

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

In re:)	
	)	Chapter 11
INDEPENDENT PET PARTNERS)	
HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 23-10153 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	

**MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING DEBTORS TO ASSUME CONSULTING AGREEMENT RELATED
TO STORE CLOSING SALES, (II) AUTHORIZING AND APPROVING THE
CONDUCT OF STORE CLOSING SALES, WITH SUCH SALES TO BE FREE AND
CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, (III) AUTHORIZING
AND APPROVING STORE CLOSING PROCEDURES, (IV) AUTHORIZING
CUSTOMARY BONUSES FOR NON-INSIDER EMPLOYEES OF CLOSING STORES,
AND (V) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) hereby submit this motion (this “Motion”) for entry of interim and final orders, substantially in forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and the “Final Order”): (a) authorizing the Debtors, upon entry of the Final Order, to assume that certain Consulting Agreement dated as of January 24, 2023 (the “Consulting Agreement”), a copy of which is attached as **Schedule 1** to the Interim Order, by and between IPP-Stores, LLC (“IPP” or the “Merchant”) and B. Riley Retail Solutions, LLC (the “Consultant”); (b) authorizing and approving the continuation of store closings or similar themed sales (the “Store Closing Sales”) that the Consultant commenced prepetition at the stores listed on **Schedule 2** to **Exhibit A**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Independent Pet Partners Holdings, LLC (5913), Independent Pet Partners Intermediate Holdings I, LLC (4827), Independent Pet Partners Intermediate Holdings II, LLC (7550), Independent Pet Partners Employer Holdings, LLC (6785), Independent Pet Partners Employer, LLC (7531), Independent Pet Partners Intermediate Holdings, LLC (8793), IPP - Stores, LLC (6147), IPP Stores Employer, LLC (0847), Especially For Pets, LLC (6801), Pet Life, LLC (3420), Whole Pet Central, LLC (7833), Natural Pawz, LLC (5615), and Pet Source, LLC (1905). The corporate headquarters and the mailing address for the Debtors is 8450 City Centre Dr., Woodbury, MN 55125.

(collectively, the “Closing Stores”); (c) authorizing customary bonuses to non-insider Closing Store employees who remain employed for the duration of the store closing process (the “Store Closing Bonuses”); (d) authorizing and approving the terms of the store closing procedures (the “Store Closing Procedures”), attached as **Schedule 3** to **Exhibit A**; and (e) granting related relief. In support of this Motion, the Debtors rely upon, and incorporate by reference, the *Declaration of Stephen Coulombe in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”),² filed contemporaneously with this Motion, and the *Declaration of B. Riley Retail Solutions, LLC in Support of Motion of Debtors for entry of Interim and Final Orders (I) Authorizing Debtors to Assume the Consulting Agreement Related to the Store Closing Sales, (II) Authorizing and Approving the Conduct of the Store Closing Sales, with Such Sales to be Free and Clear of All Liens, Claims, and Encumbrances, (III) Authorizing and Approving the Store Closing Procedures, (IV) Authorizing Customary Bonuses for Non-Insider Employees of Closing Stores and (V) Granting Related Relief*, attached hereto as **Exhibit C** (the “B. Riley Declaration”).

JURISDICTION

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over these chapter 11 cases (the “Chapter 11 Cases”), the Debtors and their estates and this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and

² Capitalized terms used but not otherwise defined in this Motion shall have the meaning ascribed to them in the First Day Declaration.

Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors consent to the entry of a final order with respect to this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. Venue of these Chapter 11 Cases in this District is proper under 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested in this Motion are sections 105, 363, 365, and 554(a) of chapter 11 of title 11 of the United States Code, §§ 101-1532, *et seq.* (the “Bankruptcy Code”), Rules 2002, 6003, and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 9013-1(m).

BACKGROUND

5. On the date hereof (the “Petition Date”), the Debtors each filed with the Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

6. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner, or official committee of unsecured creditors has been appointed in these Chapter 11 Cases.

I. The Debtors’ Store Closing Plan.

A. The Debtors’ Business.

7. IPP was formed in 2017 to supply burgeoning demand for pet services based on the belief that pet parents wanted an easier way to support the holistic wellness of their pets. By consolidating independent pet retailers, IPP grew into a coast-to-coast chain of more than 160 stores under four retail banners.

8. As more fully set forth in the First Day Declaration, since it formed in 2017, the business has encountered several obstacles. In 2022, the Debtors, with the assistance of their advisors, started evaluating several strategic alternatives aimed at maximizing value for the company and its constituents. On or about September 9, 2022, the Debtors retained Houlihan Lokey Capital, Inc. (“Houlihan Lokey”) to provide financial advisory and investment banking services in connection with potential merger, acquisition, refinancing, or other restructuring transactions. During the months prior to the Petition Date, Houlihan Lokey, on behalf of the Debtors, conducted a thorough and far-reaching prepetition marketing process to identify potentially interested parties. Despite these efforts, an acceptable, actionable third party transaction did not materialize.

9. Thereafter, the Debtors undertook immediate steps to effectuate a balance sheet restructuring and consolidate the company’s store footprint, which should result in a sustainable and profitable path forward. More specifically, the Lenders have offered to purchase 66 of the Debtors’ core, high-performing stores in Colorado, Kansas, Minnesota, Wisconsin, and Illinois as a going concern as part of a stalking horse credit bid under section 363 of the Bankruptcy Stores (the “Stalking Horse Bid”).

10. As part of their go-forward strategy, the Debtors and their advisors closely analyzed their real estate portfolio to determine the profitability and viability of each retail location on a store-by-store basis, taking into consideration the relationship between the Debtors’ individual brands and their brick and mortar footprint. As a result of that analysis, and an in exercise of their informed business judgment, the Debtors have made the difficult decision to close down and liquidate their remaining 93 Closing Stores, reducing the Debtors’ footprint from 13 to 5 states, the result of which will be the discontinuance of the Debtors’ Natural Pawz and Loyal Companion

banners. While the Debtors remain open to acquisition proposals for the Closing Stores, to date, despite a lengthy prepetition marketing process, the Debtors have not received any executable third-party offers for the Closing Stores and the Stalking Horse Bid does not include any of the inventory maintained therein.

B. Store Closing Sales

11. As indicated, in addition to seeking higher and better offers for the Go-Forward Business, Houlihan Lokey is marketing the Closing Stores to determine if offers exist that would return greater value relative to the liquidation process. While the Debtors are hopeful the marketing process will result in actionable proposals, including for the Closing Stores, the Debtors also recognize the challenges of selling the Closing Stores to one or more going-concern buyers, particularly given the outcome of the prepetition marketing process. Thus, in order to avoid further losses and administrative costs in these bankruptcy cases, including continuing to pay rent for these Closing Stores, which could amount to \$1.3 million for March 2023 alone, the Debtors seek to proceed with the liquidation process in order to allow the Debtors to unequivocally surrender possession of the Closing Stores to subject landlord counterparties on or before February 28, 2023. Prior to the Petition date, the Debtors satisfied their February 2023 rent obligations for both the Closing Stores and the Go-Forward Stores.

12. With these objectives in mind, prior to the Petition Date, the Debtors executed the Consulting Agreement and commenced the Store Closing Sales. The Debtors believe this process will maximize value by providing flexibility to the Debtors to run a thorough sales process while simultaneously working to efficiently liquidate the inventory at the Closing Stores.³

³ Notwithstanding the commencement of the Store Closing Sales, if a potential bidder expresses interest in purchasing one or more of the leases governing the Debtors' occupancy of the Closing Stores (and related inventory), the Debtors may, in their business judgment, discontinue the Store Closing Sale at any given Closing Store.

II. The Consultant.

13. The Debtors entered into the Consulting Agreement, which sets forth the terms pursuant to which the Consultant will operate the Store Closing Sales for the Debtors. As set forth in the First Day Declaration, the Debtors believe that the terms set forth in the Consulting Agreement, including a percentage fee based on the proceeds from asset dispositions, are the best alternative for the Store Closing Sales and will maximize value for all interested parties.

14. In light of this, the Debtors concluded in their business judgment that: (a) the services of the Consultant are necessary (i) for a seamless and efficient large-scale store closing process, as is contemplated by this Motion, and (ii) to maximize the value of the saleable Merchandise and FF&E (each as defined in the Consulting Agreement, and together, the “Store Closure Assets”); (b) the Consultant is qualified and capable of performing the required tasks in a value-maximizing manner; and (c) replacing or not continuing with the Consultant would significantly disrupt the Debtors’ process and impair the value of the remaining Store Closure Assets. Further, the Consultant already has commenced the liquidation of inventory at certain of the Closing Stores.

15. Pursuant to the Consulting Agreement, the Consultant will serve as the exclusive independent consultant to the Debtors in connection with the sale of the Store Closure Assets. The material terms of the Consulting Agreement are included in the summary chart below.⁴

⁴ The following summary chart is for the convenience of the Court and parties in interest. To the extent that there is any conflict between this summary and the Consulting Agreement, the Consulting Agreement shall govern in all respects. Capitalized terms used but not defined in the following summary shall have the meaning ascribed to them in the Consulting Agreement.

TERM	
Services Provided by Consultant	<p>The Consultant will conduct Store Closing Sales at certain identified Closing Stores during the Sale Term (as defined below) to, among other things: (a) provide qualified supervisors (the “<u>Supervisors</u>”) engaged by Consultant to oversee the Sale and management of the Stores in an effort to maximize revenue and sell all of the Merchandise prior to the end of the Sale; (b) determine appropriate point-of-sale and external advertising, subject to the reasonable advance approval of Merchant; (c) determine appropriate discounts of Merchandise, staffing levels, and appropriate bonus and incentive programs, if any, for the Stores’ employees, each subject to the reasonable advance approval of Merchant; (d) oversee display of Merchandise for the Stores; (e) evaluate sales of Merchandise by category, provide sales reporting (but only if, and to the extent that, Merchant provides Consultant access to the point of sale data in the normal course), and monitor expenses; (f) maintain the confidentiality of all proprietary or non-public information regarding Merchant in accordance with the provisions of the confidentiality agreement signed by the Parties; (g) assist Merchant in connection with managing and controlling loss prevention and employee relations matters; (h) to the extent necessary, assist Merchant in obtaining any required permits and governmental consents required to conduct the Sale; (i) price, market, and sell the FF&E on behalf of Merchant; and (j) provide such other related services deemed necessary or appropriate by Merchant and Consultant. (Section 4(A)).</p>
Term	<p>The “<u>Sale Term</u>” with respect to each respective Store shall be the period commencing no later than February 3, 2023 (the “<u>Sale Commencement Date</u>”), and ending no later than February 28, 2023 (the “<u>Sale Termination Date</u>”); provided, however, that the Parties may mutually agree in writing to extend or terminate the Sale at any Store prior to the Sale Termination Date. (Section 3).</p> <p>At the conclusion of the Sale for each Store, Consultant shall surrender the premises for such Store to Merchant in broom clean condition with any unsold FF&E to be left in place at the Stores. (Section 3).</p>
Expenses of Consultant	<p>Merchant shall be responsible for all costs and expenses of the Sale, including but not limited to all store-level operating expenses. To control the sale expenses, Merchant and Consultant have established a budget (the “<u>Expense Budget</u>”) of certain expenses in connection with the sale, which aggregate sum Consultant shall not exceed absent Merchant’s prior written consent. The Expense Budget is attached to the Consulting Agreement as Exhibit B. The Merchant and Consultant acknowledge that the Expense Budget will be updated in connection with any modification of the lists of stores and agree to cooperate in good faith with respect to such updates. (Section 6(iv)).</p> <p>As an advance against the expenses of the Sale, and to secure payment of the same and any other amounts due Consultant, Merchant paid to Consultant a deposit in the amount of \$150,000, which shall be applied against Consultant Expenses, Base Fee, Incentive Fee(s) and/or FF&E Fee (each as defined below) at the end of the Sale Term and to the extent not expended when the</p>

	<p>Sale concludes (assuming Consultant claims no other amounts are due under the Agreement to Consultant and no other damages were incurred) shall be returned to Merchant as part of the Final Reconciliation (defined below) or such other time that Merchant and Consultant mutually agree. (Section 6(v)).</p>
<p>Compensation for Consultant</p>	<p>As used in the Consulting Agreement, the following terms shall have the following meanings: (a) “<u>Gross Proceeds</u>” shall mean the sum of all gross proceeds of Merchandise or FF&E that is sold through the Sale (including, as a result of the redemption of any gift card, gift certificate, or merchandise credit as well as wholesale sales to third parties) during the Sale Term, after the application of all discounts including, without limitation, any discount coupons issued by Merchant in the ordinary course of its business, and net only of sales taxes; (Section 6(i))(b)) “<u>Merchandise</u>” shall mean all first quality goods, saleable in the ordinary course, located in the stores on the Sale Commencement Date or delivered thereto after the Sale Commencement Date pursuant to the terms of the Consulting Agreement, but excluding: (i) goods that belong to sublessees, licensees, or concessionaires of Merchant, as identified by Merchant prior to the Sale Commencement Date; (ii) FF&E and improvements to real property that are located in the Stores; (iii) damaged or defective goods; (iv) goods held by Merchant on memo, on consignment, or as bailee as identified by Merchant prior to the Sale Commencement Date; (v) gift cards (third party and Merchant branded); and (vi) revenue from services provided (e.g., pet grooming services); (Consulting Agreement, § 2(a)); (c) “<u>Gross Cost Recovery Percentage</u>” shall mean (i) Gross Proceeds, calculated using the “gross rings” method, divided by (ii) the aggregate “Cost Value” of the Merchandise sold; (d) “<u>Cost Value</u>” shall mean the unit cost set forth in the following file, or any updated files: Current Inventory & Trends - 1.16 (Section 6(ii)(a)). For purposes of determining “gross rings” with respect to the Merchandise, the Consultant and Merchant shall jointly keep (i) a strict count of gross register receipts less applicable sales taxes and (ii) cash reports of sales within each Store. Register receipts shall show for each item sold the retail price (as reflected on Merchant's books and records) for such item, and the markdown or other discount granted in connection with such sale. All such records and reports shall be made available to Consultant and Merchant during regular business hours upon reasonable notice. (Section 6(iii)).</p> <p>Merchant shall pay Consultant a “<u>Base Fee</u>” equal to 1.5% of Gross Proceeds of Merchandise. (Section 6(ii)(a)). In addition to the Base Fee, the Consultant may also earn an “<u>Incentive Fee</u>” for the sale of Merchandise equal to the aggregate sum of the percentages shown in the following table, based upon the following thresholds of Gross Cost Recovery Percentage (e.g., in each case, as calculated back to first dollar):</p>

	<table border="1" data-bbox="571 256 1408 464"> <thead> <tr> <th data-bbox="571 256 896 323">Gross Cost Recovery Percentage</th> <th data-bbox="896 256 1408 323">Incentive Fee</th> </tr> </thead> <tbody> <tr> <td data-bbox="571 323 896 394">125.0% or more</td> <td data-bbox="896 323 1408 394">An additional 0.25% of Gross Proceeds of Merchandise (total fee of 1.75%)</td> </tr> <tr> <td data-bbox="571 394 896 464">129.0% or more</td> <td data-bbox="896 394 1408 464">An additional 0.25% of Gross Proceeds of Merchandise (total fee of 2.0%)</td> </tr> </tbody> </table> <p data-bbox="524 499 732 533">(Section 6(ii)(a)).</p> <p data-bbox="524 569 1419 766">Consultant shall submit invoices to Merchant on a weekly basis setting forth (i) the, Base Fee, Incentive Fee(s) and/or FF&E Fee (defined below) earned during the preceding week, and (ii) any expenses incurred by Consultant during the preceding week for which Consultant is entitled to reimbursement. No later than seven (7) days of submission, such invoices shall be paid in full by Merchant via wire transfer to Consultant. (Section 6(vi)).</p> <p data-bbox="524 802 1419 968">The Parties shall complete a final reconciliation and settlement of all amounts payable to Consultant under the Consulting Agreement (including, without limitation, Expense Budget items and fees) (the “<u>Final Reconciliation</u>”) no later than forty-five (45) days following the Sale Termination Date for the last store. (Section 6(vi)).</p>	Gross Cost Recovery Percentage	Incentive Fee	125.0% or more	An additional 0.25% of Gross Proceeds of Merchandise (total fee of 1.75%)	129.0% or more	An additional 0.25% of Gross Proceeds of Merchandise (total fee of 2.0%)
Gross Cost Recovery Percentage	Incentive Fee						
125.0% or more	An additional 0.25% of Gross Proceeds of Merchandise (total fee of 1.75%)						
129.0% or more	An additional 0.25% of Gross Proceeds of Merchandise (total fee of 2.0%)						
<p data-bbox="217 1003 462 1071">Furniture, Fixtures and Equipment</p>	<p data-bbox="524 1003 1419 1241">The Consultant shall sell the FF&E located in the Stores. (Section 1). Merchant shall be responsible for all reasonable costs and expenses incurred by Consultant in connection with the sale of FF&E. (Section 4(A)). Consultant shall have the right to abandon at the Stores any unsold FF&E. (Section 3). Unless otherwise agreed to by Merchant, the sale of the FF&E in each Store shall conclude at the same time as Merchandise sales conclude. (Section 3).</p> <p data-bbox="524 1276 1419 1442">In consideration for these services, the Consultant shall be entitled to a fee equal to 15.0% of all Gross Proceeds of FF&E sales (the “<u>FF&E Fee</u>”). (Section 6(ii)(b)). The submission of invoices relating to the FF&E Fee shall be submitted and paid as set forth in the “<u>Compensation for Consultant</u>” section above. (Section 6(vi)).</p>						
<p data-bbox="217 1575 462 1642">Conduct of Sale; Other Sale Matters</p>	<p data-bbox="524 1575 1419 1877">During the Sale Term, Merchant shall (a) be the employer of the Store’s employees, other than the Supervisors; (b) pay all taxes, costs, expenses, accounts payable, and other liabilities relating to the Stores, the Stores’ employees and other representatives of Merchant; (c) prepare and process all tax forms and other documentation; (d) collect all sales taxes and pay them to the appropriate taxing authorities; (e) use reasonable efforts to cause Merchant’s employees to cooperate with Consultant and the Supervisors; (f) execute all agreements determined by Merchant and/or Consultant to be necessary or desirable for the operation of the Stores during the Sale;</p>						

	<p>(g) arrange for the ordinary maintenance in order to maintain in good working order all point-of-sale equipment, HVAC systems, other mechanical devices and overall facilities reasonably required to allow for the conduct of the Sale and operation of the Stores; (h) provide peaceful use and occupancy of, and full access (including reasonable before and after hours access and normal utilities/phone service) to, the Stores, for the purpose of preparing for, conducting, and completing the Sale, and performing its obligations under this Agreement; and (i) provide Consultant with access and right and ability to use, until the Sale Termination Date, of the trade names, logos, e-mail lists, mailing lists, customer lists, e-commerce sites (including (without limitation) websites and social media sites such as Facebook, and Twitter) relating to and used in connection with the operation of the e-Store, solely for the purposes of advertising the Sale, selling Merchandise and FF&E and otherwise conducting the Sale in accordance with the terms of the Agreement. (Section 4(B)).</p> <p>Merchant shall provide throughout the Sale Term central administrative services necessary for the Sale, including internal payroll processing, MIS services, cash and inventory reconciliation, data processing and reporting, email preparation and distribution, information technology updates, functionality, and maintenance, and accounting, all at no cost to Consultant. (Section 4(B)).</p> <p>Consultant shall be authorized to advertise the Sale as a “store closing”, “location closing”, “everything on sale”, “everything must go”, or similar-themed sale, and shall not be authorized to advertise the Sale as a “going out of business” sale. (Section 1).</p> <p>The Merchant and Consultant expressly acknowledge and agree that Merchant shall have no liability (other than reimbursing Consultant for the cost of supervision as an expense hereunder) to the Supervisors for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination, or any other liability arising from Consultant’s hiring or engagement of the Supervisors, and the Supervisors shall not be considered employees of Merchant. (Section 4(A)).</p> <p>The Parties further acknowledge that Consultant does not warrant or guarantee that it will be able to assist Merchant in obtaining all of the permits and governmental consents required to conduct the Sale, and Consultant shall have no liability to Merchant or any permitting or governmental agencies for the payment of any fines, costs or assessments that may be charged to Merchant or Consultant to the extent that any such required permits or governmental consents are not properly or timely obtained. (Section 4(A)).</p>
<p>Insurance Obligations</p>	<p>Merchant shall maintain, throughout the Sale Term, liability insurance policies (including, without limitation, products liability, comprehensive commercial general liability insurance, and auto liability insurance), with at least the coverage limits currently existing thereunder, covering injuries to persons and property in or in connection with the Stores and/or the Merchandise, and shall cause Consultant to be named an additional insured with respect to all such policies. In addition, Merchant shall maintain</p>

