global Duty Free Supply, Inc.
	Jacavi, LLC
	Magnifique Parfumes and Cosmetics, Inc.
	Model Reorg Acquisition, LLC
	Niche Marketing Group, Inc.
	Northern Amenities, Ltd.
	Northern Brands, Inc.
	Northern Group, Inc.
	Perfumania, Inc.
	Perfumania.com, Inc.
	Perfumania Holdings, Inc.
	Perfumania Puerto Rico, Inc.
	Perfumers Art, Inc.
	Quality King Fragrance, Inc.
	Scents of Worth, Inc.
	Ten Kesef II, Inc.
	<b><u>Non-Debtor Affiliates</u></b>
	Five Star Fragrance Company, Inc.
	Northern Brands, Ltd.
	Parlux Fragrances, LLC
	Parlux SARL
	Parlux, Ltd.
	PFI Distribuidora De Perfumes Ltda
<b>(2)</b>	<b><u>Directors and Officers (Current and Prior 2 Years)</u></b>
	Allan Katz
	Anthony D'Agostino
	Carole Ann Taylor
	Diana Espino
	Donald Loftus
	Donna Dellomo
	Donovan Chin
	Esther Egozi Choukroun
	Fred Paliani
	Frederick E. Purches
	Glenn H. Gopman
	Jeffrey Frank
	Joseph Bouhadana
	Josh Angel
	Kevin McCall
	Michael Katz
	Michael Nofi
	Neal Montany
	Neil Katz

	<b><u>PARTY IN INTEREST</u></b>
	Paolo Rosellini
	Pat Beh Werblin
	Paul Garfinkle
	Rafael Villodo
	Robert Mitzman
	Stephen Nussdorf
<b>(3)</b>	<b><u>Agent and All Current Members of Any Bank or Other Lending Group</u></b>
	<b><u>Secured Creditors:</u></b>
	Bank Leumi USA
	Bank of America, N.A.
	Compass Bank
	General Electric Capital Corporation
	RBS Business Capital
	Regions Bank
	TD Bank, N.A.
	The Huntington National Bank
	Wells Fargo Bank, National Association
	<b><u>Unsecured Notes:</u></b>
	Arlene Nussdorf
	Glenn Nussdorf
	Quality King Distributors, Inc.
	Stephen Nussdorf
<b>(4)</b>	<b><u>Unsecured Trade Creditors</u></b>
	Aptar Stratford
	Aptos Canada Inc.
	Arjay
	Assured Packaging
	AT&T
	B B Trading Worldwide
	B&S Fragrance & Cosmetic
	Bell Container Corp
	Belle Cosmic Mfg. Co, Ltd.
	Belz Factory Outlet World
	CEI Inc.
	Continental / Bracha Cosm.
	Cosper Distribution Inc.
	Curtis Packaging Corp.
	Dunbar Armored Inc
	Euro Perfumes
	HFC Prestige Products, Inc.
	Host.Net
	J S Fragrances
	Jacavi Beauty Group LLC
	JDA Software Services Inc.
	Khanji International, LLC
	Lighthouse Beauty KLO LLC
	Lloyd & Co Advertising

	<b><u>PARTY IN INTEREST</u></b>
	L'Oreal
	Mane USA
	Maurer Wirtz Gmbh & Co
	MB Fragrances LLC
	Mela Construction Contractors LLC
	Nextune, Inc
	Office Depot
	Oni Essence Inc.
	Perfume Center of America
	Popular Sales Inc.
	Prime Fragrance LLC
	R S Trading Corp
	Sanya International Corp.
	Seven Star Distributors
	Simex Trading AG
	Smart Source LLC
	Societe De Gestion Pierre
	Standwill Packaging, Inc.
	Sunteck Transport Co
	Tommy Bahama Group, Inc.
	Tyco Integrated Security, LLC
	Union Sales Inc.
	United Parcel Service
	USA Air Contractors, Inc
	Worldwide Perfumes, LLC
	Your Printer V.2.0 LTD
<b>(5)</b>	<b><u>Equity Holders (Holding Stake of 5% or More)</u></b>
	Arlene Nussdorf
	David Konckier
	Garcia Group
	Glenn Nussdorf
	Jacques Bogart SA
	Jay-Z
	Rene Garcia
	S. Carter Enterprises, LLC
	Shawn C. Carter
	S.B.N.
	Stephen Nussdorf
<b>(6)</b>	<b><u>Cash Management Banks</u></b>
	American National Bank
	Banco Itau
	Banco Popular
	Bank Financial
	Bank of Hawaii
	BB & T
	BB & T - Calhoun Bank
	Capital City Bank
	Capital One