	<p>throughout the Sale Term, in such amounts as it currently has in effect, workers compensation insurance in compliance with all applicable statutory requirements. (Section 9(A)).</p> <p>Consultant shall maintain, throughout the Sale Term, liability insurance policies (including, without limitation, products liability/completed operations, contractual liability, comprehensive commercial general liability, and auto liability insurance) on an occurrence basis in an amount of at least one million dollars (\$1,000,000) and an aggregate basis of at least five million dollars (\$5,000,000) covering injuries to persons and property in or in connection with Consultant's provision of services at the Stores. Consultant shall name Merchant as an additional insured under such policy, and upon execution of this Agreement provide Merchant with a certificate or certificates evidencing the insurance coverage required hereunder. In addition, Consultant shall maintain throughout the Sale Term, workers compensation insurance compliance with all statutory requirements. Further, should Consultant employ or engage third parties to perform any of Consultant's undertakings with regard to this Agreement, Consultant will ensure that such third parties are covered by Consultant's insurance or maintain all of the same insurance as Consultant is required to maintain pursuant to this paragraph and name Merchant as an additional insured under the policy for each such insurance. (Section 9(B)).</p>
<p>Indemnification by Merchant</p>	<p>Merchant indemnifies, defends, and holds Consultant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, principals, affiliates, and Supervisors (collectively, the "<u>Consultant Indemnified Parties</u>") harmless from and against all liabilities, claims, demands, damages, costs, and expenses (including reasonable attorneys' fees) arising from or related to (a) the acts or omissions of Merchant or Merchant Indemnified Parties (as defined below); (b) the material breach of any provision of this Agreement by Merchant, including, without limitation, any representations, warranties or other obligations; (c) any liability or other claims, including, without limitation, product liability claims, asserted by customers, any Store employees (under a collective bargaining agreement or otherwise), or any other person (excluding the Consultant Indemnified Parties) against Consultant or any Consultant Indemnified Party, except claims arising from Consultant's own gross negligence, willful misconduct, or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious, or otherwise actionable treatment of any Consultant Indemnified Parties or Merchant's customers by Merchant or any Merchant Indemnified Parties; (e) Merchant's failure to pay over to the appropriate taxing authority any taxes required to be paid by Merchant during the Sale Term in accordance with applicable law; (f) any claims of Merchant's employees for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from Merchant's employment, hiring or retention of its employees; and/or (g) any liability or other claims arising out of liens, claims, interests and encumbrances asserted against the Merchandise or FF&E by any third parties. (Section 8(A)).</p>

Indemnification by Consultant	Consultant indemnifies, defends, and holds Merchant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, principals, and affiliates (other than Consultant or the Consultant Indemnified Parties) (collectively, the <u>Merchant Indemnified Parties</u>) harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to (a) the willful or grossly negligent acts or omissions of Consultant or the Consultant Indemnified Parties; (b) the breach of any provision of, or the failure to perform any obligation under, this Agreement by Consultant; (c) any liability or other claims made by the Consultant's Indemnified Parties or any other person (excluding Merchant Indemnified Parties) against a Merchant Indemnified Party arising out of or related to Consultant's conduct of the Sale, except claims arising from Merchant's own negligence, willful misconduct, or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortuous or otherwise actionable treatment of the Merchant Indemnified Parties or Merchant's customers by Consultant or any of the Consultant Indemnified Parties and (e) any claims made by any party engaged by Consultant as an employee, agent, representative or independent contractor arising out of such engagement. (Section 8(B)).
Return/Exchange Policy	All sales of Merchandise or FF&E shall be by cash, gift card, gift certificate, merchandise credit, debit card, or credit card and, at Merchant's discretion, by check or otherwise in accordance with Merchant's policies, and shall be "final" with no returns accepted or allowed, unless otherwise directed by Merchant. (Section 5).

III. The Store Closing Procedures.

16. The Debtors seek approval of streamlined Store Closing Procedures to effectuate the sale of the Store Closure Assets, in each case free and clear of liens, claims, and encumbrances. The Store Closing Procedures set forth general guidelines for the Store Closing Sales, including the hours of operation for the stores, permitted alterations to the stores, and the marketing guidelines for Store Closing Sales. The Store Closing Procedures also set forth guidelines and procedures for the surrender of the stores and FF&E after completion of the Store Closing Sales. The Debtors have determined, in the exercise of their business judgment and in consultation with their advisors, that the Store Closing Procedures provide the best and most efficient means of liquidating the Store Closure Assets and closing the Closing Stores.

17. Similarly, the Debtors request a waiver of any contractual restrictions that could

otherwise inhibit or prevent the Debtors from maximizing value for creditors through the Store Closing Sales. In certain cases, the contemplated Store Closing Sales may be inconsistent with certain provisions of leases, subleases, or other documents with respect to the premises in which the Debtors operate, including (without limitation) reciprocal easement agreements, agreements containing covenants, conditions, and restrictions (including, without limitation, “go dark” provisions, GOB/liquidation sales, and landlord recapture rights), or other similar documents or provisions. Such restrictions would hamper the Debtors’ ability to maximize value in selling the Store Closure Assets.

18. The Debtors also request that no entity, including, without limitation, utilities, landlords, creditors, and all persons acting for or on their behalf shall be permitted to interfere with or otherwise impede the conduct of the Store Closing Sales, or institute any action against the Debtors in any court (other than in this Court) or before any administrative body, that in any way directly or indirectly interferes with, obstructs, or otherwise impedes the conduct of the Store Closing Sales or the advertising and promotion (including through the posting of signs) of the Store Closing Sales.

IV. Liquidation Sale Laws and Dispute Resolution Procedures.

19. Certain states in which the Debtors operate stores have or may have licensing or other requirements governing the conduct of store closing, liquidation, or other inventory clearance sales, including (but not limited to) state and local laws, statutes, rules, regulations, and ordinances (the “Liquidation Sale Laws”). The Liquidation Sale Laws may establish licensing, permitting, or bonding requirements, waiting periods, time limits, and bulk sale restrictions and augmentation limitations that would otherwise apply to the Store Closing Sales. Such requirements hamper the Debtors’ ability to maximize value when selling their inventory at the Closing Stores. Subject to Court approval, the Debtors intend to conduct the Store Closing Sales in accordance with the Store

Closing Procedures without complying with the Liquidation Sale Laws.

20. To facilitate the orderly resolution of any disputes between the Debtors and any Governmental Units (as defined in section 101(27) of the Bankruptcy Code) arising due to the Store Closing Procedures and the alleged applicability of any Liquidation Sale Laws, the Debtors respectfully request that the Court authorize the Debtors to implement the following dispute resolution procedures (the “Dispute Resolution Procedures”), on an interim and final basis:

- a) Provided that the Store Closing Sales are conducted in accordance with the terms of the Interim Order or the Final Order, as applicable, and the applicable Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units (as defined in the Bankruptcy Code) that exempt court-ordered sales from their provisions, the Debtors will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct Store Closing Sales in accordance with the terms of the Interim Order or the Final Order, as applicable, and the applicable Store Closing Procedures, without the necessity of further showing compliance with any such Liquidation Sale Laws.
- b) Within two business days after entry of the Interim Order, the Debtors will serve by email, facsimile, or first-class mail, copies of the Interim Order, the proposed Final Order and the Store Closing Procedures on the following: (i) the landlords for the Closing Stores; (ii) the Attorney General’s office for each state in which the Store Closing Sales are being held; (iii) the county consumer protection agency or similar agency for each county in which the Store Closing Sales are being held; (iv) the division of consumer protection for each state in which the Store Closing Sales are being held; and (v) the chief legal counsel for each local jurisdiction in which the Store Closing Sales are being held (collectively, the “Dispute Notice Parties”).
- c) With respect to any additional Closing Stores, within three business days after Court authorization to close additional stores (each, an “Additional Closing Store List”), the Debtors will serve by email, facsimile, or first-class mail, copies of the Interim Order or Final Order, as applicable, and the Store Closing Procedures on the Dispute Notice Parties. To the extent that there is a dispute arising from or relating to the Store Closing Sales, the Interim Order, the proposed Final Order, or the Store Closing Procedures, as applicable, which dispute relates to any Liquidation Sale Laws (a “Reserved Dispute”), the Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of the Interim Order or service of any Additional Closing Store List, as applicable, any Governmental Unit

may assert that a Reserved Dispute exists by sending a notice (the “Dispute Notice”) explaining the nature of the dispute to: (i) the Debtors, Independent Pet Partners Holdings, LLC, *et al.*, 8450 City Centre Dr., Woodbury, Minnesota 55125, (Attn: Charlie Reeves (creeves@thinkbrg.com)); (ii) proposed counsel to the Debtors, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654 (Attn: David A. Agay, Esq. (dagay@mcdonaldhopkins.com), Marc Carmel, Esq. (mcarmel@mcdonaldhopkins.com), and Joshua Gadharf, Esq. (jgadharf@mcdonaldhopkins.com)); (iii) proposed co-counsel to the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Andrew L. Magaziner, Esq. (amagaziner@ycst.com) and S. Alexander Faris, Esq. (afaris@ycst.com)); (iv) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: Rosa Sierra-Fox, Esq. (rosa.sierra-fox@usdoj.gov); (v) counsel to the DIP Lenders, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Shmuel Vasser, Esq. (shmuel.vasser@dechert.com) and Stephen Wolpert, Esq. (stephen.wolpert@dechert.com)), (vi) local counsel to the DIP Lenders, Richards, Layton & Finger, P.A., P.O. Box 551, Wilmington, Delaware 19899 (Attn: Russell Silberglied, Esq. (silberglied@rlf.com) and Brendan Schlauch, Esq. (schlauch@rlf.com)); and (viii) counsel to any statutory committee appointed in these Chapter 11 Cases. If the Debtors and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the Dispute Notice, the Governmental Unit may file a motion with the Court requesting that the Bankruptcy Court resolve the Reserved Dispute (a “Dispute Resolution Motion”).

- d) In the event that a Dispute Resolution Motion is filed, nothing in the Interim Order or the Final Order, as applicable, shall preclude the Debtors, a landlord, or any other interested party from asserting (i) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (ii) that neither the terms of the Interim Order or the Final Order nor the conduct of the Debtors pursuant to the Interim Order or the Final Order violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of the Interim Order or the Final Order or to limit or interfere with the Debtors’ ability to conduct or to continue to conduct the Store Closing Sales pursuant to the Interim Order or the Final Order, absent further order of the Court. Upon the entry of the Interim Order or the Final Order, as applicable, the Court grants authority for the Debtors to conduct the Store Closing Sales pursuant to the terms of the Interim Order or the Final Order, as applicable, the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to

assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in the Interim Order or the Final Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.

- e) If, at any time, a dispute arises between the Debtors and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in the Interim Order or the Final Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (c) and (d) above by serving a notice to the other party and proceeding thereunder in accordance with those subparagraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

V. Fast Pay Laws.

21. Many U.S. states in which the Debtors operate have laws and regulations that require the Debtors to pay an employee substantially contemporaneously with his or her termination (the “Fast Pay Laws” and together with the Liquidation Sale Laws, the “Applicable State Laws”). These laws often require payment to occur immediately or within a period of only a few days from the date such employee is terminated.

22. The nature of the liquidations contemplated by this Motion will result in a substantial number of employees being terminated during the Store Closing Sale process. To be clear, the Debtors intend to pay their terminated employees as expeditiously as possible and under normal payment procedures. However, the Debtors’ payroll systems will simply be unable to process the payroll information associated with these terminations in a manner that will be compliant with the Fast Pay Laws. Under ordinary circumstances, the Debtors’ payroll department is able to coordinate delivery of final checks to coincide with an employee’s final day of work where required by applicable law. This process requires the Debtors’ payroll department to calculate individual payments upon termination, prepare each termination payment check, obtain authorization for each such check and then prepare each such check for mailing. Given the number

of employees who will likely be terminated in conjunction with or as a result of the Store Closing Sales, this process could easily take several days, making compliance with the Fast Pay Laws burdensome to the Debtors' estates, if not impossible. The Debtors request a waiver of compliance with the Applicable State Laws to the extent that the Debtors' payroll systems limit their ability to so comply.

VI. Abandonment.

23. The Debtors respectfully request that the Court authorize the abandonment of certain owned FF&E remaining in the Closing Stores. The Debtors intend to sell any marketable owned FF&E present in the Closing Stores. However, the Debtors may determine that the cost associated with holding or selling that property exceeds the proceeds that will be realized from its sale, or such property may not be saleable at all. In such cases, retaining the property would be burdensome to the estate and the property would be of inconsequential value. For the avoidance of doubt, the Debtors will not sell any personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including, but not limited to, an individual's name, social security number, date of birth, government-issued identification number, account number, and credit or debit card number) as part of the Store Closing Sales, and all personal identifying information will be removed from any FF&E prior to abandonment of same. Accordingly, the Debtors respectfully submit that abandonment of such property is in the best interests of their estates and request that the Court authorize them to do so where they determine in their business judgment that abandonment is the appropriate course of action.

VII. Store Closing Bonus Plan.

24. Through this Motion, the Debtors also request authority, but not the obligation, to pay Store Closing Bonuses (the "Store Closing Bonus Plan") upon entry of the Final Order to

store-level, non-insider employees, who remain in the employ of the Debtors during Store Closing Sales, and who will work with the Consultant and its representative during the Store Closing Sales. The Debtors believe that the Store Closing Bonus Plan will motivate employees during Store Closing Sales and will enable the Debtors to retain those employees necessary to successfully complete Store Closing Sales.

25. Payments under the Store Closing Bonus Plan are made exclusively to non-insiders on the condition of employment through the date on which the respective employee's store closes. The Debtors anticipate that approximately 100 non-insider employees would be eligible for Store Closing Bonuses. The total aggregate cost of the Store Closing Bonus Plan will not exceed \$300,000, with the final amount dependent on, among other things, whether eligible employees remain employed for the duration of the Closing Sales. The Debtors do not anticipate paying any individual more than \$3,000 on account of a Store Closing Bonus.

26. For the reasons outlined in the First Day Declaration, providing the Store Closing Bonuses is critical to ensuring that eligible employees, who will eventually be affected by the Store Closing Sales, continue to provide critical services to the Debtors during the Store Closing process. In order to ensure a successful Store Closing and Sales process and maximize revenues for the benefit of the Debtors' estates, the Debtors believe that the Store Closing Bonuses will incentivize eligible employees to provide uninterrupted leadership during this challenging period by tying payment to maintaining employment with the Debtors through the conclusion of the subject sales.

27. Accordingly, the Debtors respectfully submit that the Store Closing Bonus Plan is in the best interests of their estates and request that the Court authorize payments under the Store Closing Bonus Plan as a sound exercise of their business judgment.

BASIS FOR RELIEF

I. The Debtors Have a Valid Business Justification for the Store Closing Sales.

28. Section 363(b)(1) of the Bankruptcy Code, which governs asset sales outside of a debtor's ordinary course of business, provides that "the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). When selling assets outside of the ordinary course of business, a debtor must articulate a valid business justification to obtain court approval. See, e.g., Myers v. Martin (In re Martin), 91 F.3d 389, 394–95 (3d Cir. 1996) (citation omitted); In re Abbotts Dairies of Pa., Inc., 788 F.2d 143, 147-48 (3d Cir. 1986) (implicitly adopting the "sound business judgment" test of Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070-71 (2d Cir. 1983)); In re Delaware & Hudson Ry. Co., 124 B.R. 169, 175–76 (D. Del. 1991) (concluding that the Third Circuit adopted the "sound business judgment" test in the Abbotts Dairies decision). When a debtor demonstrates a valid business justification for a decision, a strong presumption arises "that in making [the] business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992) (holding that the Delaware business judgment rule has "vitality by analogy" in chapter 11 cases, especially where the debtor is a Delaware corporation).

29. Store closing or liquidation sales are a routine occurrence in chapter 11 cases involving retail debtors. See, e.g., In re Ames Dep't Stores, Inc., 136 B.R. 357, 359 (S.D.N.Y. 1992) (noting that liquidation sales are an important part of "overriding federal policy requiring [a] Debtor to maximize estate assets").

30. Sufficient business justification exists to approve the proposed Store Closing Sales

under section 363(b)(1) of the Bankruptcy Code. As set forth in the First Day Declaration, the Debtors, with the assistance of their advisors, have determined that the Store Closing Sales represent the best alternative to maximize recoveries to the Debtors' estates with respect to the Store Closure Assets. There are meaningful amounts of Merchandise, in the aggregate, that will be monetized most efficiently and quickly through an orderly process overseen by the Consultant, an experienced liquidation firm. Further delay in commencing the Store Closing Sales would diminish the recovery tied to monetization of the Store Closure Assets given the possibility that the Debtors would be forced to incur rental obligations if the Store Closing Sales continued past February 28, 2023. On the other hand, the Debtors will realize an immediate benefit from the revenue generated the liquidating the Store Closure Assets at the Closing Stores and, if the current contemplated timeline is achievable, the Debtors believe they will be well-positioned to exit the Closing Stores before incurring unnecessary, and costly administrative rent obligations.

31. As explained in the First Day Declaration, the Debtors intend on shutting down the Closing Stores because there is not a viable market for these unprofitable locations, and the Debtors cannot risk incurring significant administrative expense obligations if the stores remain open. In this context, the Debtors believe that uninterrupted and orderly Store Closing Sales will allow the Debtors to timely reject leases associated with the Closing Stores and, therefore, avoid the accrual of unnecessary administrative expenses for rent and related costs. Specifically, if the Debtors do not complete the Store Closing Sales by February 28, 2023, they could incur as much as \$1.3 million in aggregate rent for March 2023 (including an estimate for common area maintenance, taxes, and utilities), an amount which the Debtors cannot satisfy given the terms of the proposed postpetition financing.

II. The Court Should Approve the Sale of the Store Closure Assets Free and Clear of all Liens, Encumbrances, and Other Interests Under Section 363(f) of the Bankruptcy Code.

32. The Debtors request approval to sell the Store Closure Assets on a final “as is” basis, free and clear of any and all liens, claims, and encumbrances in accordance with section 363(f) of the Bankruptcy Code. A debtor in possession may sell property under sections 363(b) and 363(f) “free and clear of any interest in such property of an entity other than the estate” if any one of the following conditions is satisfied: (a) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (b) such entity consents; (c) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (d) such interest is in bona fide dispute; or (e) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f); see also Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot), 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that since section 363(f) is written in the disjunctive, the court may approve a sale free and clear if any one subsection is met). Moreover, the Third Circuit has indicated that a debtor possesses broad authority to sell assets free and clear of liens. See In re TWA Inc., 322 F.3d 283, 289 (3d Cir. 2003).