	<b><u>PARTY IN INTEREST</u></b>
	Citizen`s National Bank
	Citizen's Bank
	Citizen's Bank/Old Charter
	Comerica
	Community State Bank
	Compass Bank
	Credit Lyonnais
	Fifth Third
	First Bank of the Lake
	First Citizens
	Five Star Bank
	Frost National Bank
	Glen Falls Nat`l. Bank
	Hamilton State Bank
	Highland
	HSBC
	I.B.C Bank
	International Bank of Commerce
	Johnson Bank
	Key Bank
	MainSource Bank
	MB Financial
	PNC
	Premier Bank
	Queenstown Bank
	Regions
	South State Bank
	SunTrust Bank
	TCF National Bank
	TDBanknorth
	Texas National Bank
	Tuscola National Bank
	US Bank
	Wisconsin Dells Bank
	Wrentham Cooperative Bank
<b>(7)</b>	<b><u>Professionals to Be Employed in the Chapter 11 Cases</u></b>
	A&G Realty Partners
	Ankura Consulting Group
	Epiq Systems
	Imperial Capital
	Skadden, Arps
<b>(8)</b>	<b><u>Ordinary Course and Other Professionals</u></b>
	Anchin, Block & Anchin LLP
	Bainbridge, Mims, Rogers & Smith, LLP
	Berglass & Associates
	Burke, Williams & Sorenson, LLP
	Carlton Fields, P.A.
	Castaner Law Offices PSC

	<b><u>PARTY IN INTEREST</u></b>
	Cb Beauty Ltd.
	Cohnreznick
	Constance M. Frays Kreft
	Corporate Creations International
	George Coulter
	Greenberg Traurig P.A.
	Jackson Lewis P.C.
	JCIR Jaffoni & Collins Inc.
	Locke Lord LLP
	Mintz Levin Cohn Ferris Glovsky
	Nexia Puerto Rico PSC
	Perficient, Inc.
	RGIS
	Richards, Layton & Finger, P.A.
	Rodriguez & Maldonado-Velez
	RSM US LLP
	Sol Niego Dba Niego Associates
	Squire Patton Boggs US Llp
	The Law Office Of Scott A Klion,
	Tina Sarrach
	True Partners Consulting Holdings
	Woodmoor Group, Inc.
	Workiva
<b>(9)</b>	<b><u>Landlords</u></b>
	1-27 East Fordham Road Realty Associates, LLC
	AMTRAK
	Arkin Associates
	Ashkenazy Acquisition Corp.
	CBL & Associates
	CBRE
	Centercal Properties
	Craig Realty Group
	Crown Retail
	Developers Diversified Realty
	Dimond Group
	Empresas Fonalledas
	Equity One
	FFO Real Estate Advisors
	FSH Associates LP
	General Growth Properties
	Grid Properties
	Gumberg Asset Management Corp.
	Harlem Irving Realty, Inc.
	Horizon Group Properties
	Hull Storey Gibson Companies, LLC
	Jones Lang LaSalle
	Kimco Realty
	Lormax Stern Development Company

	<b><u>PARTY IN INTEREST</u></b>
	Macerich
	Mid-America Asset Management
	Miromar Outlets West, LLC
	Mohr Affinity, LLC
	Moonbeam Equities
	New England Development
	Pyramid Company
	Rouse Properties
	Simon Property Group
	Singerman Real Estate
	Sober Realty Corp.
	Spinoso Real Estate Group
	Starwood Capital Group
	Steiner & Associates
	Stratosphere Leasing
	Tanger Outlet Centers
	The Feil Organization
	The Howard Hughes Corporation
	The Taubman Company
	Triple Five
	Turnberry Associates
	Vornado Realty
	Weingarten Realty Investors
	Westfield Corporation
	Woodmont Company
	WP Glimcher
	Yacht Haven USVI LLC
<b>(10)</b>	<b><u>Major Customers</u></b>
	Bealls
	Belk
	Bon Ton
	Boscovs
	CVS
	Dillards
	K&G
	Kmart
	Kohl's
	Lord & Taylor
	Macy's
	Marshalls
	Neiman Marcus
	Nordstrom
	Ross Stores
	Sears
	Stage Stores
	Steinmart
	Syms
	Target

	<u>PARTY IN INTEREST</u>
	Walgreens
	Wal-Mart
<b>(11)</b>	<b>Brands</b>
	Azzaro
	Bijan
	Burberry
	Bvlgari
	Calvin Klein
	Carolina Herrera
	Christian Dior
	Dolce & Gabbana
	Donald Trump
	Donna Karan
	Estee Lauder
	Gale Hayman
	Giorgio Armani
	Givenchy
	Gucci
	Guess
	Hugo Boss
	Isaac Mizrahi
	Issey Miyake
	Ivanka Trump
	Jason Wu
	Jessica Simpson
	Jimmy Choo
	Kenneth Cole
	Lacoste
	Lutece
	Major League Baseball
	Marc Ecko
	Michael Jordan
	Mont Blanc
	Norell
	Paco Rabanne
	Paris Hilton
	Pavlova
	Pierre Cardin
	Raffinee
	Ralph Lauren / Polo
	Realm
	Rihanna
	Royal Copenhagen
	Royal Secret
	Shawn Carter
	Snookie
	Tommy Bahama
	Versace



	<b><u>PARTY IN INTEREST</u></b>
	Vicky Tiel
	Vince Camuto
	XOXO
	Yves Saint Laurent
<b>(12)</b>	<b><u>Insurance Carriers, Insurance Brokers, and Premium Finance Parties</u></b>
	Ace American
	B&G Group
	Beazley Insurance Co.
	Continental Casualty Co.
	Global Commercial Credit
	Hartford Fire Ins Co.
	Hiscox Insurance Co.
	Illinois National Insurance Co.
	Intergrand Assurance Company
	Liberty Ins Underwriters
	Lloyd's of London
	Travelers Casualty & Surety Co.
	U.S. Specialty Insurance Co.
	United Surety & Indemnity Co.
	Westchester Fire Insurance Co.
	Western Surety Company
	Zurich Ins. Co.
<b>(13)</b>	<b><u>Major Utility Providers</u></b>
	1 Cloud Communications
	Advanced Disposal
	All States Services
	Ameren
	American Express-Corp. Purch. Card / American Express
	American Telephone Company LLC
	Anpi Business, LLC
	Antietam Cable Television
	Arizona Public Service
	At&t
	Atlantic City Electric
	Atmos Energy
	Autoridad de Acueductos y
	Autoridad de Energia Electrica
	Baldwin EMC
	Bay State Gas dba Columbia Gas MA
	Benton PUD
	Black Hills Energy
	Bluebonnet Electric Cooperative
	Board of Public Works
	Braintree Electric Light Department
	Bright House Networks LLC
	Broadview Network
	Cablevision
	Cablevision Lightpath Inc

	<b><u>PARTY IN INTEREST</u></b>
	Center Point Energy Resources Corp
	Central Hudson Gas & Electric Corp
	Central Maine Power Co.
	CenturyLink
	Champion Energy Services, LLC
	Chugach Electric Association, Inc
	City of Altamonte Springs-Utility
	City of Ann Arbor Water Utilities
	City of Aurora
	City of Boynton Beach-Utility Dept
	City of Calumet City
	City of ClearWater
	City of Hollywood
	City of Kennewick
	City of Melbourne
	City of Miami Beach
	City of North Miami Beach
	City of Savannah
	City of Seattle
	City of St. George
	City of Sterling Heights Water
	City Of Sunrise
	City of Troy Water Department
	City of Vicksburg
	City Utilities
	Comcast
	ComEd
	Complete Solutions & Sourcing, Inc.
	Con Edison
	Consolidated Communications
	Consumers Energy
	Coral Springs Improvement District
	Corporate Services Consultants, LLC
	COSERV
	Cox Communications
	CPL Retail Energy
	CPS Energy
	CR&R Incorporated
	Davidson Telecom
	Dayton Power and Light Company
	Deep Green Waste & Recycling LLC
	Delmarva Power
	Department of Water and Sewers
	Direct Energy Business LLC
	Dominion Energy
	Drupion, Inc.
	Duke Energy
	Duquesne Light Company