33. Although the term “any interest” is not defined under the Bankruptcy Code, the Third Circuit has noted that the trend in modern cases is toward “a broader interpretation which includes other obligations that may flow from ownership of the property.” Folger Adam Security, Inc. v. DeMatteis/MacGregor, JV, 209 F.3d 252, 258-59 (3d Cir. 2000). As the Fourth Circuit held in In re Leckie Smokeless Coal Co., 99 F.3d 573, 581-82 (4th Cir. 1996) (cited with approval by the Third Circuit in Folger Adam Security), the scope of section 363(f) is not limited to *in rem* interests in a debtor’s assets. Thus, a debtor can sell its assets under section 363(f) “free and clear of successor liability that otherwise would have arisen under federal statute.” Folger Adam

Security, 209 F.3d at 258.

34. With respect to any other party asserting a lien, claim, or encumbrance against the Store Closure Assets, the Debtors anticipate that they will be able to satisfy one or more of the conditions set forth in section 363(f) of the Bankruptcy Code. In connection with the sale of the Store Closure Assets, the Debtors propose that any liens, claims, and encumbrances asserted against the Store Closure Assets be transferred to and attach to the amounts earned by the Debtors under the Store Closing Sales with the same force, effect, and priority as such liens currently have on the Store Closure Assets.

III. The Court Should Waive Compliance With Applicable State Laws and Approve the Dispute Resolution Procedures.

35. The Debtors' ability to conduct the Store Closing Sales in accordance with the applicable Store Closing Procedures and without strict compliance with all Applicable State Laws is critical to the success of the Store Closing Sales. Although the Debtors intend to comply with state and local health and safety laws and consumer protection laws in conducting the Store Closing Sales, many Liquidation Sale Laws require special and cumbersome licenses, waiting periods, time limits, and other procedures for store closing, liquidation, or similar sales.

36. To eliminate the time, delay, and expense associated with the administrative procedures necessary to comply with the Applicable State Laws, the Debtors propose the Store Closing Procedures as a way to streamline the administrative burdens on their estates while still adequately protecting the broad and varied interests of both landlords and applicable governmental agencies charged with enforcing any Liquidation Sale Laws that may apply to the Store Closing Sales. As such, the Debtors believe the Store Closing Procedures mitigate any concerns that their landlords or governmental agencies may raise with respect to the Store Closing Sales and, therefore, the requested relief is in compliance with any applicable Liquidation Sale Laws.

37. The Debtors submit that there is strong support for granting them the authority to not comply with the Liquidation Sale Laws. First, many state statutes and regulations provide that, if a liquidation or bankruptcy sale is court-authorized, a company need not comply with the Liquidation Sale Laws. See, e.g., Cal. Com. Code § 6102 (exempting from bulk sale requirements sales by a bankruptcy trustee or debtor-in-possession); Mass. Gen. Laws Ann. ch. 93, § 28A (exempting from the removal or termination sale requirements “executors, administrators, guardians, conservators, receivers . . .”); Tex. Bus. & Com. Code Ann. § 17.91(3) (exempting from subchapter sales conducted pursuant to court order); Ark. Code Ann. § 4-74-103 (exempting from the provisions of the chapter sales pursuant to any court order); Fla. Stat. Ann. 559.25(2) (same); Ga. Code Ann. § 10-1-393(b)(24)(C)(iv) (same); 815 ILCS 350/3 (same); La. Rev. Stat. Ann. § 51:43(1) (same); N.Y. Gen. Bus. Law § 584(a) (same); Or. Rev. Stat. Ann. § 646A.100(2)(b) (“‘Going out of business sale’ does not include a sale conducted by a bankruptcy trustee.”). Second, pursuant to section 105(a) of the Bankruptcy Code, the Court has the authority to permit Store Closing Sales to proceed notwithstanding contrary Applicable State Laws, as it is essential to maximize the value of the Debtors’ business. Third, the Court will be able to supervise Store Closing Sales because the Debtors and their assets are subject to the Court’s exclusive jurisdiction. See 28 U.S.C. § 1334. Accordingly, creditors and the public interest are adequately protected by the ongoing jurisdiction and supervision of the Court. Further, because the Debtors initially seek only interim relief, parties in interest may raise any objections at a final hearing.

38. Further, bankruptcy courts have consistently recognized, with limited exception, that federal bankruptcy law preempts state and local laws that contravene the underlying policies of the Bankruptcy Code. See Belculfine v. Aloe (In re Shenango Group, Inc.), 186 B.R. 623, 628 (Bankr. W.D. Pa. 1995) (“Trustees and debtors-in-possession have unique fiduciary and legal

obligations pursuant to the bankruptcy code [A] state statute [] cannot place burdens on [a debtor] where the result would contradict the priorities established by the federal bankruptcy code.”), aff’d, 112 F.3d 633 (3d Cir. 1997).

39. Courts in some jurisdictions have found that preemption of state law is not appropriate if the laws deal with public health and safety. See Baker & Drake, Inc. v. Pub. Serv. Comm’n of Nev. (In re Baker & Drake, Inc.), 35 F.3d 1348, 1353–54 (9th Cir. 1994) (holding that the Bankruptcy Code did not preempt state law prohibiting taxicab leasing that was promulgated in part as public safety measure). However, preemption is appropriate where, as is the case here, the only state laws involved concern economic regulation rather than the protection of public health and safety. See In re Baker & Drake, Inc., 35 F.3d at 1353 (finding that “federal bankruptcy preemption is more likely where a state statute is concerned with economic regulation rather than with protecting the public health and safety”).

40. Under the circumstances of these Chapter 11 Cases, enforcing the strict requirements of the Liquidation Sale Laws would undermine the fundamental purpose of section 363(b) of the Bankruptcy Code by placing constraints on the Debtors’ ability to maximize estate assets for the benefit of creditors. Accordingly, authorizing the Store Closing Sales without the delays and burdens associated with obtaining various state and local licenses, observing state and local waiting periods or time limits, and/or satisfying any additional requirements with respect to advertising and similar items is necessary and appropriate.

41. The Debtors do not seek a general waiver of all state and local law requirements, but only those that apply specifically to retail liquidation sales. Indeed, the requested waiver is narrowly tailored to facilitate the successful consummation of the Store Closing Sales. Moreover, the Debtors will comply with applicable state and local public health and safety laws, and

applicable tax, labor, employment, environmental, and consumer protection laws, including consumer laws regulating deceptive practices and false advertising. Finally, the Dispute Resolution Procedures provide an orderly means for resolving any disputes arising between the Debtors and any Governmental Units with respect to the applicability of any Liquidation Sale Laws, and should therefore be approved.

42. The Court has recognized that the Bankruptcy Code preempts certain state laws and have granted relief similar to that requested herein. See, e.g., In re Francesca's Holding Corp., No. 20-13076 (BLS) (Bankr. D. Del. January 4, 2021 [D.I. 259] (ordering that, in light of the provisions in the laws of many governmental units that exempt court-ordered sales from their provisions, the debtors were authorized to conduct store closing sales under the terms of the order “without the necessity of further showing compliance with any such Liquidation Sale Laws); In re Coldwater Creek Inc., No. 14-10867 (BLS) (Bankr. D. Del. May 7, 2014) [D.I. 355] (same); In re Boscov's, No. 08-11637 (KG) (Bankr. D. Del. Aug. 15, 2008) [D.I. 163] (ordering that “[g]overnmental units shall not fine, assess or otherwise penalize Debtors or Agent (or any of the landlords of the Closing Stores) for conducting or advertising the Store Closing Sales in a manner inconsistent with Liquidation Sales Laws, provided that the Store Closing Sales are conducted and advertised in compliance with this Order”); In re Goody's Family Clothing, Inc., No. 08-11133 (CSS) (Bankr. D. Del. June 13, 2008) [D.I. 116] (ordering that the “Store Closing Sales at the Closing Stores shall be conducted by the Debtors and the Store Closing Agent without the necessity of compliance with any federal, state or local statute or ordinance, lease provision or licensing requirement affecting store closing, ‘going out of business’, liquidation or auction sales, or affecting advertising, including signs, banners, and posting of signage, other than Safety Laws and General Laws”).

IV. The Court Should Waive Compliance With Any Restriction in the Leases and Approve the Store Closing Procedures.

43. Certain of the Debtors' leases governing the Closing Stores' premises may contain provisions purporting to restrict or prohibit the Debtors from conducting store closing, liquidation, or similar sales. Such provisions have been held to be unenforceable in chapter 11 cases as they constitute an impermissible restraint on a debtor's ability to properly administer its reorganization case and maximize the value of its assets under section 363 of the Bankruptcy Code. See Ames Dep't Stores, 136 B.R. at 359 (deciding that enforcement of such lease restrictions would "contravene overriding federal policy requiring Debtor to maximize estate assets"); In re R. H. Macy & Co., Inc., 170 B.R. 69, 73-74 (Bankr. S.D.N.Y. 1994) (holding that the lessor could not recover damages for breach of a covenant to remain open throughout the lease term, because the debtor had a duty to maximize the value to the estate and the debtor fulfilled this obligation by holding a store closing sale and closing the store); In re Tobago Bay Trading Co., 112 B.R. 463, 467-68 (Bankr. N.D. Ga. 1990) (finding that a debtor's efforts to reorganize would be significantly impaired to the detriment of creditors if lease provisions prohibiting a debtor from liquidating its inventory were enforced); In re Libson Shops, Inc., 24 B.R. 693, 695 (Bankr. E.D. Mo. 1982) (holding restrictive lease provision unenforceable in chapter 11 case where debtor sought to conduct a liquidation sale).

44. The Court has long held that restrictive lease provisions affecting store liquidation sales in chapter 11 cases are unenforceable. See, e.g., In re Coldwater Creek, No. 14-10867 (BLS) (Bankr. D. Del. May 7, 2014) (ordering that store closing sales be conducted without the further need for compliance with, among other things, lease provisions); In re Boscov's, No. 08-11637 (KG) (Bankr. D. Del. Aug. 15, 2008) (same); In re Goody's Family Clothing, Inc., No. 08-11133 (CSS) (Bankr. D. Del. June 13, 2008) (same); In re Linens Holding Co., No. 08-10832 (CSS)

(Bankr. D. Del. May 30, 2008) (same).

45. Thus, to the extent that such provisions or restrictions exist in any of the Closing Stores' leases, the Debtors request that the Court authorize the Debtors to conduct the Store Closing Sales without reference to any such restrictive provisions or interference by any landlords or other persons affected, directly or indirectly, by the Store Closing Sales.

V. The Store Closing Bonus Plan is a Sound Exercise of the Debtors' Business Judgment and Should Be Approved.

46. Courts generally require a debtor to demonstrate that a valid business purpose exists for the use of estate property in a manner that is outside the ordinary course of business. See, e.g., In re Lionel Corp., 722 F.2d 1063, 1070–71 (2d Cir. 1983). The debtor's articulation of a valid business justification raises a presumption that the debtor's decision was made on an informed basis, in good faith, and with the honest belief that the action is in the best interest of the company. See In re Integrated Res., Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992). Furthermore, once "the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct." In re Johns-Manville Corp., 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). The business judgment rule shields a debtor's management from judicial second-guessing. See In re Integrated Res., Inc., 147 B.R. at 656; Johns-Manville, 60 B.R. at 615–16 (noting that "the Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions"). Thus, if a debtor's actions satisfy the business judgment rule, then the actions in question should be approved under section 363(b)(1) of the Bankruptcy Code.

47. The Debtors respectfully submit that, for the reasons explained herein and in the First Day Declaration, the Store Closing Bonus Plan is a sound exercise of their business judgment and should be approved pursuant to section 363 of the Bankruptcy Code, as it is in the best interests

of the Debtors, their estates, and all parties in interest in these Chapter 11 Cases. The eligible non-insider employees—along with their skills, knowledge, and hard work—are more critical now than ever. Through their commitment and performance, which is incentivized through the Store Closing Bonus Plan, the eligible employees can ensure that the Debtors maximize stakeholder value in a challenging economic environment and at a time when those employees’ positions will likely soon be terminated.

VI. The Court Should Authorize the Assumption of the Consulting Agreement.

48. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession “subject to the court’s approval, may assume or reject any executory contract . . . of the debtor.” The standard governing bankruptcy court approval of a debtor’s decision to assume or reject an executory contract is whether the debtor’s reasonable business judgment supports such assumption or rejection. See, e.g., In re HQ Glob. Holdings, Inc., 290 B.R. 507, 511 (Bankr. D. Del. 2003) (finding that debtor’s decision to assume or reject an executory contract is governed by the business judgment standard, and that such decision may only be overturned if found to be a product of bad faith, whim, or caprice); see also In re Market Square Inn, Inc., 978 F.2d 116, 121 (3d Cir. 1992) (finding that assumption or rejection of leases “will be a matter of business judgment by the bankruptcy court”).

49. The business judgment test “requires only that the trustee [or debtor-in-possession] demonstrate that [assumption] or rejection of the executory contract will benefit the estate.” Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co. (In re Wheeling-Pittsburgh Steel Corp.), 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987). Any more exacting scrutiny would slow the administration of the debtor’s estate and increase costs, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten the court’s ability to control a case impartially. See Richmond Leasing Co. v. Capital Bank, 762 F.2d 1303, 1311

(5th Cir. 1985).

50. The Debtors submit that assumption of the Consulting Agreement is beneficial to the Debtors' estates, and, therefore, a reasonable exercise of the Debtors' business judgment. In consultation with their advisors, the Debtors have determined that the stores to be closed are unduly burdensome, and the Store Closure Assets should be liquidated for the benefit of the Debtors' estates. Prior to entering into the Consulting Agreements, the Debtors determined, after discussions with their advisors and negotiations with the Consultant, that the terms Consulting Agreement, as a whole, are at or better than market terms for such types of contracts. Therefore, the Debtors believe, in their business judgment, that the Consulting Agreement constitutes the best available alternative for the conduct of the Store Closing Sales.

51. The Consultant has extensive expertise in conducting liquidation sales and can oversee and assist in the management and implementation of the Store Closing Sales in an efficient and cost-effective manner. Assumption of the Consulting Agreement will enable the Debtors to utilize the skills and resources of the Consultant to efficiently conduct the Store Closing Sales for the benefit of all stakeholders. If the Consulting Agreement is not approved, operative, and effective on an interim basis, the Store Closing Sales—which commenced two days prior to the Petition Date—would lose the ongoing benefit of the Consultant's oversight and might be delayed or suspended entirely, leading to a loss of additional liquidity and increased administrative expenses.

VII. The Court Should Approve the Abandonment of Certain Property in Connection with any Liquidation Sales.

52. Section 554(a) of the Bankruptcy Code provides that “[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a); see also Hanover Ins. Co. v.

Tyco Indus., Inc., 500 F.2d 654, 657 (3d Cir. 1974) (“[A trustee] may abandon his claim to any asset, including a cause of action, he deems less than valuable than the cost of asserting that claim.”); In re Contract Research Solutions, Inc., No. 12-11004 (KJC), 2013 WL 1910286, at *4 (Bankr. D. Del. May 1, 2013) (“[A debtor] need only demonstrate that [it] has exercised sound business judgment in making the determination to abandon.”) (citations omitted). The right to abandon property is virtually unfettered, unless (a) abandonment of the property will contravene laws designed to protect public health and safety, or (b) abandonment of the property poses an imminent threat to the public’s welfare. See In re Midlantic Nat’l Bank, 474 U.S. 494, 501 (1986). Neither of these limitations is relevant under the facts and circumstances presented here.

53. The Debtors are seeking to sell all owned FF&E remaining in the Closing Stores. However, the Debtors may determine that the costs associated with holding or selling certain property or FF&E exceeds the proceeds that will be realized upon its sale, or that such property cannot be sold. In such event, the property is of inconsequential value and benefit to the estates and/or may be burdensome to retain.

54. To maximize the value of the Debtors’ assets and to minimize the costs to the estates, the Debtors respectfully request authority to abandon any of their remaining FF&E or other property located at any of the Closing Stores without incurring liability to any person or entity. The Debtors further request that the landlord of each Closing Store with any abandoned FF&E or other property be authorized to dispose of such property without liability to any third parties, and the Debtors will request similar relief in connection with any motions to reject leases which govern the Debtors’ occupancy of the Closing Stores.

55. Notwithstanding the foregoing, the Debtors will utilize all commercially reasonable efforts to remove or cause to be removed any confidential or personal identifying information

(which means information which alone or in conjunction with other information identifies an individual, including, but not limited to, an individual's name, social security number, date of birth, government-issued identification number, account number, and credit or debit card number) in any of the Debtors' hardware, software, computers or cash registers, or similar equipment that are to be sold or abandoned.

56. The Debtors will not be selling or releasing personally identifiable information in the course of the Store Closing Sales. The Consultant will be authorized, however, to distribute emails and promotional materials to the Debtors' customers consistent with the Debtors' existing policies on the use of customer information. In light of the foregoing, the Debtors submit that appointment of a consumer privacy ombudsman is unnecessary under the circumstances of the Stores Closing Sales.

THE REQUIREMENTS OF BANKRUPTCY RULE 6003(b) ARE SATISFIED

57. Certain aspects of the relief requested herein are subject to Bankruptcy Rule 6003, which governs the availability of certain types of relief within 21 days after the Petition Date. Pursuant to Bankruptcy Rule 6003, a court may grant this relief on an expedited basis if it is necessary to avoid immediate and irreparable harm. The Debtors submit that the facts set forth herein and in the First Day Declaration demonstrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and, thus, Bankruptcy Rule 6003 has been satisfied.

REQUEST FOR WAIVER OF BANKRUPTCY RULE 6004(h)

58. For the successful implementation of the foregoing, the Debtors seek a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As set forth above, and in the First Day Declaration, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors. Specifically, continuation of the Store Closing Sales in accordance with the terms described in this Motion is

essential to prevent potentially irreparable damage to the Debtors' Chapter 11 Cases and ability to preserve, generate, and recover value for the benefit of their estates. Accordingly, ample cause exists to justify the waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

RESERVATION OF RIGHTS

59. Nothing contained herein is intended or shall be construed as (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission to the validity, priority, enforceability, or perfection of any lien on, security interest in, or encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the interim order or final order is not intended and should not be construed as an admission as the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

NOTICE

60. Notice of this Motion will be provided to: (a) the Office of the United States Trustee (Attn: Rosa Sierra-Fox); (b) the Debtors' prepetition secured lenders; (c) the Debtors' proposed debtor in possession financing lenders; (d) the Internal Revenue Service; (e) the parties included on the Debtors' consolidated list of their 30 largest unsecured creditors; (f) the United States Attorney for the District of Delaware; (g) the state attorneys general in states where the Debtors

are authorized to do business; (h) the National Association of Attorneys General; (i) all of the Debtors' landlords; (j) all applicable federal, state, and local taxing and regulatory authorities having jurisdiction over the Store Closing Assets; and (k) all parties entitled to notice pursuant to Bankruptcy Rule 2002-1. Notice of this Motion and any order entered in connection with this Motion will be served on all parties in accordance with Local Rule 9013-1(m). The Debtors respectfully submit that, in light of the nature of the relief requested, no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully request that the Court enter the Interim Order and Final Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

[Remainder of Page Intentionally Left Blank]

Dated: February 5, 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Andrew L. Magaziner

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Andrew L. Magaziner (No. 5426)

S. Alexander Faris (No. 6278)

Kristin L. McElroy (No. 6871)

Rodney Square

1000 North King Street

Wilmington, Delaware 19801

Telephone: (302) 571-6600

Facsimile: (302) 571-1253

Email: amagaziner@ycst.com

afaris@ycst.com

kmcelroy@ycst.com

- and -

MCDONALD HOPKINS LLC

David A. Agay (*pro hac vice* admission pending)

Marc Carmel (*pro hac vice* admission pending)

Joshua Gadharf (*pro hac vice* admission pending)

Maria G. Carr (*pro hac vice* admission pending)

Ashley Jericho (*pro hac vice* admission pending)

300 North LaSalle Street, Suite 1400

Chicago, Illinois 60654

Telephone: (312) 280-0111

Facsimile: (312) 280-8232

Email: dagay@mcdonaldhopkins.com

mcarmel@mcdonaldhopkins.com

jgadharf@mcdonaldhopkins.com

mcarr@mcdonaldhopkins.com

ajericho@mcdonaldhopkins.com

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

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

In re:)	
	)	Chapter 11
INDEPENDENT PET PARTNERS)	
HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 23-10153 (___)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Ref. Docket No. ____
)	
)	

INTERIM ORDER (I) AUTHORIZING DEBTORS TO ASSUME CONSULTING AGREEMENT RELATED TO STORE CLOSING SALES, (II) AUTHORIZING AND APPROVING THE CONDUCT OF STORE CLOSING SALES, WITH SUCH SALES TO BE FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, (III) AUTHORIZING CUSTOMARY BONUSES TO NON-INSIDER EMPLOYEES OF CLOSING STORES, (IV) AUTHORIZING AND APPROVING STORE CLOSING PROCEDURES, AND (V) GRANTING RELATED RELIEF

Upon the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Assume Consulting Agreement Related to Store Closing Sales, (II) Authorizing and Approving the Conduct of Store Closing Sales, With Such Sales to be Free and Clear of All Liens, Claims, and Encumbrances, (III) Authorizing and Approving Store Closing Procedures, (IV) Authorizing Customary Bonuses for Non-Insider Employees of Closing Stores, and (V) Granting Related Relief* (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing the Debtors to

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Independent Pet Partners Holdings, LLC (5913), Independent Pet Partners Intermediate Holdings I, LLC (4827), Independent Pet Partners Intermediate Holdings II, LLC (7550), Independent Pet Partners Employer Holdings, LLC (6785), Independent Pet Partners Employer, LLC (7531), Independent Pet Partners Intermediate Holdings, LLC (8793), IPP - Stores, LLC (6147), IPP Stores Employer, LLC (0847), Especially For Pets, LLC (6801), Pet Life, LLC (3420), Whole Pet Central, LLC (7833), Natural Pawz, LLC (5615), and Pet Source, LLC (1905). The corporate headquarters and the mailing address for the Debtors is 8450 City Centre Dr., Woodbury, MN 55125..