	<b><u>PARTY IN INTEREST</u></b>
	E C Waste
	EJ Harrison & Sons Inc.
	ELM Services LLC
	Empire District Electric Co.
	Empresas PR de Desarrollo, Inc.
	Entergy
	Eugene Water and Electric Board
	EverSource
	Fair Point Communications, Inc.
	Five Star Carting, Inc.
	Flood Brothers
	Florida Keys Aqueduct Authority
	Florida Power & Light
	Frontier Communications
	Garbage Becoming Green Group Corp
	GCI
	Georgia Natural Gas
	Georgia Power Company
	Grande Communications Network
	Granite Telecommunications, LLC
	Great Waste & Recycling Svc LLC
	GTT Communications, Inc.
	Gulf Power
	Hargray Communicatons
	Hawaiian Telcom
	Heco
	Hotwire Communications, Ltd.
	Imperial Irrigation District
	Indian River County Utilities
	Indiana Michigan Power
	Infinite Energy, Inc.
	Innovative Telephone
	Intermountain R E A
	International Environmental Mgmt
	ITS
	Jackson EMC.
	JCP & L
	Keter Environmental Services Inc
	Lehi City Corporation
	Liberty Utilities
	Long Island Industrial Management
	Louisville Gas & Electric Company
	LV Net, LLC
	Magic Valley Electric Co-op
	Martin County Utility
	Maui Electric Company Ltd
	McAllen Public Utilities
	MCI

	<b><u>PARTY IN INTEREST</u></b>
	MegaPath Networks Inc.,
	Memphis Light Gas & Water Division
	Metro Waste Services Co.
	Miami-Dade Water and Sewer
	Midwest Telecom of America, Inc
	Miele Sanitation Co
	Mississippi Power Company
	Mr. T Carting Corporation
	Municipal Light and Power
	National Grid
	National Management Systems, LLC
	Netcare Internet Services
	New York American Water
	Newbreak Communications
	NICOR Gas
	Nipsco
	NJ Natural Gas Co.
	North Georgia EMC
	Northern Virginia Electric Coop
	NV ENERGY
	NW Natural
	NYSEG
	Ohio Edison
	Oklahoma Gas & Electric, Co
	Oklahoma Natural Gas Company
	Optimum
	Orange & Rockland Light & Power
	Orlando Utilities Commission
	Pacific Power
	Pacificorp
	Palmeto Electric Cooperative Inc
	Penn Power
	Pepco
	PG&E
	Portland General Electric Company
	Potomac Edison
	PPL Electric Utilities
	Precision Waste Solutions, LLC.
	Progressive Waste Solutions of FL
	PSEG Long Island LLC
	PSNC Energy
	Puerto Rico Telephone Company
	Puget Sound Energy
	Questar Gas Company
	Red River Sanitors
	Reliant Energy
	Republic Services
	Salish Networks Inc

	<b><u>PARTY IN INTEREST</u></b>
	San Diego Gas & Electric
	Sanitation Salvage Corp
	Santee Cooper
	Sawnee Electric Membership Corp
	SCANA Energy
	Sevier County Electric System
	Sevier County Utility District
	Shelby Energy Cooperative, Inc.
	Snohomish County PUD
	South Walton Utility Company, Inc
	Southern California Edison
	Southwest Gas Corporation
	Southwestern Electric Power Co.
	Sprint
	Suddenlink
	Sustainable Solutions Group LLC
	Tanner Electric Cooperative
	TECO Tampa Electric
	The Gas Company
	The Illuminating Company
	Time Warner Cable
	Toledo Edison
	Town of Edinburgh Municipal Utilit.
	Town of Smithfield
	TXU Energy
	UGI Utilities Inc
	Vectren Energy Delivery
	Veracity Networks
	Verizon
	Village of Birch Run
	Village of Chicago Ridge
	Village of Norridge Water Dept.
	Village of Nyack Water Dept.
	Village of Schaumburg - Water Bill
	Virginia Natural Gas.
	VIYA
	Voyant Communications, LLC
	Waste Management
	We Energies
	Windstream
	Winters Bros. Hauling of LI, LLC
	Wisconsin Power and Light Company
	Wright Hennepin Cooperative
	Xcel Energy
<b>(14)</b>	<b><u>Local, State and Federal Taxing Authorities</u></b>
	Alamance County
	Alameda County
	Allen County

	<b><u>PARTY IN INTEREST</u></b>
	Arlington County
	Baldwin County
	Bartholomew County
	Beaufort County
	Benton County
	Bexar County
	Bossier Parish
	Broward County
	Buncombe County
	Byron Township
	Camden County
	Cameron County
	Charleston County
	Chatham County
	Cherokee County
	City & County of San Francisco
	City of Auburn Hills
	City of Calhoun
	City of Cambridge
	City of Danbury
	City of Elizabeth
	City of Foley
	City of Gaffney
	City of Garland
	City of Harlingen
	City of Katy
	City of Kenner
	City of Lake Charles
	City of Laredo
	City of McAllen
	City of Memphis
	City of New Orleans
	City of Savannah
	City of Stamford
	City of Taunton
	City of Troy
	City/County/School District of Victoria
	Clark County
	Cobb County
	Collier County
	Collin County
	Commonwealth of Puerto Rico
	Contra Costa County
	Cypress-Fairbanks Independent School District
	Dallas County
	Davis County
	Dawson County
	Dekalb County

	<b><u>PARTY IN INTEREST</u></b>
	Douglas County
	Douglas Town
	El Paso County/City
	Forsyth County
	Fort Bend County
	Galveston County
	Garland Independent School District
	Gordon County
	Grand Prairie City
	Grapevine City
	Greene County
	Greenville County
	Gregg County
	Gwinnett County
	Harris County
	Harrison County
	Hays County
	Henry County
	Hidalgo County
	Hillsborough County
	Horry County
	Imperial County
	Internal Revenue Service
	Jackson County
	James City County
	Jefferson County
	Johnston County
	Judson Independent School District
	Katy Independent School District
	Kaufman County
	King County
	Lake County
	Lane County
	LaPorte County
	Lee County
	Leon County
	Lincoln County
	Los Angeles County
	Madison County
	Marion County
	Mecklenburg County
	Metropolitan Trustee (Nasville, TN)
	Miami-Dade County
	Montgomery County
	Multnomah County
	Municipality of Anchorage
	Nassau County
	New York County

	<b><u>PARTY IN INTEREST</u></b>
	Oklahoma County
	Orange County, CA
	Ouachita Parish
	Parish of East Baton Rouge
	Parish of Jefferson
	Pasadena Independent School District
	Pima County
	Pinellas County
	Placer County
	Potter County
	Prince William County
	Riverside County
	Sacramento County
	San Bernardino County
	San Diego County
	San Luis Obispo County
	San Mateo County
	Santa Clara County
	Seminole County
	Sevier County
	Sevierville City
	Shelby County
	Snohomish County
	Solano County
	St. Charles County
	St. Johns County
	St. Louis County
	State of Alabama
	State of Alaska
	State of Arizona
	State of Arkansas
	State of Brazil
	State of California
	State of Colorado
	State of Connecticut
	State of Delaware
	State of Florida
	State of Georgia
	State of Hawaii
	State of Idaho
	State of Illinois
	State of Indiana
	State of Kansas
	State of Kentucky
	State of Louisiana
	State of Maine
	State of Maryland
	State of Massachusetts



	<b><u>PARTY IN INTEREST</u></b>
	State of Michigan
	State of Minnesota
	State of Mississippi
	State of Missouri
	State of Nevada
	State of New Hampshire
	State of New Jersey
	State of New York
	State of North Carolina
	State of Ohio
	State of Oklahoma
	State of Oregon
	State of Pennsylvania
	State of South Carolina
	State of Tennessee
	State of Texas
	State of Utah
	State of Virginia
	State of Washington
	State of Wisconsin
	Summit County
	Taney County
	Tarrant County
	Thurston County
	Town of Braintree
	Town of Kittery
	Town of Queenstown
	Town of Saugus
	Travis County
	U.S. Virgin Islands
	United Independent School District
	Utah County
	Ventura County
	Village of Lake Delton
	Village of Pleasant Prairie
	Volusia County
	Wake County
	Walton County
	Warren County
	Washington County
	Washington, DC
	Webb County
	Williamson County
<b>(15)</b>	<b><u>Other Government Entities</u></b>
	Brevard County
	City of Atlantic City
	City of Auburn
	City of Aventura