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

assume the Consulting Agreement, (b) authorizing and approving the continuation or initiation of the Store Closing Sales in accordance with the terms of the Consulting Agreement and the Store Closing Procedures, with such sales to be free and clear of all liens, claims, and encumbrances, (c) authorizing customary bonuses to non-insider Closing Store employees, (d) scheduling a final hearing to consider approval of the Motion on a final basis, and (e) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration and the B. Riley Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby:

FOUND AND DETERMINED THAT:³

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact where appropriate. *See* Fed. R. Bankr. P. 7052.

A. The Debtors have advanced sound business reasons for assuming the Consulting Agreement and adopting the Store Closing Procedures, on an interim basis subject to the Final Hearing (as defined below), as set forth in the Motion and at the Hearing, and assuming the Consulting Agreement is a reasonable exercise of the Debtors' business judgement and in the best interest of the Debtors and their estates.

B. The Consulting Agreement, a copy of which is attached to this Interim Order as **Schedule 1**, was negotiated, proposed, and entered into by the Consultant and the Debtors without collusion, in good faith and from arm's length bargaining positions.

C. The Store Closing Procedures, which are attached hereto as **Schedule 3**, are reasonable and appropriate, and the conduct of Store Closing Sales in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets, and are in the best interest of the Debtors' estates.

D. The relief set forth herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates and the Debtors have demonstrated good, sufficient and sound business purposes and justifications for the relief approved herein.

E. The Store Closing Sales are in the best interest of the Debtors' estates.

F. The Dispute Resolution Procedures are fair and reasonable, and comply with applicable law.

G. The Debtors have represented that they intend to neither sell nor lease personally identifiable information pursuant to the relief requested in the Motion, although the Consultant will be authorized to distribute emails and promotional materials to the Debtors' customers consistent with the Debtors' existing policies on the use of consumer information.

H. The Consultant is not an insider of the Debtors.

I. The entry of this Interim Order is in the best interests of the Debtors and their estates, creditors, and interest holders and all other parties in interest herein; and now therefore **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2023 at _____:_____.m. (EST). Any objections or responses to entry of a final order on the Motion (each, an "Objection") shall be filed on or before **4:00 p.m. (EST) on _____, 2023**, and served on the following parties: (i) proposed counsel to the Debtors, McDonald Hopkins LLC, 300 N. LaSalle St., Chicago, IL 60654, Attn: David Agay, Esq. (dagay@mcdonaldhopkins.com) and Mark Carmel, Esq. (mccarmel@mcdonaldhopkins.com); (ii) proposed co-counsel to the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Andrew L. Magaziner, Esq. (amagaziner@ycst.com) and S. Alexander Faris, Esq. (afaris@ycst.com)); (iii) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, DE 19801 (Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov)); (iv) counsel to any statutory committee appointed in these Chapter 11 Cases; (v) counsel to the DIP Lenders, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Shmuel Vasser, Esq. (shmuel.vasser@dechert.com) and Stephen Wolpert, Esq. (stephen.wolpert@dechert.com)), and (vi) local counsel to the DIP Lenders, Richards, Layton & Finger, P.A., P.O. Box 551, Wilmington, Delaware 19899 (Attn: Russell Silberglied, Esq. (silberglied@rlf.com) and Brendan Schlauch, Esq. (schlauch@rlf.com)). In the event no Objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.
3. The Debtors are authorized and empowered to take any and all further actions as

may be reasonably necessary or appropriate to give effect to this Interim Order. The failure to specifically include any provisions of the Consulting Agreement in this Interim Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Consulting Agreement and all of their provisions, payments, and transactions be, and hereby are, authorized and approved as and to the extent provided in this Interim Order.

4. To the extent of any conflict between this Interim Order, the Store Closing Procedures, and the Consulting Agreement, the terms of this Interim Order shall control over all other documents and the Store Closing Procedures shall control over the Consulting Agreement.

I. Authority to Assume the Consulting Agreement.

5. The Debtors are authorized to act and perform in accordance with the terms of the Consulting Agreement on an interim basis, including making payments required by the Consulting Agreement, including fees and reimbursement of expenses to the Consultant without the need for any application of the Consultant or a further order of this Court (and all such payments of fees and reimbursement of expenses shall be free and clear of any and all liens and encumbrances). The Consultant's fees and expenses shall be paid from the gross proceeds of Store Closing Sales, without adherence to any weekly, monthly, or aggregate limitation in any DIP financing or cash collateral budget entered in connection with these Chapter 11 Cases, but shall be subject to the terms of the Consulting Agreement itself, including as to any expense budget attached hereto.

6. Subject to the restrictions set forth in this Interim Order and the Store Closing Procedures, the Debtors and the Consultant are hereby authorized to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and Store Closing Sales, and each of the transactions contemplated by the Consulting Agreement, and any actions taken by the Debtors and the Consultant necessary or desirable to implement the Consulting Agreement and/or Store Closing Sales prior to the date of this Interim Order, are hereby approved and ratified.

7. The Consulting Agreement and related documents may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of this Court so long as the interest of counterparties to leases of non-residential real property are not adversely affected or as otherwise ordered by this Court.

8. Notwithstanding anything contrary in the Consulting Agreement, the Debtors and their estates shall not indemnify the Consultant for any damages arising primarily out of the Consultant's fraud, willful misconduct, or gross negligence.

II. Authority to Engage in Sales and Conduct Store Closing Sales.

9. The Debtors are authorized, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to immediately continue and conduct Store Closing Sales at the Closing Stores in accordance with this Interim Order, the Store Closing Procedures, the Consulting Agreement, and any Side Letters (as defined below) between the Debtors and/or the Consultant and the landlords at the Closing Stores.

10. The Store Closing Procedures are approved in their entirety on an interim basis.

11. The Debtors are authorized to discontinue operations at the Closing Stores in accordance with this Interim Order, the Store Closing Procedures, and the Consulting Agreement (as modified by a Side Letter, as applicable).

12. Subject to entry of the Final Order, all entities that are presently in possession of some or all of the Store Closure Assets in which the Debtors hold an interest that are or may be subject to the Consulting Agreement or this Interim Order hereby are directed to surrender possession of such Store Closure Assets to the Debtors or the Consultant.

13. Neither the Debtors nor the Consultant nor any of their respective officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined under section 101(27) of the Bankruptcy Code) or

landlord, to conduct the Store Closing Sales and to take the related actions authorized herein.

III. Conduct of Store Closing Sales.

14. All newspapers and other advertising media in which the Store Closing Sales may be advertised and all landlords are directed to accept this Interim Order as binding authority so as to authorize the Debtors and the Consultant to conduct the Store Closing Sales pursuant to the Consulting Agreement, including, without limitation, to conduct and advertise the sale of the Store Closure Assets in the manner contemplated by and in accordance with this Interim Order, the Store Closing Procedures, and the Consulting Agreement.

15. The Debtors and Consultant are hereby authorized to take such actions as may be necessary and appropriate to implement the Consulting Agreement and to conduct the Store Closing Sales without necessity of further order of this Court as provided in the Consulting Agreement and the Store Closing Procedures (subject to any Side Letters), including, but not limited to, advertising the sale as a “store closing sale”, “sale on everything”, “everything must go”, or similar-themed sales as contemplated in the Store Closing Procedures through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent that the applicable closing location entrance does not require entry into the enclosed mall common area), use of sign-walkers, A-frames, and other street signage, as contemplated in the Store Closing Procedures.

16. Notwithstanding anything herein to the contrary, and in view of the importance of the use of sign-walkers, banners, and other advertising to the Store Closing Sales, to the extent that, prior to the Final Hearing, disputes arise during the course of such sale regarding laws regulating the use of sign-walkers, banners, or other advertising and the Debtors and the Consultant are unable to resolve the matter consensually, any party may request an immediate telephonic hearing with this Court pursuant to these provisions. Such hearing will, to the extent practicable,

be scheduled initially no later than the earlier of (a) the Final Hearing or (b) within two (2) business days of such request. This interim scheduling procedure shall not be deemed to preclude additional hearings for the presentation of evidence or arguments as necessary.

17. Except as expressly provided in the Consulting Agreement and the Store Closing Procedures, the sale of the Store Closure Assets shall be conducted by the Debtors and the Consultant notwithstanding any restrictive provision of any lease, sublease, restrictive covenant, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Store Closing Sales (including the sale of the Store Closure Assets), the rejection of leases, abandonment of assets, or “going dark” provisions shall not be enforceable in conjunction with the Store Closing Sales. Breach of any such provisions in these Chapter 11 Cases in conjunction with the Store Closing Sales shall not constitute a default under a lease or provide a basis to terminate the lease; provided that the Store Closing Sales are conducted in accordance with the terms of this Interim Order, any Side Letter, and the Store Closing Procedures. The Debtors and/or Consultant and landlords of the Closing Stores are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures without further order of the Court, and such Side Letters shall be binding as among the Debtors, the Consultant and any such landlords, *provided* that nothing in such Side Letters affects the provisions of this Interim Order. In the event of any conflict between the Store Closing Procedures and any Side Letter, the terms of such Side Letter shall control. In the event of a dispute between the Consultant and a landlord on the terms of a Side Letter, the Consultant and the landlord agree that they may seek an emergency hearing before the Court on no less than five (5) business days’ notice, unless the parties agree to a hearing on a shorter notice, in each respect subject to the Court’s availability.

18. Except as expressly provided for herein or in the Store Closing Procedures, no

person or entity, including, but not limited to, any landlord, licensor, service providers, utilities, or creditors, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of Store Closing Sales or the sale of Store Closure Assets, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign-walkers) of such sales, and all such parties and persons of every nature and description, including, but not limited to, any landlord, licensor, service providers, utilities, and creditors and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closing Sales, and/or (b) instituting any action or proceeding in any court (other than in the Court) or administrative body seeking an order or judgment against, among others, the Debtors, the Consultant, or the landlords at the closing locations that might in any way directly or indirectly obstruct or otherwise interfere with or adversely affect the conduct of Store Closing Sales or sale of the Store Closure Assets or other liquidation sales at the closing locations and/or seek to recover damages for breach(es) of covenants or provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

19. In accordance with and subject to the terms and conditions of the Consulting Agreement, the Consultant shall have the right to use the Closing Stores and all related Closing Store services, furniture, fixtures, equipment and other assets of the Debtors for the purpose of conducting Store Closing Sales, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Interim Order.

20. All sales of Store Closure Assets shall be “as is” and final. No returns related to the purchase of Store Closure Assets shall be accepted at any Closing Stores or any stores that are not participating in the Store Closing Sales. Conspicuous signs stating that “all sales are final”

and “as is” will be posted at the point of sale areas at all Closing Stores.

21. The Consultant shall accept in-store return and exchanges for items purchased prior to February 3, 2023, in accordance with the terms and conditions of the Company’s Return and Exchange Policy, until the earlier of: (a) the closing date of the relevant Closing Store; and (b) February 28, 2023. Notice of same will be conspicuously posted in the Closing Stores and website as applicable.

22. The Consultant will honor Gift Cards at the Closing Stores until the earlier of: (a) the closing date of the relevant Closing Store; and (b) February 28, 2023. Notice of same will be conspicuously posted in the Closing Stores and website as applicable.

23. The Consultant shall not be liable for sales taxes except as expressly provided in the Consulting Agreement and the payment of any and all sales taxes is the responsibility of the Debtors. The Debtors are directed to remit all taxes arising from Store Closing Sales to the applicable Governmental Units as and when due, *provided* that in the case of a *bona fide* dispute the Debtors are only directed to pay such taxes upon the resolution of such dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Consultant shall collect, remit to the Debtors, and account for sales taxes as and to the extent provided in the Consulting Agreement. This Interim Order does not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state or federal law, and does not constitute a declaratory judgment with respect to any party’s liability for taxes under state or federal law.

24. Pursuant to section 363(f) of the Bankruptcy Code, the Consultant, on behalf of the

Debtors, is authorized to sell the Store Closure Assets and all sales of Store Closure Assets, whether by the Consultant or the Debtors, shall be free and clear of any and all liens, claims, encumbrances, and other interests; *provided, however*, that any such liens, claims, encumbrances, and other interests shall attach to the proceeds of the sale of the Store Closure Assets with the same validity, amount, and priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Store Closure Assets, subject to any claims and defenses that the Debtors may possess with respect thereto. Payment of fees and expenses to the Consultant in accordance with this Interim Order and the Consulting Agreement shall be free and clear of any liens, claims, encumbrances, and other interests.

25. The Debtors and/or the Consultant (as the case may be) are authorized and empowered to transfer Store Closure Assets among, and into, the Closing Stores in accordance with the Store Closing Procedures, as applicable. The Consultant is authorized to sell the Debtors' FF&E and abandon the same, in each case, as provided for and in accordance with the terms of the Consulting Agreement and the Store Closing Procedures; provided that the Debtors, if necessary, may seek further authority to abandon any remaining FF&E in connection with a motion to reject the leases which govern the occupancy of subject Closing Stores.

26. Neither the Store Closing Procedures, Consulting Agreement, nor this Interim Order authorize the Debtors to transfer or sell to Consultant or any other party the personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including but not limited to an individual's first name (or initial) and last name, physical address, electronic address, telephone number, social security number, date of birth, government-issued identification number, account number and credit or debit card number ("PII") of any customers unless such sale or transfer is permitted by the Debtors'

privacy policy and state or federal privacy and/or identity theft prevention laws and rules (collectively, the “Applicable Privacy Laws”). The foregoing shall not limit the Consultant’s use of the Debtors’ customer lists and mailing lists in accordance with the Consulting Agreement solely for purposes of advertising and promoting Store Closing Sales.

27. The Debtors shall remove or cause to be removed any confidential and/or PII in any of the Debtors’ hardware, software, computers or cash registers or similar equipment which are to be sold or abandoned so as to render the PII unreadable or undecipherable. At the conclusion of Store Closing Sales, the Consultant shall provide the Debtors with written verification that the Consultant has not removed, copied, or transferred any customer PII and that any records containing PII were shredded, erased, or otherwise modified to render the PII unreadable or undecipherable.

28. Nothing in this Final Order shall (a) alter or affect the Debtors’ obligations to comply with section 365(d)(3) of the Bankruptcy code or (b) alter or modify the rights of any lessor or other counterparty to a lease with the Debtors to file an appropriate motion or otherwise seek relief if the Debtors fail to comply with section 365(d)(3) of the Bankruptcy Code; provided that the conduct of the Stores Closing Sales in accordance with the guidelines approved hereby, as may have been modified by the Side Letter, shall not be in violation of section 365(d)(3) of the Bankruptcy Code.

IV. Dispute Resolution Procedures with Governmental Units.

29. Nothing in this Interim Order, the Consulting Agreement, or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a Governmental Unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Interim Order. Nothing contained in this

Interim Order, the Consulting Agreement, or the Store Closing Procedures shall in any way: (a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with their rights and obligations as debtors in possession under the Bankruptcy Code. The Store Closing Sales shall not be exempt from laws of general applicability, including, without limitation, public health and safety, criminal, tax, (including, but not limited to, the collection of sales taxes), labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising, consumer protection, the sale of gift certificates, layaway programs, return of goods, express or implied warranties of goods, and “weights and measures” regulation and monitoring (collectively, “General Laws”). Nothing in this Interim Order, the Consulting Agreement, or the Store Closing Procedures, shall alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Interim Order shall be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtors’ rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code or this Interim Order. Notwithstanding any other provision in this Interim Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Interim Order and/or any applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Interim Order shall be deemed to have made any rulings on any such issues.

30. To the extent that the sale of Store Closure Assets is subject to any Liquidation Sale Laws, including any federal, state or local statute, ordinance, rule, or licensing requirement

directed at regulating “going out of business,” “store closing,” or similar inventory liquidation sales, or bulk sale laws, laws restricting safe, professional and non-deceptive, customary advertising such as signs, banners, signage, and use of sign-walkers solely in connection with the sale of the Store Closure Assets, including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Store Closure Assets, the dispute resolution procedures in this section shall apply:

- a) Provided that the Store Closing Sales are conducted in accordance with the terms of this Interim Order and the applicable Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units (as defined in the Bankruptcy Code) that exempt court-ordered sales from their provisions, the Debtors will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct Store Closing Sales in accordance with the terms of this Interim Order and the applicable Store Closing Procedures, without the necessity of further showing compliance with any such Liquidation Sale Laws.
- b) Within two business days after entry of this Interim Order, the Debtors will serve by email, facsimile, or first-class mail, copies of this Interim Order, the proposed Final Order, and the Store Closing Procedures on the following: (i) the landlords for the Closing Stores; (ii) the Attorney General’s office for each state in which the Store Closing Sales are being held; (iii) the county consumer protection agency or similar agency for each county in which the Store Closing Sales are being held; (iv) the division of consumer protection for each state in which the Store Closing Sales are being held; and (v) the chief legal counsel for each local jurisdiction in which the Store Closing Sales are being held (collectively, the “Dispute Notice Parties”).
- c) With respect to any additional Closing Stores, within three business days after Court authorization to close additional stores (each, an “Additional Closing Store List”), the Debtors will serve by email, facsimile, or first-class mail, copies of this Interim Order, the proposed Final Order, and the Store Closing Procedures on the Dispute Notice Parties. To the extent that there is a dispute arising from or relating to the Store Closing Sales, this Interim Order or the proposed Final Order as applicable, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a “Reserved Dispute”), the Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of this Interim Order or service of any Additional Closing Store List, as applicable, any Governmental Unit may assert that a Reserved Dispute exists by sending a notice (the “Dispute Notice”) explaining the nature of

the dispute to: (i) the Debtors, Independent Pet Partners Holdings, LLC, *et al.*, 8450 City Centre Dr., Woodbury, Minnesota 55125, (Attn: Charlie Reeves (creeves@thinkbrg.com)); (ii) proposed counsel to the Debtors, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654 (Attn: David A. Agay, Esq. (dagay@mcdonaldhopkins.com), Marc Carmel, Esq. (mccarmel@mcdonaldhopkins.com), and Joshua Gadharf, Esq. (jgadharf@mcdonaldhopkins.com)); (iii) proposed co-counsel to the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Andrew L. Magaziner, Esq. (amagaziner@ycst.com) and S. Alexander Faris, Esq. (afaris@ycst.com)); (iv) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: Rosa Sierra-Fox, Esq. (rosa.sierra-fox@usdoj.gov); (v) counsel to the DIP Lenders, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Shmuel Vasser, Esq. (shmuel.vasser@dechert.com) and Stephen Wolpert, Esq. (stephen.wolpert@dechert.com)), (vi) local counsel to the DIP Lenders, Richards, Layton & Finger, P.A., P.O. Box 551, Wilmington, Delaware 19899 (Attn: Russell Silberglied, Esq. (silberglied@rlf.com) and Brendan Schlauch, Esq. (schlauch@rlf.com)); and (vii) counsel to any statutory committee appointed in these Chapter 11 Cases. If the Debtors and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the Dispute Notice, the Governmental Unit may file a motion with the Court requesting that the Bankruptcy Court resolve the Reserved Dispute (a “Dispute Resolution Motion”).