	<b><u>PARTY IN INTEREST</u></b>
	City of Baton Rouge
	City of Bossier City
	City of Boynton Beach
	City of Branson
	City of Camarillo
	City of Chula Vista
	City of Commerce
	City of Coral Springs
	City of Daly City
	City of Daytona Beach
	City of Doral
	City of Douglasville
	City of El Centro
	City of Farmington
	City of Folsom
	City of Ft. Myers
	City of Gilroy
	City of Glendale
	City of Greenville
	City of Gulfport
	City of Harper Woods
	City of Hialeah
	City of Hollywood, FL
	City of Hoover
	City of Kennewick
	City of Lake Elsinore
	City of Las Vegas
	City of Lincoln City
	City of Livermore
	City of Locust Grove
	City of Melbourne
	City of Milpitas
	City of Naples
	City of Nashville
	City of Ocoee
	City of Ontario
	City of Orange
	City of Orlando
	City of Osage Beach
	City of Palm Desert
	City of Pasadena
	City of Pismo Beach
	City of Roseville
	City of San Antonio
	City of San Clemente
	City of San Diego
	City of Sweetwater
	City of Tampa

	<b><u>PARTY IN INTEREST</u></b>
	City of Thousand Oaks
	City of Troutdale
	City of Tucson
	City of Vacaville
	City of West Covina
	City of West Palm Beach
	City of Woodburn
	City of Woodstock
	County of Los Angeles
	County of Prince William
	County of Riverside
	County of Sacramento
	County of Taney
	Davidson County
	Florida City
	Franklin County
	Gwinnet County
	Hillsborough County
	Imperial County
	Indian River County
	James City County
	Lehi City
	Lucas County
	Martin County
	Orange County, FL
	Palm Beach County
	Pembroke Pines
	San Bernardino County
	San Mateo County
	Sevier County
	Shelby County
	St John's County, FL
	Sunrise County
	Town of Castle Rock
	Town of Cutler Bay
	Town of Marana
	Town of Niagara
	Township of Flint
	Township of Gloucester
	Village of Birch Run
	Village of Chicago Ridge
	Village of Norridge
	Village of North Riverside
	Village of Rosemont
	Village of Schaumburg
	Village of Wellington
<b>(16)</b>	<b><u>Other Parties in Interest</u></b>
	AT&T Capital Services, Inc.

	<b><u>PARTY IN INTEREST</u></b>
	CBL & Associates Management, Inc.
	IBM Credit LLC
	Albea Thomaston
	Artistic Brands Development, LLC
	Cary Venture Limited Partnership
	CEI Holmdel N.J.
	Cloudbreak Holdings, LLC
	Coty Prestige
	Creative Sourcing
	Delaware Charter Guarantee & Trust Company d/b/a Principal Trust Company
	DM Fragrances and Cosmetics, Inc.
	Fiampack
	Firmenich Incorporated
	Fragrances Resources, Inc.
	Givaudan Fragrances Corp.
	Gordon Brothers
	GSN Trucking, Inc.
	HFC Prestige Products, Inc (P&G)
	Hilco Merchant Resources, LLC
	Jansy Packaging, LLC
	Kiss Nail Products, Inc.
	Lighthouse Beauty
	Lighthouse Beauty Marketing
	Lillian Ruth Nussdorf
	Maesa LLC
	MB Fragrances LLC
	Paychex of New York LLC
	Principal Financial Group
	Principal Life Insurance Company
	Ranstad Employment
	Reba Americas LLC
	Risona Inc.
	Robert Mitzman
	Roraj Trade, LLC
	SGD
	Sound Communication
<b>(17)</b>	<b><u>Delaware Bankruptcy Judges</u></b>
	Chief Judge Brendan L. Shannon
	Judge Kevin J. Carey
	Judge Kevin Gross
	Judge Laurie Selber Silverstein
	Judge Christopher S. Sontchi
	Judge Mary F. Walrath
<b>(18)</b>	<b><u>Delaware Federal District Judges</u></b>
	Chief Judge Leonard P. Stark
	Judge Sue L. Robinson
	Judge Gregory M. Sleet
	Judge Richard G. Andrews

	<b><u>PARTY IN INTEREST</u></b>
	Chief Magistrate Judge Mary Pat Thyng
	Magistrate Judge Christopher J. Burke
	Magistrate Judge Sherry R. Fallon
	<b><u>Visiting Judges</u></b>
	Judge Gerald A. McHugh
	Judge Joel A. Pisano
	Judge Kent A. Jordan
	Judge Mark A. Kearney
	Judge Mitchell S. Goldberg
	Judge Noel L. Hillman
	Judge Robert B. Kugler
	Magistrate Judge Joel Schneider
	Senior Judge Eduardo C. Robreno
	Senior Judge Joseph F. Bataillon
	<b><u>Special Masters</u></b>
	Allen M. Terrell Jr.
	Charles H. Toliver, IV
	Colm Connolly
	David A. White
	Paul M. Lukoff
	Yvonne Takvorian Saville
<b>(19)</b>	<b><u>United States Trustees (Region 3)</u></b>
	T. Patrick Tinker
	Lauren Attix
	David Buchbinder
	Linda Casey
	Timothy J. Fox, Jr.
	Benjamin Hackman
	Brya Keilson
	Mark Kenney
	Jane Leamy
	Hannah M. McCollum
	Juliet Sarkessian
	Richard Schepacarter

**SCHEDULE B**

**Potential Connections or Related Parties**

**Schedule B**

**The below parties are current clients of Ankura in unrelated matters**

CBRE Ltd  
Banco Popular de Puerto Rico  
Bank of America  
American Express  
Carlton Fields  
IBM  
AT&T Universal Services Fund  
AT&T Mobility Settlement Fund  
Ankura Consulting Group  
US Bank  
Texas Capital Bank  
TXU Energy  
Travelers  
Fifth Third  
Kmart  
Jackson Lewis  
Jones Lange Lasalle  
Jackson County  
Citizens Bank  
Montgomery County  
Skadden Arps  
Squire Patton Boggs  
Principal Financial Group

**The below parties are vendors of the firm**

Cablevision Lightpath  
Cablevision  
A&G Realty Partners Inc  
AT&T Mobility  
Verizon  
Time Warner Cable  
State of NJ  
State of GA  
State of IL  
Epiq Systems  
ELM Services  
Comcast  
CohnReznick  
Mintz Levin Cohn Ferris Glovsky  
Optimum  
Paychex of New York  
Pepco  
MCI  
Office Depot  
Skadden Arps

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

	X	
	:	
In re:	:	Chapter 11
	:	
MODEL REORG ACQUISITION, LLC, <u>et al.</u> ,	:	Case No. 17-11794 (____)
	:	
Debtors. <sup>1</sup>	:	(Joint Administration Pending)
	:	
	X	Related Doc. No. ____

**ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 327(a) AND 328(a) AND  
BANKRUPTCY RULES 2014(a) AND 2016 AUTHORIZING EMPLOYMENT AND  
RETENTION OF ANKURA CONSULTING GROUP, LLC, AS FINANCIAL ADVISORS  
TO DEBTORS AND DEBTORS IN POSSESSION *NUNC PRO TUNC* TO THE  
PETITION DATE**

Upon the application (the "Application") of the Debtors for an order (the "Order"), pursuant to sections 327(a) and 328 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), authorizing the Debtors to employ and retain Ankura Consulting Group, LLC, together with employees of its affiliates, its wholly owned subsidiaries, and independent contractors (collectively, "Ankura"), as financial advisors, *nunc pro tunc* to the date of filing of these Chapter 11 Cases (the "Petition Date"), on the terms set forth in the Engagement Agreement (the "Engagement Agreement") annexed to the Application as Exhibit A; and upon the Marotta Declaration in support of the Application annexed thereto as Exhibit B; and due and adequate notice of the Application having been given; and the Court being satisfied