- d) In the event that a Dispute Resolution Motion is filed, nothing in this Interim Order shall preclude the Debtors, a landlord, or any other interested party from asserting (i) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (ii) that neither the terms of this Interim Order nor the conduct of the Debtors pursuant to this Interim Order violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of this Interim Order or to limit or interfere with the Debtors’ ability to conduct or to continue to conduct the Store Closing Sales pursuant to this Interim Order, absent further order of the Court. Upon the entry of this Interim Order, the Court grants authority for the Debtors to conduct the Store Closing Sales pursuant to the terms of this Interim Order and/or the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in this Interim Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.
- e) If, at any time, a dispute arises between the Debtors and/or the Consultant

and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in this Interim Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (c) and (d) above by serving a notice to the other party and proceeding thereunder in accordance with those subparagraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

31. Subject to paragraphs 29 and 30 above, each and every federal, state, or local agency, departmental, or Governmental Unit with regulatory authority over Store Closing Sales and all newspapers and other advertising media in which Store Closing Sales are advertised shall consider this Interim Order as binding authority that no further approval, license, or permit of any Governmental Unit shall be required, nor shall the Debtors or the Consultant be required to post any bond, to conduct Store Closing Sales.

32. Provided that Store Closing Sales are conducted in accordance with the terms of this Interim Order, the Consulting Agreement, and the Store Closing Procedures, and in light of the provisions in the laws that exempt court-ordered sales from their provisions, the Debtors and Consultant shall be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct Store Closing Sales in accordance with the terms of this Interim Order and the Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.

33. Nothing in this Interim Order, the Consulting Agreement, or the Store Closing Procedures releases, nullifies, or enjoins the enforcement of any liability to a Governmental Unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Interim Order. Nothing contained in this Interim Order, the Consulting Agreement, or the Store Closing Procedures shall in any way:

(a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the

obligations of the Debtors to comply with environmental laws consistent with their rights and obligations as debtors in possession under the Bankruptcy Code.

34. On an Interim basis and pending entry of the Final Order, the Debtors shall have the authority, but not the obligation, to pay Store Closing Bonuses to applicable non-insider employees as provided for in the Consulting Agreement. The Consultant shall have the authority to determine the individual amounts of each Store Closing Bonus, except that the total aggregate cost of the Store Closing Bonus program will not exceed \$300,000.

V. Other Provisions.

35. The Consultant shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against Consultant, in each case, other than as expressly provided for in the Consulting Agreement.

36. To the extent that the Debtors are subject to any state Fast Pay Laws in connection with the Store Closing Sales, the Debtors shall be presumed to be in compliance with such laws to the extent, in applicable states, such payroll payments are made by the later of: (a) the Debtors' next regularly scheduled payroll; and (b) seven (7) calendar days following the termination date of the relevant employee, and in all such cases consistent with, and subject to, any previous orders of this Court regarding payment of same.

37. Neither the Consultant nor any of its respective affiliates (whether individually, as part of a joint venture, or otherwise), shall be precluded from providing additional services to the Debtors and/or bidding on the Debtors' assets not subject to the Consulting Agreement in connection with any other future process that may or may not be undertaken by the Debtors to close additional stores, *provided* that any such services and/or transactions is approved by separate order of this Court.

38. On a confidential basis and for professionals' "eyes only" and upon the written

(including email) request of the U.S. Trustee, the Debtors shall provide such requesting party, if any, with copies of periodic reports concerning Store Closing Sales that are prepared by the Debtors, their professionals or the Consultant, *provided*, that the foregoing shall not require the Debtors, their professionals, or the Consultant to prepare or undertake to prepare any additional or new reporting not otherwise being prepared by the Debtors, their professionals, or the Consultant in connection with Store Closing Sales.

39. Consultant shall act solely as an independent consultant to the Debtors and shall not be liable for any claims against the Debtors other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Store Closing Procedures, with the exception of acts of gross negligence or willful misconduct and, for greater certainty, the Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labor standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successor liability whatsoever.

40. The Debtors are authorized and permitted to transfer to the Consultant personal information in the Debtors' custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes, *provided* that Consultant removes such personal information from the FF&E prior to the abandonment of the same.

41. Within thirty (30) days of conclusion of the Sale, the Debtors shall (a) file with the Court a summary report of the store closing process that will include (i) a list of the stores closed and (ii) gross revenue from the Store Closure Assets sold, and (b) file with this Court and serve on the U.S. Trustee a report showing payment of each of the Consultant's fees, setting forth detail and

information regarding the calculation of such fees paid to the Consultant and expenses reimbursed to the Consultant, *provided* that such invoice may be redacted for privilege.

42. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor it is intended to constitute: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission to the validity, priority, enforceability, or perfection of any lien on, security interest in, or encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party-in-interest's rights to subsequently dispute such claim, other than with respect to payments made to the Consultant, which are governed by the reconciliation procedures in the Consulting Agreement.

43. All payments authorized by this Interim Order may be made solely to the extent in compliance with the DIP Budget (as defined in the interim or final order authorizing the Debtors to obtain postpetition senior secured financing and related relief) then in effect.

44. Bankruptcy Rule 6003(b) is satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

45. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

46. This Court shall retain jurisdiction with regard to all issues or disputes relating to this Interim Order or the Consulting Agreement, including, but not limited to, (a) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being conducted in a safe, professional, and non-deceptive manner, (b) any claim of the Debtors, the landlords and/or the Consultant for protection from interference with the Store Closing Sales, (c) any other disputes related to the Store Closing Sales, and (d) protect the Debtors and/or the Consultant against any assertions of any liens, claims, encumbrances, and other interests. No such parties or person shall take any action against the Debtors, the Consultant, the landlords, or the Store Closing Sales until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

Schedule 1

Consulting Agreement

CONSULTING AGREEMENT

This Consulting Agreement (collectively with all Exhibits hereto, the “Agreement”) is made as of **January 24, 2023**, by and between **IPP-Stores, LLC**, a Delaware limited liability company (“Merchant”), and **B. Riley Retail Solutions, LLC**, a California limited liability company (“Consultant” and together with Merchant, the “Parties” and each a “Party”).

RECITALS

WHEREAS, Merchant operates retail stores and desires that Consultant act as Merchant’s Consultant for the limited purposes of (a) selling all of the Merchandise (as hereinafter defined) from Merchant’s retail store locations listed on **Exhibit A** attached hereto (each individually a “Store,” and collectively the “Stores”), which list may be amended by Merchant in writing from time to time (including by adding or removing Stores), by means of a “store closing”, “location closing”, “everything on sale”, “everything must go”, or similar themed sale, as agreed between the Parties, and (b) disposing of the FF&E (defined below) in the Stores, on the terms and conditions set forth in this Agreement (the “Sale”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Appointment of Consultant

Effective as of the date hereof, Merchant hereby appoints Consultant, and Consultant hereby agrees to serve, as Merchant’s exclusive agent for the limited purpose of conducting the Sale and assisting Merchant in the sale of the Merchandise and FF&E (each as defined below) in accordance with the terms and conditions of this Agreement. Subject to the above, and to Merchant’s prior approval of any sale signage and advertising messaging, Consultant shall be authorized to advertise the Sale as a “store closing”, “location closing”, “everything on sale”, “everything must go”, or similar-themed sale approved by Merchant, and shall not be authorized to advertise the Sale as a “going out of business” sale.

Section 2(a). Merchandise

As used in this Agreement, “Merchandise” means all first quality goods, saleable in the ordinary course, located in the Stores on the Sale Commencement Date (defined below) or delivered thereto after the Sale Commencement Date pursuant to the terms of this Agreement. “Merchandise” excludes (1) goods that belong to sublessees, licensees, or concessionaires of Merchant, as identified by Merchant prior to the Sale Commencement Date; (2) FF&E (defined below) and improvements to real property that are located in the Stores; (3) damaged or defective goods; (4) goods held by Merchant on memo, on consignment, or as bailee as identified by Merchant prior to the Sale Commencement Date (defined below); (5) gift cards (third party and Merchant branded); and (6) revenue from services provided (e.g., pet grooming services).

Section 2(b). FF&E

As used in this Agreement, “FF&E” means the furniture, furnishings, trade fixtures, machinery, equipment, office supplies, supplies, conveyor systems, racking, rolling stock, and other tangible personal property owned by Merchant and located in the Stores.

Section 3. Sale Term

The Sale shall commence no later than **February 3, 2023** (the “Sale Commencement Date”) and conclude no later than **February 28, 2023** (the “Sale Termination Date”); provided, however, that the Parties may

mutually agree in writing to extend or terminate the Sale at any Store(s) prior to the Sale Termination Date. The date on which the Sale has concluded at all of the Stores is the “Sale Termination Date” and the period between the Sale Commencement Date and the Sale Termination Date, inclusive, is the “Sale Term”. To the extent that the Sale in the Store(s) is delayed or interrupted because it is required to be closed due to the issuance of an order, rule, restriction, recommendation or regulation by a federal, state or local government agency, or similar regulatory or authoritative agency, that may be imposed on any aspect of Merchant’s ability to operate the Stores in response to any health-related outbreak or pandemic (“Health Regulations”), the Sale Termination Date as to the affected Store may be extended by the time period for which the Sale was delayed or interrupted by the agreement of the Parties. At the conclusion of the Sale for each Store, Consultant shall surrender the premises for such Store to Merchant in broom clean condition with any unsold FF&E to be left in place at the Stores.

Section 4. Project Management

(A) Consultant’s Undertakings

During the Sale Term, Consultant shall, in collaboration with Merchant: (a) provide qualified supervisors (the “Supervisors”) engaged by Consultant to oversee the Sale and management of the Stores in an effort to maximize revenue and sell all of the Merchandise prior to the end of the Sale; (b) determine appropriate point-of-sale and external advertising, subject to the reasonable advance approval of Merchant; (c) determine appropriate discounts of Merchandise, staffing levels, and appropriate bonus and incentive programs, if any, for the Stores’ employees, each subject to the reasonable advance approval of Merchant; (d) oversee display of Merchandise for the Stores; (e) evaluate sales of Merchandise by category, provide sales reporting (but only if, and to the extent that, Merchant provides Consultant access to the point of sale data in the normal course), and monitor expenses; (f) maintain the confidentiality of all proprietary or non-public information regarding Merchant in accordance with the provisions of the confidentiality agreement signed by the Parties; (g) assist Merchant in connection with managing and controlling loss prevention and employee relations matters; (h) to the extent necessary, assist Merchant in obtaining any required permits and governmental consents required to conduct the Sale; (i) price, market, and sell the FF&E on behalf of Merchant; and (j) provide such other related services deemed necessary or appropriate by Merchant and Consultant.

Merchant shall be responsible for all reasonable costs and expenses incurred by Consultant in connection with the sale of FF&E in accordance with a mutually agreed budget to be determined at a later time; for the sake of clarity, such expenses are not included in the Expense Budget attached hereto as **Exhibit B**. Consultant shall have the right to abandon at the Stores any unsold FF&E. Unless otherwise agreed to by Merchant, the sale of the FF&E in each Store shall conclude at the same time as Merchandise sales conclude.

The Parties expressly acknowledge and agree that Merchant shall have no liability (other than reimbursing Consultant for the cost of supervision as an expense hereunder) to the Supervisors for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination, or any other liability arising from Consultant’s hiring or engagement of the Supervisors, and the Supervisors shall not be considered employees of Merchant.

The Parties further acknowledge that Consultant does not warranty or guarantee that it will be able to assist Merchant in obtaining all of the permits and governmental consents required to conduct the Sale, and Consultant shall have no liability to Merchant or any permitting or governmental agencies for the payment of any fines, costs or assessments that may be charged to Merchant or Consultant to the extent that any such required permits or governmental consents are not properly or timely obtained.

(B) Merchant’s Undertakings

During the Sale Term, Merchant shall (a) be the employer of the Store’s employees, other than the Supervisors; (b) pay all taxes, costs, expenses, accounts payable, and other liabilities relating to the Stores, the Stores’

employees and other representatives of Merchant; (c) prepare and process all tax forms and other documentation; (d) collect all sales taxes and pay them to the appropriate taxing authorities; (e) use reasonable efforts to cause Merchant's employees to cooperate with Consultant and the Supervisors; (f) execute all agreements determined by Merchant and/or Consultant to be necessary or desirable for the operation of the Stores during the Sale; (g) arrange for the ordinary maintenance in order to maintain in good working order all point-of-sale equipment, HVAC systems, other mechanical devices and overall facilities reasonably required to allow for the conduct of the Sale and operation of the Stores; (h) provide peaceful use and occupancy of, and full access (including reasonable before and after hours access and normal utilities/phone service) to, the Stores, for the purpose of preparing for, conducting, and completing the Sale, and performing its obligations under this Agreement; and (i) with Merchant's consent, Consultant shall have access, right and ability to use, until the Sale Termination Date, of the trade names, logos, e-mail lists, mailing lists, customer lists, e-commerce sites (including (without limitation) the landing page on the websites and Store locator page(s), and social media sites such as Facebook, and Twitter) relating to and used in connection with the operation of the e-Store, solely for the purposes of advertising the Sale, selling Merchandise and FF&E and otherwise conducting the Sale in accordance with the terms of the Agreement.

Merchant shall provide throughout the Sale Term central administrative services necessary for the Sale, including internal payroll processing, MIS services, cash and inventory reconciliation, data processing and reporting, email preparation and distribution, information technology updates, functionality, and maintenance, and accounting, all at no cost to Consultant.

Consultant shall have no liability to, and Merchant shall indemnify and hold Consultant harmless from, any claim by or on behalf of Merchant's employees for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from Merchant's employment, hiring or retention of its employees, and such employees shall not be considered employees of Consultant.

The Parties acknowledge that this Agreement is being entered into during the COVID-19 virus pandemic, as well as other emerging infectious diseases and health-related outbreaks, and that local, state and national laws and responses are continuously developing, often in unpredictable ways. Merchant hereby agrees that, while Consultant will fully cooperate with Merchant to adhere to any Health Regulations, the responsibility and expense of complying with any such laws, regulations or orders, including their enforcement and implementation, shall be the sole responsibility of Merchant. Examples of such restrictions, regulations or recommendations may include, without limitation: (a) providing protective gear (such as masks, sanitizers, and similar items) aimed at reducing the spread of the virus to Merchant's employees, customers, vendors, etc.; (b) implementing physical restrictions with regard to Store operations, including monitoring the number of customers allowed into a Store at any given time; and (c) enforcing daily cleaning and sanitizing procedures at the Stores. Merchant and its employees shall be solely responsible to facilitate, enforce, and implement any such restrictions or regulations, at Merchant's sole cost and expense.

Section 5. The Sale

All sales of Merchandise and FF&E shall be made on behalf of, and solely in the name of, Merchant. Consultant does not have, nor shall it have, any right, title, or interest in Merchandise or FF&E. All sales of Merchandise or FF&E shall be by cash, gift card, gift certificate, merchandise credit, debit card, or credit card and, at Merchant's discretion, by check or otherwise in accordance with Merchant's policies, and shall be "final" with no returns accepted or allowed, unless otherwise directed by Merchant.

Section 6. Consultant Fee and Expenses in Connection with the Sale

(i) Gross Proceeds With respect to Merchandise or FF&E, as applicable, that is sold through the Sale, "Gross Proceeds" means the sum of all gross proceeds thereof (including, as a result of the redemption of any gift card, gift certificate, merchandise credit, or loyalty vouchers (i.e., \$10 off) (collectively, "Gift Cards") as well as wholesale sales to third parties) during the Sale Term, after the application of all discounts and net only of sales taxes. During the Sale Term, Merchant will allow customers to elect to take advantage

of either (i) the discounts afforded to customers in connection with Merchant's loyalty/membership program benefits and/or Merchant's coupons that are valid at the time of sale (collectively, "Merchant Discounts"), or (ii) the then-prevailing Merchandise discounts being offered; Merchant will not allow customers to apply both forms of discounts at the time of purchase, on a cumulative basis. Merchant will accept Gift Cards and Merchant Discount through February 28, 2023.

(ii) Consultant's Fee

(a) As consideration for its services under this Agreement, Merchant shall pay to Consultant a fee equal to a percentage of all Gross Proceeds of Merchandise and FF&E, in accordance with the fee structure below, each calculated from the first dollar recovered:

a. For the sale of Merchandise during the Sale, Merchant shall pay Consultant the following fees:

- **Base Fee:** A base fee ("Base Fee") in an amount equal to one and one half of one percent (1.50%) of all Gross Proceeds of Merchandise; ***plus***
- **Incentive Fees:**

In addition to the Base Fee, Merchant shall pay to Consultant, from Gross Proceeds of the Merchandise, the following additional incentive fees ("Incentive Fee(s)"):

- i. An Incentive Fee equal to an additional one quarter of one percent (0.25%) of Gross Proceeds of the Merchandise (calculated from the first dollar recovered), if the percentage obtained when Gross Proceeds are divided by the sum of the aggregate Cost Value (defined below) of the Merchandise (the "Gross Cost Recovery Percentage") is greater than one hundred twenty five percent (125.0%); ***plus***
- ii. An additional Incentive Fee equal to an additional one quarter of one percent (0.25%) of Gross Proceeds of the Merchandise (calculated from the first dollar recovered), if the percentage if the Gross Cost Recovery Percentage is greater than one hundred twenty-nine percent (129.0%); ***plus***

b. For the sale of FF&E during the Sale, a fee equal to fifteen percent (15.0%) of all Gross Proceeds of FF&E sales ("FF&E Fee").

To the extent Merchant materially changes the store list (**Exhibit A**), the Parties will, in good faith, negotiate any changes to the Incentive Fee thresholds set forth above.

"Cost Value" shall mean the unit cost set forth in the following file, or any updated files: Current Inventory & Trends - 1.18. For purposes of clarity, the Base Fee together with the Incentive Fees may equal, but will not exceed, two percent (2%) of Gross Proceeds of Merchandise.

(iii) Gross Rings

For purposes of calculating Gross Proceeds, the Base Fee Incentive Fee(s), and FF&E Fee, the Parties shall use the "Gross Rings" method, wherein Consultant and Merchant shall jointly keep (i) a strict count of gross register receipts less applicable sales taxes and (ii) cash reports of sales within each Store. Register receipts show for each item sold the retail price (as reflected on Merchant's books and records) for such item, and the markdown or other discount granted in connection with such sale. All such records and reports shall be made available to Consultant and Merchant during regular business hours upon reasonable notice.

(iv) Expenses

Merchant shall be responsible for all costs and expenses of the Sale, including but not limited to all Store-level operating expenses. To control the Sale expenses, Merchant and Consultant have established a budget (the “Expense Budget”) of certain expenses in connection with the Sale, including payment of the costs of supervision (including Supervisors’ wages, fees, travel, and deferred compensation), advertising costs, and Consultant’s corporate travel/legal expenses, which aggregate sum Consultant shall not exceed absent Merchant’s prior written consent. The Expense Budget is attached hereto as **Exhibit B**. The Expense Budget may only be modified by mutual written agreement of the Parties. The Parties acknowledge that the Expense Budget will be updated in connection with any modification of the lists of Stores and agree to cooperate in good faith with respect to such updates.