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Perfumania Holdings, Inc. (7964); Perfumania, Inc. (6340); Magnifique Parfumes and Cosmetics, Inc. (6420); Ten Kesef II, Inc. (1253); Perfumania.com, Inc. (4688); Model Reorg Acquisition, LLC (0318); Northern Group, Inc. (3226); Perfumania Puerto Rico, Inc. (6787); Quality King Fragrance, Inc. (4939); Scents of Worth, Inc. (1732); Jacavi, LLC (6863); Distribution Concepts, LLC (8845); Flowing Velvet, Inc. (7294); Aladdin Fragrances, Inc. (4338); Niche Marketing Group, Inc. (1943); Northern Brands, Inc. (7186); Northern Amenities, Ltd. (5387); Global Duty Free Supply, Inc. (2686); and Perfumers Art, Inc. (6616). The address of the Debtors' corporate headquarters is 35 Sawgrass Drive, Suite 2, Bellport, New York 11713.



that Ankura is a "disinterested person" as such term is defined under section 101(14) of the Bankruptcy Code and does not hold or represent any interests adverse to the estates; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Application is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby<sup>2</sup>

**ORDERED, ADJUDGED AND DECREED that:**

1. The Application is granted to the extent set forth herein.
2. Pursuant to sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016, the Debtors are authorized to employ and retain Ankura as financial advisor for the Debtors *nunc pro tunc* to the Petition Date, pursuant to the terms of the Engagement Agreement and to pay, reimburse, and indemnify Ankura on the terms specified in the Engagement Agreement and as set forth in this Order.
3. The services to be provided by Ankura pursuant to the Engagement Agreement are not duplicative of services to be performed by any other professionals retained by the Debtors, and Ankura will undertake every effort to avoid any duplication of services.
4. The terms of the Engagement Agreement, including, without limitation, the compensation provisions and the Indemnification Provisions, as modified by the Application and this Order, are reasonable terms and conditions of employment and are hereby approved.
5. Notwithstanding anything to the contrary in the Engagement Agreement or Indemnification Agreement, the Debtors' agreement to indemnify Ankura is modified as follows during the pendency of the Chapter 11 Cases (the "Indemnification Provisions"):

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

- (a) Ankura shall not be entitled to indemnification, contribution or reimbursement pursuant to the Indemnification Agreement (as modified by this Order) for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by this Court;
- (b) the Debtors shall have no obligation to indemnify Ankura or provide contribution or reimbursement to Ankura (i) for any claim or expense that is judicially determined (the determination having become final) to have arisen from Ankura's bad faith, self-dealing, breach of fiduciary duty (if any), willful misconduct, or gross negligence, (ii) for a contractual dispute in which the Debtors allege the breach of Ankura's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to In re United Artists Theatre Company, 315 F.3d 217 (3d Cir. 2003), or (iii) for any claim or expense that is settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c) below, to be a claim or expense for which Ankura should not receive indemnity, contribution, or reimbursement under the terms of the Indemnification Agreement, as modified by this Order; and
- (c) if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing the case, Ankura believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Indemnification Agreement, as modified by this Order, including without limitation the advancement of defense costs, Ankura must file an application therefor in this Court, and the Debtors may not pay any such amounts to Ankura before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time during which this Court shall have jurisdiction over any request for compensation and expenses by Ankura for indemnification, contribution, or reimbursement and is not a provision limiting the duration of the Debtors' obligation to indemnify Ankura.

6. To the extent that there is inconsistency between the terms of the Engagement Agreement, the Application, and this Order, the terms of this Order shall govern.

7. Ankura shall file applications and be compensated in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy

Rules, any applicable U.S. Trustee Guidelines and such other procedures as may be fixed by order of this Court.

8. The relief granted herein shall be binding upon any chapter 11 trustee appointed in the Chapter 11 Cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of the Chapter 11 Cases to cases under chapter 7.

9. Ankura shall exhaust the retainer it is holding in satisfaction of allowed compensation and reimbursement awarded before seeking additional payments from the Debtors on account of such allowed awards.

10. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

11. This Court shall retain jurisdiction with respect to all matters arising from, or related to, the implementation or interpretation of this Order.

Dated: Wilmington, Delaware

\_\_\_\_\_, 2017

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UNITED STATES BANKRUPTCY JUDGE