(v) Advance on Expenses

As an advance against the expenses of the Sale, and to secure payment of the same and any other amounts due Consultant, no later than one week before the Sale Commencement Date, Merchant shall pay to Consultant a deposit in the amount of **One Hundred Fifty Thousand Dollars (\$150,000)**, which shall be applied against Consultant Expenses, Base Fee, Incentive Fee(s) and/or FF&E Fee at the end of the Sale Term and to the extent not expended when the Sale concludes (assuming Consultant claims no other amounts are due under the Agreement to Consultant and no other damages were incurred) shall be returned to Merchant as part of the Final Reconciliation (defined below) or such other time that Merchant and Consultant mutually agree.

(vi) Reconciliation

Consultant shall submit invoices to Merchant on a weekly basis setting forth (i) the, Base Fee, Incentive Fee(s) and/or FF&E Fee earned during the preceding week, and (ii) any expenses incurred by Consultant during the preceding week for which Consultant is entitled to reimbursement. No later than seven (7) days of submission, the Base Fee and FF&E Fee shall be paid in full by Merchant via wire transfer to Consultant. The Incentive Fee(s) shall be paid by Merchant at the time of the Final Reconciliation (defined below).

The Parties shall complete a final reconciliation and settlement of all amounts payable to Consultant under this Agreement (including, without limitation, Expense Budget items and fees) (the “Final Reconciliation”) no later than forty-five (45) days following the Sale Termination Date for the last Store.

Section 7. Intentionally Omitted

Section 8. Indemnification

(A) Merchant’s Indemnification

Merchant hereby indemnifies, defends, and holds Consultant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, principals, affiliates, and Supervisors (collectively, the “Consultant Indemnified Parties”) harmless from and against all liabilities, claims, demands, damages, costs, and expenses (including reasonable attorneys' fees) arising from or related to (a) the acts or omissions of Merchant or Merchant Indemnified Parties (as defined below); (b) the material breach of any provision of this Agreement by Merchant, including, without limitation, any representations, warranties or other obligations; (c) any liability or other claims, including, without limitation, product liability claims, asserted by customers, any Store employees (under a collective bargaining agreement or otherwise), or any other person (excluding the Consultant Indemnified Parties) against Consultant or any Consultant Indemnified Party, except claims arising from Consultant’s own gross negligence, willful misconduct, or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious, or otherwise actionable treatment of any Consultant Indemnified Parties or Merchant’s customers by Merchant or any Merchant Indemnified Parties; (e) Merchant’s failure to pay over to the appropriate taxing authority any taxes required to be paid by Merchant during the Sale Term in accordance with applicable law; (f) any claims of Merchant’s

employees for wages, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from Merchant's employment, hiring or retention of its employees; and/or (g) any liability or other claims arising out of liens, claims, interests and encumbrances asserted against the Merchandise or FF&E by any third parties.

(B) Consultant's Indemnification

Consultant hereby indemnifies, defends, and holds Merchant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, principals, and affiliates (other than Consultant or the Consultant Indemnified Parties) (collectively, the "Merchant Indemnified Parties") harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to (a) the willful or grossly negligent acts or omissions of Consultant or the Consultant Indemnified Parties; (b) the breach of any provision of, or the failure to perform any obligation under, this Agreement by Consultant; (c) any liability or other claims made by the Consultant's Indemnified Parties or any other person (excluding Merchant Indemnified Parties) against a Merchant Indemnified Party arising out of or related to Consultant's conduct of the Sale, except claims arising from Merchant's own negligence, willful misconduct, or unlawful behavior; (d) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious or otherwise actionable treatment of the Merchant Indemnified Parties or Merchant's customers by Consultant or any of the Consultant Indemnified Parties and (e) any claims made by any party engaged by Consultant as an employee, agent, representative or independent contractor arising out of such engagement.

Section 9. Insurance

(A) Merchant's Insurance Obligations

Merchant shall maintain, throughout the Sale Term, liability insurance policies (including, without limitation, products liability, comprehensive commercial general liability insurance, and auto liability insurance), with at least the coverage limits currently existing thereunder, covering injuries to persons and property in or in connection with the Stores and/or the Merchandise, and shall cause Consultant to be named an additional insured with respect to all such policies. At Consultant's request, Merchant shall provide Consultant with a certificate or certificates evidencing the insurance coverage required hereunder and that Consultant is an additional insured thereunder. In addition, Merchant shall maintain throughout the Sale Term, in such amounts as it currently has in effect, workers compensation insurance in compliance with all applicable statutory requirements.

(B) Consultant's Insurance Obligations

Consultant shall maintain, throughout the Sale Term, liability insurance policies (including, without limitation, products liability/completed operations, contractual liability, comprehensive commercial general liability, and auto liability insurance) on an occurrence basis in an amount of at least one million dollars (\$1,000,000) and an aggregate basis of at least five million dollars (\$5,000,000) covering injuries to persons and property in or in connection with Consultant's provision of services at the Stores. Consultant shall name Merchant as an additional insured under such policy, and upon execution of this Agreement provide Merchant with a certificate or certificates evidencing the insurance coverage required hereunder. In addition, Consultant shall maintain throughout the Sale Term, workers compensation insurance compliance with all statutory requirements. Further, should Consultant employ or engage third parties to perform any of Consultant's undertakings with regard to this Agreement, Consultant will ensure that such third parties are covered by Consultant's insurance or maintain all of the same insurance as Consultant is required to maintain pursuant to this paragraph and name Merchant as an additional insured under the policy for each such insurance.

Section 10. Representations, Warranties, Covenants and Agreements

(A) Merchant's Representations, Warranties, Covenants and Agreements.

Merchant warrants, represents, covenants, and agrees that (a) Merchant is a company duly organized, validly existing, and in good standing under the laws of its state of organization, with full power and authority to execute and deliver this Agreement and to perform its obligations hereunder and maintains its principal executive office at the address set forth herein; (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of Merchant and this Agreement constitutes a valid and binding obligation of Merchant enforceable against Merchant in accordance with its terms and conditions, and the consent of no other entity or person is required for Merchant to fully perform all of its obligations herein; (c) all ticketing of Merchandise at the Stores has been and will be done in accordance with Merchant's customary ticketing practices; (d) all normal course hard markdowns on the Merchandise have been, and will be, taken consistent with customary Merchant's practices; (e) the Stores will be operated in the ordinary course of business in all respects other than those expressly agreed to by Merchant and Consultant; (f) Merchant has legal title to the Merchandise and FF&E and has legal authority to sell these items to the general public free and clear of any liens, claims or encumbrances; and (g) in the event any third parties have recorded or asserted any lien or encumbrance against the Merchandise and/or FF&E, Merchant represents that it has obtained the consent of such parties to the sale of these assets free and clear of any such liens.

(B) Consultant's Representations, Warranties, Covenants and Agreements.

Consultant warrants, represents, covenants and agrees that: (a) Consultant is a company duly organized, validly existing, and in good standing under the laws of its state of organization, with full power and authority to execute and deliver this Agreement and to perform Consultant's obligations hereunder, and maintains its principal executive office at the addresses set forth herein; (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of Consultant and this Agreement constitutes a valid and binding obligation of Consultant enforceable against Consultant in accordance with its terms and conditions, and the consent of no other entity or person is required for Consultant to fully perform all of its obligations herein; (c) Consultant shall conduct the sale in accordance with the terms of this Agreement; (d) no non-emergency repairs or maintenance in the Stores will be conducted without Merchant's prior written consent; and (e) Consultant will not take any disciplinary action against any employee of Merchant.

Section 11. Termination

The following shall constitute "Termination Events" hereunder:

- (a) Merchant's or Consultant's failure to perform any of their respective material obligations hereunder, which failure remains uncured for seven (7) days after receipt of written notice thereof to the defaulting Party;
- (b) Any representation or warranty made by Merchant or Consultant is untrue in any material respect as of the date made or at any time and throughout the Sale Term;
- (c) The Sale is terminated or materially interrupted or impaired for any reason other than an event of default by Consultant or Merchant; or
- (d) Merchant or Consultant, in its sole and reasonable business judgement, elects to terminate this Agreement.

If a Termination Event occurs, the non-defaulting Party (in the case of an event of default) or either Party (if the Sale is otherwise terminated or materially interrupted or impaired) may, in its discretion, elect to terminate this Agreement by providing seven (7) days' written notice thereof to the other Party and, in the case of an event of default, in addition to terminating this Agreement, pursue any and all rights and remedies and damages

resulting from such default. If this Agreement is terminated, Merchant shall be obligated to pay Consultant all undisputed amounts due under this Agreement through and including the termination date.

Section 12. Notices

All notices and communications provided for pursuant to this Agreement shall be in writing, and sent by hand, by facsimile, or a recognized overnight delivery service, or email, as follows:

If to Consultant:

B. Riley Retail Solutions, LLC
30870 Russell Ranch Road, Suite 250
Westlake Village, CA 91362
Attention: Scott K. Carpenter
and Marina Fineman
Tel: (818) 746-9309
Email: scarpenter@brileyfin.com, mfineman@brileyfin.com, legal@brileyfin.com

If to the Merchant:

IPP-Stores, LLC 8450 City Centre Drive
Woodbury, Minnesota, 55125
Attention: Charlie Reeves, CRO & Julie Maday, CFO
Email: creeves@thinkbrg.com, jmaday@ipphl.com

Section 13. Independent Consultant

Consultant's relationship to Merchant is that of an independent contractor without the capacity to bind Merchant in any respect, except with respect to ordinary course sales of Merchandise through the Sale. No employer/employee, principal/agent, joint venture, or other such relationship is created by this Agreement. Merchant shall have no control over the hours that Consultant or its employees or assistants or the Supervisors work or the means or manner in which the services that will be provided are performed and Consultant is not authorized to enter into any contracts or agreements on behalf of Merchant or to otherwise create any obligations of Merchant to third parties, unless authorized in writing to do so by Merchant.

Section 14. Non-Assignment

Neither this Agreement nor any rights hereunder may be transferred or assigned by either Party without the prior written consent of the other Party. No modification, amendment, or waiver of any of the provisions contained in this Agreement, or any future representation, promise or condition in connection with the subject matter of this Agreement, shall be binding upon either Party unless made in writing and signed by a duly authorized representative or agent of such Party. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors, and permitted assigns.

Section 15. Severability

If any term or provision of this Agreement, as applied to either Party or any circumstance, for any reason shall be declared by a court of competent jurisdiction to be invalid, illegal, unenforceable, inoperative, or otherwise ineffective, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. If the surviving portions of the Agreement fail to retain the essential understanding of the Parties, the Agreement may be terminated by mutual consent of the Parties.

Section 16. Governing Law, Venue, Jurisdiction, and Jury Waiver

This Agreement and its validity, construction and effect shall be governed by and enforced in accordance with the internal laws of the State of Delaware (without reference to the conflict of laws provisions therein). The parties agree that all claims, controversies, or disputes arising with regard to this Agreement shall be tried and litigated only in the state courts or federal courts located in the State of Delaware located in New Castle County, and each party hereto submits to the exclusive jurisdiction and venue of such courts relative to any such claim, controversy or dispute. Merchant and Consultant waive their respective rights to trial by jury of any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either Party against the other on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship between Merchant and Consultant, any claim of injury or damage or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 17. Entire Agreement

This Agreement, together with all additional schedules and exhibits attached hereto, constitutes a single, integrated written contract expressing the entire agreement of the Parties concerning the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party except as specifically set forth in this Agreement. All prior agreements, discussions, and negotiations with respect to the subject matter of this Agreement are entirely superseded by this Agreement.

Section 18. Execution

This Agreement may be executed simultaneously in counterparts (including by means of electronic mail, facsimile, or portable document format (pdf) signature pages), any one of which need not contain the signatures of more than one party, but all such counterparts taken together shall constitute one and the same instrument. This Agreement, and any amendments hereto, to the extent signed and delivered by means of electronic mail, a facsimile machine or electronic transmission in portable document format (pdf), shall be treated in all manner and respects as an original thereof and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

Section 19. Bankruptcy Court Approval

If Merchant commences a case under Chapter 11 of title 11, United States Code (the "Bankruptcy Code"), with a bankruptcy court (the "Bankruptcy Court"), or consents to relief in the event an involuntary petition for relief under the Bankruptcy Code is filed against Merchant, Merchant shall file a motion to assume this Agreement under section 365 of the Bankruptcy Code, and utilize its commercially reasonable efforts to ensure that such motion is approved by an order (the "Approval Order") that provides for, among other things, the following relief: (i) approval and/or assumption of this Agreement; (ii) the payment of all fees and reimbursement of expenses hereunder to Consultant without further order of the court, free and clear of all liens, claims and encumbrances, on a weekly basis without further order of the Bankruptcy Court and otherwise in accordance with this Agreement; (iv) approval of the transaction contemplated hereby; (iii) authorizing the Sale without the necessity of complying with state and local rules, laws, ordinances and regulations, including, without limitation, permitting and licensing requirements, that could otherwise govern the Sale; (iv) authorizing the Sale notwithstanding restrictions in leases, reciprocal easement agreements or other contracts that purport to restrict the Sale or the necessity of obtaining any third party consents; and (v) authorizing Merchant to take such further actions as are necessary or appropriate to carry out the terms and conditions of this Agreement. In the event of a bankruptcy filing, any legal action, suit or proceeding arising in connection with this Agreement shall be submitted to the exclusive jurisdiction of the Bankruptcy Court having jurisdiction over Merchant, and each Party hereby waives any defenses or objections based on lack of jurisdiction, improper venue, and/or forum non conveniens. From and after entry of the Approval Order, Consultant shall conduct the Sale in accordance with the terms of the Approval Order in all material respects.

IN WITNESS WHEREOF, Consultant and Merchant hereby execute this Agreement by their duly authorized representatives as a sealed instrument as of the day and year first written above.

B. Riley Retail Solutions, LLC

Scott K. Carpenter

By: Scott K. Carpenter
Its: CEO

IPP-Stores, LLC

Julie Maday

By: Julie Maday
Its: CFO

Exhibit A

Stores

Str	Banner	Services	Name/Mall	Address	City	ST	Zip
338101	Loyal Companion	NO	Clarksville	5805 Clarksville Square Drive	Clarksville	MD	21029
338102	Loyal Companion	NO	Olney	16822 Georgia Avenue	Olney	MD	20832
338103	Loyal Companion	NO	Kentlands	235 Kentlands Boulevard	Gaithersburg	MD	20878
338104	Loyal Companion	NO	Pikesville	1809 Reisterstown Road	Pikesville	MD	21208
338105	Loyal Companion	NO	Rockville - Congressional	1643 Rockville Pike	Rockville	MD	20852
338106	Loyal Companion	NO	Silver Spring	10737 Columbia Pike	Silver Spring	MD	20901
338107	Loyal Companion	NO	Catonsville	816 Frederick Road	Catonsville	MD	21228
338108	Loyal Companion	NO	Annapolis	2101 Somerville Road	Annapolis	MD	21401
338109	Loyal Companion	YES	Acton	444 Great Road	Acton	MA	01720
338110	Loyal Companion	YES	Canton	95 Washington Street	Canton	MA	02021
338111	Loyal Companion	YES	Medway	67 Main Street	Medway	MA	02053
338113	Loyal Companion	YES	Shrewsbury	193 Turnpike Road	Shrewsbury	MA	01545
338114	Loyal Companion	YES	Sudbury	424 Boston Post Road	Sudbury	MA	01776
338115	Loyal Companion	YES	Wayland	44 Main Street	Wayland	MA	01778
338128	Loyal Companion	NO	Middleburg	5B East Washington St	Middleburg	VA	20117
338129	Loyal Companion	YES	Fairfax	3903-F Fair Ridge Drive	Fairfax	VA	22033
338130	Loyal Companion	YES	Tysons	7505 Leesburg Pike	Falls Church	VA	22043
338131	Loyal Companion	YES	Clarendon	2509 N Franklin Rd	Arlington	VA	22201
338132	Loyal Companion	YES	Cathedral	3707 Newark St NW	Washington	DC	20016
338133	Loyal Companion	YES	Vienna	144 Maple Ave W	Vienna	VA	22180
338134	Loyal Companion	YES	Lee Harrison	2501 North Harrison St	Arlington	VA	22207
338140	Loyal Companion	YES	Windham	770 Roosevelt Trl.	North Windham	ME	04062
338141	Loyal Companion	YES	Portland	91 Auburn St	Portland	ME	04103
338142	Loyal Companion	YES	Lewiston	25 East Ave	Lewiston	ME	04240
338143	Loyal Companion	YES	South Portland	50 Market St	South Portland	ME	04106
338144	Loyal Companion	YES	Scarborough	200 Expedition Dr	Scarborough	ME	04074
338146	Loyal Companion	YES	Topsham	49 Topsham Fair Mall Rd	Topsham	ME	04089
338147	Loyal Companion	YES	Saco	4 Scammon St	Saco	ME	04072
338148	Loyal Companion	YES	Sanford	1364 Main St	Sanford	ME	04073
338149	Loyal Companion	YES	Stoneham	93 Main St	Stoneham	MA	02180
338151	Loyal Companion	YES	Stratham	20 Portsmouth Ave	Stratham	NH	03885
338152	Loyal Companion	YES	Salem	517 South Broadway	Salem	NH	03079
338155	Loyal Companion	YES	Bedford	307 Great RD	Bedford	MA	01730
338156	Loyal Companion	NO	Herndon	304 Elden Street	Herndon	VA	20170
338157	Loyal Companion	NO	Ashburn	43330 Junction Plaza Suite 1	Ashburn	VA	20147
338158	Loyal Companion	NO	Rockville - East Gude	1306 East Gude Drive	Rockville	MD	20850
338159	Loyal Companion	NO	Columbia	6925 Oakland Mills Rd Suite 1	Columbia	MD	21045
338160	Kriser's	YES	Studio City	12507 Ventura Blvd	Studio City	CA	91604
338161	Kriser's	YES	Valencia	24272 Valencia Blvd.	Valencia	CA	91355
338162	Kriser's	YES	Newport Beach	1044 Irvine Ave.	Newport Beach	CA	92660
338163	Kriser's	YES	Irvine	5365 Alton Parkway	Irvine	CA	92604
338165	Kriser's	YES	Laguna Niguel	23894 Aliso Creek Rd	Laguna Niguel	CA	92677
338166	Kriser's	YES	Venice	303 Lincoln Blvd	Venice	CA	90291
338167	Kriser's	YES	Brea	3341 E. Imperial Highway	Brea	CA	92823
338168	Kriser's	YES	Westlake Village	966 South Westlake Blvd	Westlake Village	CA	91361
338176	Kriser's	YES	Buffalo	5160 Buffalo Speedway	Houston	TX	77005
338177	Kriser's	YES	Champions	15556 Cullen Rd	Houston	TX	77070
338178	Kriser's	YES	20th Street	250 W. 20th St	Houston	TX	77008
338179	Kriser's	YES	Woodland Hughes	1925 Hughes Landing Blvd	The Woodlands	TX	77380

Str	Banner	Services	Name/Mall	Address	City	ST	Zip
338180	Kriser's	YES	Stone Oak	427 N. Loop 1604 W	San Antonio	TX	78232
338181	Kriser's	YES	Austin Arboretum	10225 Research Blvd Suite 11	Austin	TX	78759
338182	Kriser's	YES	West Gray	1515 West Gray St	Houston	TX	77019
338184	Kriser's	YES	South Lamar	2330 South Lamar Blvd	Austin	TX	78704
338185	Natural Pawz	YES	Bridgeland	9818 Fry Road	Cypress	TX	77433
338186	Natural Pawz	NO	Cedar Park	1841 S. Lakeline Blvd	Cedar Park	TX	78613
338188	Natural Pawz	NO	Cypress	25704 NW FWY 290	Cypress	TX	77429
338189	Natural Pawz	NO	Garden Oaks	1214 W. 43rd Street	Houston	TX	77018
338190	Natural Pawz	NO	Heights	514 W 19th St.	Houston	TX	77008
338191	Natural Pawz	NO	Kingwood	25653 US HWY 59	Kingwood	TX	77339
338195	Natural Pawz	YES	Pinecroft	1580 Lake Woodlands Dr.	The Woodlands	TX	77380
338198	Natural Pawz	YES	Springwoods	2174 Spring Steubner	Spring	TX	77389
338199	Natural Pawz	NO	Steiner Ranch	5145 N. FM 620	Austin	TX	78732
338200	Natural Pawz	YES	Sterling Ridge	6700 Woodlands Pkwy	The Woodlands	TX	77382
338201	Natural Pawz	NO	Sugarland	1875 HWY 6	Sugar Land	TX	77478
338203	Natural Pawz	NO	Vintage Park	142 Vintage Park Blvd.	Houston	TX	77070
338204	Natural Pawz	NO	West University	4032 Bellaire Blvd.	Houston	TX	77025
338209	Loyal Companion	NO	Concord	1173 Main Street	Concord	MA	01742
338211	Loyal Companion	NO	Littleton (LC)	620 Constitution Avenue	Littleton	MA	01460
338213	Loyal Companion	NO	Stow	117 Great Road	Stow	MA	01775
338215	Natural Pawz	YES	Riverstone	18841 UNIVERSITY BLVD	Sugar Land	TX	77479
338216	Loyal Companion	YES	South Bay	5 District Ave	Dorchester	MA	02125
338219	Loyal Companion	YES	Mosaic	2905 District Ave.	Fairfax	VA	22031
338220	Loyal Companion	YES	South End	1030 Washington St.	Boston	MA	02118
338221	Loyal Companion	YES	Brewers Hill	3600 Boston Street	Baltimore	MD	21224
338222	Loyal Companion	YES	McHenry Row	1719 Whetstone Way	Baltimore	MD	21224
338223	Loyal Companion	YES	Mt Washington	1340 G Smith Avenue	Baltimore	MD	21209
338224	Natural Pawz	YES	Montrose	208 Westheimer	Houston	TX	77006
338225	Loyal Companion	YES	Bethesda	6900 Arlington Rd	Bethesda	MD	20814
338226	Natural Pawz	YES	Kingwood East	4529 Kingwood Dr	Kingwood	TX	77345
338227	Loyal Companion	YES	Old Town	923 N Saint Asaph St.	Alexandria	VA	22314
338228	Loyal Companion	YES	Cambridge	85-95 First St.	Cambridge	MA	02141
338229	Loyal Companion	YES	Beverly	144 Brimbal Ave	Beverly	MA	01915
338230	Natural Pawz	NO	Tanglewood	5706 San Felipe	Houston	TX	77057
338231	Loyal Companion	YES	Wellesley	276 Washington St.	Wellesley	MA	02481
338233	Loyal Companion	YES	Newton	130 Needham St.	Newton	MA	02464
338235	Loyal Companion	YES	Dedham	890 Providence Hwy	Dedham	MA	02026
338236	Natural Pawz	YES	Washington Ave	4015 Washington Ave	Houston	TX	77007

Exhibit B

Expense Budget

Consultant Expenses	
Advertising	\$ 187,134
Supervision	\$ 346,230
Total	\$ 533,363.00

Schedule 2

Closing Stores

Schedule 2**Closing Stores**

	Store #	Name	Store Address	City	State	Zip	Banner
1.	338143	South Portland	50 Market St.	South Portland	ME	04106	Loyal Companion
2.	338148	Sanford	1364 Main St.	Sanford	ME	04073	Loyal Companion
3.	338178	20th Street	250 W. 20th St.	Houston	TX	77008	Kriser's
4.	338141	Portland	91 Auburn St.	Portland	ME	04103	Loyal Companion
5.	338236	Washington Ave	4015 Washington Ave.	Houston	TX	77007	Natural Pawz
6.	338182	West Gray	1515 West Gray St.	Houston	TX	77019	Kriser's
7.	338140	North Windham	770 Roosevelt Trl.	North Windham	ME	04062	Loyal Companion
8.	338162	Newport Beach	1044 Irvine Ave.	Newport Beach	CA	92660	Kriser's
9.	338225	Bethesda	6900 Arlington Rd.	Bethesda	MD	20814	Loyal Companion
10.	338184	South Lamar	2330 South Lamar Blvd.	Austin	TX	78704	Kriser's
11.	338200	Sterling Ridge	6700 Woodlands Pkwy.	The Woodlands	TX	77382	Natural Pawz
12.	338103	Kentlands/Gaithersburg	235 Kentlands Blvd.	Gaithersburg	MD	20878	Loyal Companion
13.	338158	Rockville	1306 East Gude Dr.	Rockville	MD	20850	Loyal Companion
14.	338147	Saco	4 Scammon St.	Saco	ME	04072	Loyal Companion
15.	338151	Stratham	20 Portsmouth Ave.	Stratham	NH	03885	Loyal Companion
16.	338180	Stone Oak	427 N. Loop 1604 W.	San Antonio	TX	78232	Kriser's
17.	338133	Vienna	144 Maple Ave W.	Vienna	VA	22180	Loyal Companion
18.	338152	Salem	517 South Broadway	Salem	NH	03079	Loyal Companion
19.	338209	Concord	1173 Main St.	Concord	MA	01742	Loyal Companion
20.	338109	Acton	444 Great Rd.	Acton	MA	01720	Loyal Companion
21.	338106	Silver Spring	10737 Columbia Pike	Silver Spring	MD	20901	Loyal Companion
22.	338211	Littleton MA	620 Constitution Ave.	Littleton	MA	01460	Loyal Companion

	Store #	Name	Store Address	City	State	Zip	Banner
23.	338114	Sudbury	424 Boston Post Rd.	Sudbury	MA	01776	Loyal Companion
24.	338105	Congressional	1643 Rockville Pike	Rockville	MD	20852	Loyal Companion
25.	338134	Lee Harrison	2501 North Harrison St.	Arlington	VA	22207	Loyal Companion
26.	338229	Beverly	144 Brimbal Ave.	Beverly	MA	01915	Loyal Companion
27.	338204	West University	4032 Bellaire Blvd.	Houston	TX	77025	Natural Pawz
28.	338177	Champions	15556 Cutten Rd.	Houston	TX	77070	Kriser's
29.	338223	Mt Washington	1340 G Smith Ave.	Baltimore	MD	21209	Loyal Companion
30.	338159	Columbia	6925 Oakland Mills Rd. Suite R	Columbia	MD	21045	Loyal Companion
31.	338101	Clarksville	5805 Clarksville Square Dr.	Clarksville	MD	21029	Loyal Companion
32.	338131	Arlington/Clarendon	2509 N Franklin Rd.	Arlington	VA	22201	Loyal Companion
33.	338155	Bedford	307 Great Rd.	Bedford	MA	01730	Loyal Companion
34.	338144	Scarborough	200 Expedition Dr.	Scarborough	ME	04074	Loyal Companion
35.	338222	Locust Point	1719 Whetstone Way	Baltimore	MD	21224	Loyal Companion
36.	338230	Tanglewood	5706 San Felipe	Houston	TX	77057	Natural Pawz
37.	338128	Middleburg	5B East Washington St.	Middleburg	VA	20117	Loyal Companion
38.	338165	Laguna Niguel	23894 Aliso Creek Rd.	Laguna Niguel	CA	92677	Kriser's
39.	338108	Annapolis	2101 Somerville Rd.	Annapolis	MD	21401	Loyal Companion
40.	338166	Venice	303 Lincoln Blvd.	Venice	CA	90291	Kriser's
41.	338167	Brea	3341 E. Imperial Highway	Brea	CA	92823	Kriser's
42.	338221	Brewers Hill	3600 Boston St.	Baltimore	MD	21224	Loyal Companion
43.	338163	Irvine	5365 Alton Parkway	Irvine	CA	92604	Kriser's
44.	338156	Herndon	304 Elden St.	Herndon	VA	20170	Loyal Companion
45.	338195	Pinecroft	1580 Lake Woodlands Dr.	The Woodlands	TX	77380	Natural Pawz
46.	338149	Stoneham	93 Main St.	Stoneham	MA	02180	Loyal Companion
47.	338213	Stow	117 Great Road	Stow	MA	01775	Loyal Companion
48.	338176	Buffalo	5160 Buffalo Speedway	Houston	TX	77005	Kriser's

	Store #	Name	Store Address	City	State	Zip	Banner
49.	338186	Cedar Park	1841 S. Lakeline Blvd.	Cedar Park	TX	78613	Natural Pawz
50.	338161	Valencia	24272 Valencia Blvd.	Valencia	CA	91355	Kriser's
51.	338179	Woodland Hughes	1925 Hughes Landing Blvd.	The Woodlands	TX	77380	Kriser's
52.	338129	Fairfax	3903-F Fair Ridge Dr.	Fairfax	VA	22033	Loyal Companion
53.	338181	Austin Arboretum	10225 Research Blvd., Suite 1500	Austin	TX	78759	Kriser's
54.	338104	Pikesville	1809 Reisterstown Rd.	Pikesville	MD	21208	Loyal Companion
55.	338174	Fort Collins	3531 S. College Ave.	Fort Collins	CO	80525	Kriser's
56.	338172	Westminster	5160 W. 120th Ave.	Westminster	CO	80020	Kriser's
57.	338130	Tysons	7505 Leesburg Pike	Falls Church	VA	22043	Loyal Companion
58.	338189	Garden Oaks	1214 W. 43rd St.	Houston	TX	77018	Natural Pawz
59.	338115	Wayland	44 Main St.	Wayland	MA	01778	Loyal Companion
60.	338231	Wellesley	276 Washington St.	Wellesley	MA	02481	Loyal Companion
61.	338168	Westlake Village	966 South Westlake Blvd.	Westlake Village	CA	91361	Kriser's
62.	338111	Medway	67 Main St.	Medway	MA	02053	Loyal Companion
63.	338188	Cypress	25704 NW FWY 290	Cypress	TX	77429	Natural Pawz
64.	338199	Steiner Ranch	5145 N. FM 620	Austin	TX	78732	Natural Pawz
65.	338173	Highlands Ranch	9362 S. Colorado Blvd.	Highlands Ranch	CO	80126	Kriser's
66.	338185	Bridgeland	9818 Fry Rd.	Cypress	TX	77433	Natural Pawz
67.	338146	Topsham	49 Topsham Fair Mall Rd.	Topsham	ME	04089	Loyal Companion
68.	338224	Montrose	208 Westheimer	Houston	TX	77006	Natural Pawz
69.	338203	Vintage Park	142 Vintage Park Blvd.	Houston	TX	77070	Natural Pawz
70.	338107	Catonsville	816 Frederick Rd.	Catonsville	MD	21228	Loyal Companion
71.	338288	Lowertown	282 6TH St. East, Suite #102	St Paul	MN	55101	Chuck & Don's
72.	338142	Lewiston	25 East Ave.	Lewiston	ME	04240	Loyal Companion
73.	338102	Olney	16822 Georgia Ave.	Olney	MD	20832	Loyal Companion

	Store #	Name	Store Address	City	State	Zip	Banner
74.	338227	Old Town	923 N Saint Asaph St.	Alexandria	VA	22314	Loyal Companion
75.	338157	Ashburn	43330 Junction Plaza, Suite 176	Ashburn	VA	20147	Loyal Companion
76.	338201	Sugarland	1875 HWY 6	Sugar Land	TX	77478	Natural Pawz
77.	338191	Kingwood	25653 US HWY 59	Kingwood	TX	77339	Natural Pawz
78.	338137	Orland Park	15160 S. LaGrange Rd.	Orland Park	IL	60462	Kriser's
79.	338160	Studio City	12507 Ventura Blvd.	Studio City	CA	91604	Kriser's
80.	338171	Lakewood	14710 W. Colfax Ave.	Lakewood	CO	80401	Kriser's
81.	338113	Shrewsbury	193 Turnpike Rd.	Shrewsbury	MA	01545	Loyal Companion
82.	338110	Canton	95 Washington St.	Canton	MA	02021	Loyal Companion
83.	338219	Mosaic	2905 District Ave.	Fairfax	VA	22031	Loyal Companion
84.	338132	Cathedral	3707 Newark St. NW	Washington	DC	20016	Loyal Companion
85.	338214	Roscoe Village	3649 N Western Ave.	Chicago	IL	60618	Kriser's
86.	338198	Springwoods	2174 Spring Steubner	Spring	TX	77389	Natural Pawz
87.	338215	Riverstone	18841 University Blvd.	Sugar Land	TX	77479	Natural Pawz
88.	338233	Needham	130 Needham St.	Newton	MA	02464	Loyal Companion
89.	338226	Kingwood East	4529 Kingwood Dr.	Kingwood	TX	77345	Natural Pawz
90.	338228	Cambridge	85-95 First St.	Cambridge	MA	02141	Loyal Companion
91.	338220	South End	1030 Washington St.	Boston	MA	02118	Loyal Companion
92.	338235	Dedham	890 Providence Hwy.	Dedham	MA	02026	Loyal Companion
93.	338216	South Bay	5 District Ave.	Dorchester	MA	02125	Loyal Companion

Schedule 3

Store Closing Sale Procedures

1. The Store Closing Sales will be conducted during normal business hours or such hours as otherwise permitted by the applicable unexpired lease.

2. The Store Closing Sales will be conducted in accordance with applicable state and local “Blue Laws,” and thus, where such a law is applicable, no Store Closing Sales will be conducted on Sunday unless the Debtors have been operating such stores on Sundays.

3. On “shopping center” property, neither the Debtors nor the Consultant shall distribute handbills, leaflets, or other written materials to customers outside of any stores’ premises, unless permitted by the applicable lease or if distribution is customary in the “shopping center” in which such store is located; *provided* that the Debtors and the Consultant may solicit customers in the stores themselves. On “shopping center” property, neither the Debtors nor the Consultant shall use any flashing lights or amplified sound to advertise the Store Closing Sales or solicit customers, except as permitted under the applicable lease or agreed in writing by the landlord.

4. The Debtors and the Consultant shall have the right to use and sell the FF&E. The Debtors and the Consultant may advertise the sale of the FF&E in a manner consistent with these Store Closing Procedures. The purchasers of any FF&E sold during the Store Closing Sales shall be permitted to remove the FF&E either through the back or alternative shipping areas at any time, or through other areas after store business hours; *provided*, however, that the foregoing shall not apply to *de minimis* FF&E sales made whereby the item can be carried out of the store in a shopping bag. For the avoidance of doubt, as of the Sale Termination Date, the Consultant and the Debtors may abandon, in place and without further responsibility, any FF&E.

5. The Consultant and the Debtors may advertise each Store Closing as a “store closing,” “sale on everything,” “everything must go,” or similar themed sale, and to the extent permitted in the Interim Order or Final Order. The Consultant and the Debtors may also have “countdown to closing” signs prominently displayed in a manner consistent with these Store Closing Procedures. All signs, banners, ads and other advertising collateral, promotions, and campaigns will be approved by the Debtors in accordance with these Store Closing Procedures.

6. The Consultant shall be permitted to utilize sign walkers, display, hanging signs, and interior banners in connection with the Store Closing Sales; *provided* that such sign walkers, display, hanging signs, and interior banners shall be professionally produced and hung in a professional manner. The Debtors and the Consultant shall not use neon or day-glo on its sign walkers, display, hanging signs, or interior banners if prohibited by the applicable lease or applicable law. Furthermore, with respect to enclosed mall locations, no exterior signs or signs in common areas of a mall shall be used unless otherwise expressly permitted in these Store Closing Procedures. In addition, the Debtors and the Consultant shall be permitted to utilize exterior banners at (i) non-enclosed mall stores and (ii) enclosed mall stores to the extent that the entrance to the applicable store does not require entry into the enclosed mall common area; *provided*, however, that such banners shall be located or hung so as to make clear that the Store Closing

Sales are being conducted only at the affected Closing Stores, and shall not be wider than the storefront of the Closing Stores. In addition, the Debtors and the Consultant shall be permitted to utilize sign walkers in a safe and professional manner and in accordance with the terms of the Interim Order or Final Order, as applicable. Nothing contained in these Store Closing Procedures shall be construed to create or impose upon the Debtors or the Consultant any additional restrictions not contained in the applicable lease agreement.

7. Neither the Debtors nor the Consultant shall make any alterations to the storefront, roof, or exterior walls of any stores or shopping centers, or to interior or exterior store lighting, except as authorized by the applicable lease. The hanging of in-store signage shall not constitute an alteration to a store.

8. Affected landlords will have the ability to negotiate with the Debtors, or at the Debtors' direction, the Consultant, any particular modifications to the Store Closing Procedures. The Debtors and the landlord of any store are authorized to enter into Side Letters without further order of the Court, *provided* that such agreements do not have a material adverse effect on the Debtors or their estates.

9. Conspicuous signs will be posted in each of the affected stores to the effect that all sales are "final."

10. The Debtors will keep store premises and surrounding areas clear and orderly, consistent with past practices.

11. An unexpired nonresidential real property lease will not be deemed rejected by reason of a Store Closing or the adoption of these Store Closing Procedures.

12. The rights of landlords against the Debtors for any damages to a store shall be reserved in accordance with the provisions of the applicable lease; provided that (a) stores shall be surrendered in as-is condition, and (b) to the extent certain leases of stores require written confirmation of receipt of a key to effectuate surrender, this requirement is waived.

13. If and to the extent that the landlord of any store contends that the Debtors or the Consultant is in breach of or default under these Store Closing Procedures, such landlord shall provide at least five days' written notice, served by email or overnight delivery, on:

If to the Debtors:

IPP-Stores, LLC
8450 City Centre Drive
Woodbury, Minnesota 55125
Attention: Charlie Reeves
Email address: creeves@thinkbrg.com

with copies to:

McDonald Hopkins LLC
300 North LaSalle Street, Suite 1400
Chicago, Illinois 60654
Attention: David Agay and Marc Carmel
Email: dagay@mcdonalddhopkins.com; mcarmel@mcdonalddhopkins.com

- and -

Young Conaway Stargatt & Taylor, LLP
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Attention: Andrew L. Magaziner and S. Alexander Faris
Email: amagaziner@ycst.com; afaris@ycst.com

If to the Consultant:

B. Riley Retail Solutions, LLC
30870 Russell Ranch Road, Suite 250
Westlake Village, CA 91362
Attention: Scott K. Carpenter
and Marina Fineman
Email: scarpenter@brileyfin.com, mfineman@brileyfin.com

If the parties are unable to resolve the dispute, either the landlord or the Debtors shall have the right to schedule a hearing before the Court on no less than five (5) days' written notice to the other party, served by email or overnight delivery.

Exhibit B

Proposed Final Order

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

In re:)	
	)	Chapter 11
INDEPENDENT PET PARTNERS)	
HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 23-10153 (___)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Ref. Docket Nos. ___
)	

FINAL ORDER (I) AUTHORIZING DEBTORS TO ASSUME CONSULTING AGREEMENT RELATED TO STORE CLOSING SALES, (II) AUTHORIZING AND APPROVING THE CONDUCT OF STORE CLOSING SALES, WITH SUCH SALES TO BE FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, (III) AUTHORIZING CUSTOMARY BONUSES TO NON-INSIDER EMPLOYEES OF CLOSING STORES, (IV) AUTHORIZING AND APPROVING STORE CLOSING PROCEDURES, AND (V) GRANTING RELATED RELIEF

Upon the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Assume Consulting Agreement Related to Store Closing Sales, (II) Authorizing and Approving the Conduct of Store Closing Sales, With Such Sales to be Free and Clear of All Liens, Claims, and Encumbrances, (III) Authorizing and Approving Store Closing Procedures, (IV) Authorizing Customary Bonuses for Non-Insider Employees of Closing Stores, and (V) Granting Related Relief* (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”): (a) authorizing the Debtors to assume the Consulting Agreement, (b) authorizing and approving the continuation or initiation of the Store

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Independent Pet Partners Holdings, LLC (5913), Independent Pet Partners Intermediate Holdings I, LLC (4827), Independent Pet Partners Intermediate Holdings II, LLC (7550), Independent Pet Partners Employer Holdings, LLC (6785), Independent Pet Partners Employer, LLC (7531), Independent Pet Partners Intermediate Holdings, LLC (8793), IPP - Stores, LLC (6147), IPP Stores Employer, LLC (0847), Especially For Pets, LLC (6801), Pet Life, LLC (3420), Whole Pet Central, LLC (7833), Natural Pawz, LLC (5615), and Pet Source, LLC (1905). The corporate headquarters and the mailing address for the Debtors is 8450 City Centre Dr., Woodbury, MN 55125.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Closing Sales in accordance with the terms of the Consulting Agreement and the Store Closing Procedures, with such sales to be free and clear of all liens, claims, and encumbrances, (c) authorizing customary bonuses to non-insider Closing Store employees, and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration and the B. Riley Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having entered that certain *Interim Order (I) Authorizing Debtors to Assume Consulting Agreement Related to Store Closing Sales, (II) Authorizing and Approving the Conduct of Store Closing Sales, With Such Sales to be Free and Clear of All Liens, Claims, and Encumbrances, (III) Authorizing and Approving Store Closing Procedures, (IV) Authorizing Customary Bonuses for Non-Insider Employees of Closing Stores, and (V) Granting Related Relief*; and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby:

FOUND AND DETERMINED THAT:³

A. The Debtors have advanced sound business reasons for assuming the Consulting Agreement and adopting the Store Closing Procedures, as set forth in the Motion and at the Hearing, and assuming the Consulting Agreement is a reasonable exercise of the Debtors' business judgement and in the best interest of the Debtors and their estates.

B. The Consulting Agreement, a copy of which is attached to this Final Order as **Schedule 1**, was negotiated, proposed, and entered into by the Consultant and the Debtors without collusion, in good faith and from arm's length bargaining positions.

C. The Debtors have demonstrated good, sufficient and sound business purposes and justifications for the relief approved herein.

D. The Store Closing Procedures, which are attached hereto as **Schedule 3**, are reasonable and appropriate, and the conduct of Store Closing Sales in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets, and are in the best interest of the Debtors' estates.

E. The Store Closing Sales are in the best interest of the Debtors' estates.

F. The Dispute Resolution Procedures are fair and reasonable, and comply with applicable law.

G. The Debtors have represented that they intend to neither sell nor lease personally identifiable information pursuant to the relief requested in the Motion, although the Consultant will be authorized to distribute emails and promotional materials to the Debtors' customers consistent with the Debtors' existing policies on the use of consumer information.

H. The Consultant is not an insider of the Debtors.

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact where appropriate. *See* Fed. R. Bankr. P. 7052.

I. The entry of this Final Order is in the best interests of the Debtors and their estates, creditors, and interest holders and all other parties in interest herein; and now therefore

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis as set forth herein.
2. The Debtors are authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Final Order.
3. The Debtors are authorized to make payments under the Store Closing Bonus Plan.
4. To the extent of any conflict between this Final Order, the Store Closing Procedures, and the Consulting Agreement, the terms of this Final Order shall control over all other documents and the Store Closing Procedures shall control over the Consulting Agreement.

I. Authority to Assume the Consulting Agreement.

5. The assumption of the Consulting Agreement by the Debtors pursuant to sections 363 and 365 of the Bankruptcy Code is approved on a final basis. The Debtors are authorized to act and perform in accordance with the terms of the Consulting Agreement, including making payments required by the Consulting Agreement, including fees and reimbursement of expenses to the Consultant without the need for any application of the Consultant or a further order of this Court (and all such payments of fees and reimbursement of expenses shall be free and clear of any and all liens and encumbrances). The Consultant's fees and expenses shall be paid from the gross proceeds of Store Closing Sales, without adherence to any weekly, monthly, or aggregate limitation in any DIP financing or cash collateral budget entered in connection with these Chapter 11 Cases, but shall be subject to the terms of the Consulting Agreement itself, including as to any expense budget attached hereto.

6. Subject to the restrictions set forth in this Final Order and the Store Closing Procedures, the Debtors and the Consultant are hereby authorized to take any and all actions as

may be necessary or desirable to implement the Consulting Agreement and Store Closing Sales, and each of the transactions contemplated by the Consulting Agreement, and any actions taken by the Debtors and the Consultant necessary or desirable to implement the Consulting Agreement and/or Store Closing Sales prior to the date of this Final Order, are hereby approved and ratified.

7. The Consulting Agreement and related documents may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of this Court so long as the interest of counterparties to leases of non-residential real property are not adversely affected or as otherwise ordered by this Court.

8. Notwithstanding anything contrary in the Consulting Agreement, the Debtors and their estates shall not indemnify the Consultant for any damages arising primarily out of the Consultant's fraud, willful misconduct, or gross negligence.

II. Authority to Engage in Sales and Conduct Store Closing Sales.

9. The Debtors are authorized on a final basis, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to continue and conduct Store Closing Sales at the Closing Stores in accordance with this Final Order, the Store Closing Procedures, and the Consulting Agreement, and any Side Letters (as defined below) between the Debtors and/or the Consultant and the landlords at the Closing Stores.

10. The Store Closing Procedures are approved in their entirety on a final basis.

11. The Debtors are authorized to discontinue operations at the Closing Stores in accordance with this Final Order, the Store Closing Procedures, and the Consulting Agreement (as modified by a Side Letter, as applicable).

12. All entities that are presently in possession of some or all of the Store Closure Assets in which the Debtors hold an interest that are or may be subject to the Consulting Agreement or this Final Order hereby are directed to surrender possession of such Store Closure Assets to the

Debtors or the Consultant.

13. Neither the Debtors nor the Consultant nor any of their respective officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined under section 101(27) of the Bankruptcy Code) or landlord, to conduct the Store Closing Sales and to take the related actions authorized herein.

III. Conduct of Store Closing Sales.

14. All newspapers and other advertising media in which the Store Closing Sales may be advertised and all landlords are directed to accept this Final Order as binding authority so as to authorize the Debtors and the Consultant to conduct the Store Closing Sales pursuant to the Consulting Agreement, including, without limitation, to conduct and advertise the sale of the Store Closure Assets in the manner contemplated by and in accordance with this Final Order, the Store Closing Procedures, and the Consulting Agreement.

15. The Debtors and Consultant are hereby authorized to take such actions as may be necessary and appropriate to implement the Consulting Agreement and to conduct the Store Closing Sales without necessity of further order of this Court as provided in the Consulting Agreement and the Store Closing Procedures (subject to any Side Letters), including, but not limited to, advertising the sale as a “store closing sale”, “sale on everything”, “everything must go”, or similar-themed sales as contemplated in the Store Closing Procedures through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent the applicable closing location entrance does not require entry into the enclosed mall common area), use of sign-walkers, A-frames, and other street signage, as contemplated in the Store Closing Procedures.

16. Except as expressly provided in the Consulting Agreement and the Store Closing Procedures, the sale of the Store Closure Assets shall be conducted by the Debtors and the

Consultant notwithstanding any restrictive provision of any lease, sublease, restrictive covenant, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Store Closing Sales (including the sale of the Store Closure Assets), the rejection of leases, abandonment of assets, or “going dark” provisions shall not be enforceable in conjunction with the Store Closing Sales. Breach of any such provisions in these Chapter 11 Cases in conjunction with the Store Closing Sales shall not constitute a default under a lease or provide a basis to terminate the lease; provided that the Store Closing Sales are conducted in accordance with the terms of this Final Order, any Side Letter and the Store Closing Procedures. The Debtors and/or Consultant and landlords of the Closing Stores are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures without further order of the Court, and such Side Letters shall be binding as among the Debtors, the Consultant and any such landlords, *provided* that nothing in such Side Letters affects the provisions of this Final Order. In the event of any conflict between the Store Closing Procedures and any Side Letter, the terms of such Side Letter shall control. In the event of a dispute between the Consultant and a landlord on the terms of a Side Letter, the Consultant and the landlord agree that they may seek an emergency hearing before the Court on no less than five (5) business days’ notice, unless the parties agree to a hearing on a shorter notice, in each respect subject to the Court’s availability.

17. Except as expressly provided for herein or in the Store Closing Procedures, no person or entity, including, but not limited to, any landlord, licensor, service providers, utilities, or creditors, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of Store Closing Sales or the sale of Store Closure Assets, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign-walkers) of such sales, and all such parties and persons of every nature and description, including, but not limited

to, any landlord, licensor, service providers, utilities, and creditors and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closing Sales, and/or (b) instituting any action or proceeding in any court (other than in the Court) or administrative body seeking an order or judgment against, among others, the Debtors, the Consultant, or the landlords at the closing locations that might in any way directly or indirectly obstruct or otherwise interfere with or adversely affect the conduct of Store Closing Sales or sale of the Store Closure Assets or other liquidation sales at the closing locations and/or seek to recover damages for breach(es) of covenants or provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

18. In accordance with and subject to the terms and conditions of the Consulting Agreement, the Consultant shall have the right to use the Closing Stores and all related Closing Store services, furniture, fixtures, equipment and other assets of the Debtors for the purpose of conducting Store Closing Sales, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Final Order.

19. All sales of Store Closure Assets shall be “as is” and final. No returns related to the purchase of Store Closure Assets shall be accepted at any Closing Stores or any stores that are not participating in the Store Closing Sales. Conspicuous signs stating that “all sales are final” and “as is” will be posted at the point of sale areas at all Closing Stores

20. The Consultant shall accept in-store return and exchanges for items purchased prior to February 3, 2023, in accordance with the terms and conditions of the Company’s Return and Exchange Policy, until the earlier of: (a) the closing date of the relevant Closing Store; and

(b) February 28, 2023. Notice of same will be conspicuously posted in the Closing Stores and website as applicable.

21. The Consultant will honor Gift Cards at the Store Closing Sales until the earlier of: (a) the closing date of the relevant Closing Store; and (b) February 28, 2023. Notice of same will be conspicuously posted in the Closing Stores and website as applicable.

22. The Consultant shall not be liable for sales taxes except as expressly provided in the Consulting Agreement and the payment of any and all sales taxes is the responsibility of the Debtors. The Debtors are directed to remit all taxes arising from Store Closing Sales to the applicable Governmental Units as and when due, *provided* that in the case of a *bona fide* dispute the Debtors are only directed to pay such taxes upon the resolution of such dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Consultant shall collect, remit to the Debtors, and account for sales taxes as and to the extent provided in the Consulting Agreement. This Final Order does not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state or federal law, and does not constitute a declaratory judgment with respect to any party's liability for taxes under state or federal law.

23. Pursuant to section 363(f) of the Bankruptcy Code, the Consultant, on behalf of the Debtors, is authorized to sell the Store Closure Assets and all sales of Store Closure Assets, whether by the Consultant or the Debtors, shall be free and clear of any and all liens, claims, encumbrances, and other interests; *provided, however*, that any such liens, claims, encumbrances, and other interests shall attach to the proceeds of the sale of the Store Closure Assets with the same

validity, amount, and priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Store Closure Assets, subject to any claims and defenses that the Debtors may possess with respect thereto. Payment of fees and expenses to the Consultant in accordance with this Final Order and the Consulting Agreement shall be free and clear of any liens, claims, encumbrances, and other interests.

24. The Debtors and/or the Consultant (as the case may be) are authorized and empowered to transfer Store Closure Assets among, and into, the Closing Stores in accordance with the Store Closing Procedures, as applicable. The Consultant is authorized to sell the Debtors' FF&E and abandon the same, in each case, as provided for and in accordance with the terms of the Consulting Agreement and the Store Closing Procedures; provided that the Debtors, if necessary, may seek further authority to abandon any remaining FF&E in connection with a motion to reject the leases which govern the occupancy of subject Closing Stores.

25. Neither the Store Closing Procedures, Consulting Agreement, nor this Final Order authorize the Debtors to transfer or sell to Consultant or any other party the personal identifying information (which means information which alone or in conjunction with other information identifies an individual, including but not limited to an individual's first name (or initial) and last name, physical address, electronic address, telephone number, social security number, date of birth, government-issued identification number, account number and credit or debit card number ("PII") of any customers unless such sale or transfer is permitted by the Debtors' privacy policy and state or federal privacy and/or identity theft prevention laws and rules (collectively, the "Applicable Privacy Laws"). The foregoing shall not limit the Consultant's use of the Debtors' customer lists and mailing lists in accordance with the Consulting Agreement solely for purposes of advertising and promoting Store Closing Sales.

26. The Debtors shall remove or cause to be removed any confidential and/or PII in any of the Debtors hardware, software, computers or cash registers or similar equipment which are to be sold or abandoned so as to render the PII unreadable or undecipherable. At the conclusion of Store Closing Sales, the Consultant shall provide the Debtors with written verification that the Consultant has not removed, copied, or transferred any customer PII and that any records containing PII were shredded, erased, or otherwise modified to render the PII unreadable or undecipherable.

27. Nothing in this Final Order shall (a) alter or affect the Debtors' obligations to comply with section 365(d)(3) of the Bankruptcy code or (b) alter or modify the rights of any lessor or other counterparty to a lease with the Debtors to file an appropriate motion or otherwise seek relief if the Debtors fail to comply with section 365(d)(3) of the Bankruptcy Code; provided that the conduct of the Stores Closing Sales in accordance with the guidelines approved hereby, as may have been modified by the Side Letter, shall not be in violation of section 365(d)(3) of the Bankruptcy Code.

IV. Dispute Resolution Procedures with Governmental Units.

28. Nothing in this Final Order, the Consulting Agreement, or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a Governmental Unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Final Order. Nothing contained in this Final Order, the Consulting Agreement, or the Store Closing Procedures shall in any way: (a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with their rights and obligations as debtors in possession under the Bankruptcy Code. The Store Closing Sales shall not be exempt

from laws of general applicability, including, without limitation, public health and safety, criminal, tax (including, but not limited to, the collection of sales taxes), labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising, consumer protection, the sale of gift certificates, layaway programs, return of goods, express or implied warranties of goods, and “weights and measures” regulation and monitoring (collectively, “General Laws”). Nothing in this Final Order, the Consulting Agreement, or the Store Closing Procedures, shall alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Final Order shall be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtors’ rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code or this Final Order. Notwithstanding any other provision in this Final Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Final Order and/or any applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Final Order shall be deemed to have made any rulings on any such issues.

29. To the extent that the sale of Store Closure Assets is subject to any Liquidation Sale Laws, including any federal, state or local statute, ordinance, rule, or licensing requirement directed at regulating “going out of business,” “store closing,” or similar inventory liquidation sales, or bulk sale laws, laws restricting safe, professional and non-deceptive, customary advertising such as signs, banners, signage, and use of sign-walkers solely in connection with the sale of the Store Closure Assets, including ordinances establishing license or permit requirements,

waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Store Closure Assets, the dispute resolution procedures in this section shall apply:

- a) Provided that the Store Closing Sales are conducted in accordance with the terms of this Final Order and the applicable Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units (as defined in the Bankruptcy Code) that exempt court-ordered sales from their provisions, the Debtors will be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct the Store Closing Sales in accordance with the terms of this Final Order and the applicable Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.
- b) Within two business days after entry of this Final Order, the Debtors will serve by first-class mail, copies of this Final Order, the Consulting Agreement, and the Store Closing Procedures on the following: (i) the landlords for the Closing Stores; (ii) the Attorney General's office for each state in which the Store Closing Sales are being held; (iii) the county consumer protection agency or similar agency for each county in which the Store Closing Sales are being held; (iv) the division of consumer protection for each state in which the Store Closing Sales are being held; and (v) the chief legal counsel for each local jurisdiction in which the Store Closing Sales are being held (collectively, the "Dispute Notice Parties").
- c) With respect to any additional Closing Stores, within three business days after Court authorization to close additional stores (each, an "Additional Closing Store List"), the Debtors will serve by email, facsimile, or first-class mail, copies of this Final Order and the Store Closing Procedures on the Dispute Notice Parties. To the extent that there is a dispute arising from or relating to Store Closing Sales, this Final Order, the Consulting Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a "Reserved Dispute"), the Bankruptcy Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of this Final Order, or service of an Additional Closing Store List, as applicable, any Governmental Unit may assert that a Reserved Dispute exists by sending a notice (the "Dispute Notice") explaining the nature of the dispute to: (i) the Debtors, Independent Pet Partners Holdings, LLC, *et al.*, 8450 City Centre Dr., Woodbury, Minnesota 55125, (Attn: Charlie Reeves (creeves@thinkbrg.com)); (ii) proposed counsel to the Debtors, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654 (Attn: David A. Agay, Esq. (dagay@mcdonaldhopkins.com), Marc Carmel, Esq. (mccarmel@mcdonaldhopkins.com), and Joshua Gadharf, Esq. (jgadharf@mcdonaldhopkins.com)); (iii) proposed co-counsel to the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Andrew L.

Magaziner, Esq. (amagaziner@ycst.com) and S. Alexander Faris, Esq. (afaris@ycst.com)); (iv) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: Rosa Sierra-Fox, Esq. (rosa.sierra-fox@usdoj.gov); (v) counsel to the DIP Lenders, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Shmuel Vasser, Esq. (shmuel.vasser@dechert.com) and Stephen Wolpert, Esq. (stephen.wolpert@dechert.com)), (vi) local counsel to the DIP Lenders, Richards, Layton & Finger, P.A., P.O. Box 551, Wilmington, Delaware 19899 (Attn: Russell Silberglied, Esq. (silberglied@rlf.com) and Brendan Schlauch, Esq. (schlauch@rlf.com)); and (vii) counsel to any statutory committee appointed in these Chapter 11 Cases. If the Debtors and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the Dispute Notice, the Governmental Unit may file a motion with the Court requesting that the Bankruptcy Court resolve the Reserved Dispute (a “Dispute Resolution Motion”).

- d) In the event that a Dispute Resolution Motion is filed, nothing in this Final Order shall preclude the Debtors, a landlord, or any other interested party from asserting (i) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (ii) that neither the terms of the Interim Order or this Final Order nor the conduct of the Debtors pursuant to this Final Order violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of this Final Order or to limit or interfere with the Debtors’ ability to conduct or to continue to conduct the Store Closing Sales pursuant to this Final Order, absent further order of the Court. Upon the entry of this Final Order, the Court grants authority for the Debtors to conduct the Store Closing Sales pursuant to the terms of this Final Order and/or the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit will be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in this Final Order will constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.
- e) If, at any time, a dispute arises between the Debtors and/or the Consultant and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in this Final Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (c) and (d) above by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

30. Subject to paragraphs 28 and 29 above, each and every federal, state, or local

agency, departmental, or Governmental Unit with regulatory authority over Store Closing Sales and all newspapers and other advertising media in which Store Closing Sales are advertised shall consider this Final Order as binding authority that no further approval, license, or permit of any Governmental Unit shall be required, nor shall the Debtors or the Consultant be required to post any bond, to conduct Store Closing Sales.

31. Provided that Store Closing Sales are conducted in accordance with the terms of this Final Order, the Consulting Agreement, and the Store Closing Procedures, and in light of the provisions in the laws that exempt court-ordered sales from their provisions, the Debtors and Consultant shall be presumed to be in compliance with any Liquidation Sale Laws and are authorized to conduct Store Closing Sales in accordance with the terms of this Final Order and the Store Closing Procedures without the necessity of further showing compliance with any such Liquidation Sale Laws.

32. Nothing in this Final Order, the Consulting Agreement, or the Store Closing Procedures releases, nullifies, or enjoins the enforcement of any liability to a Governmental Unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Final Order. Nothing contained in this Final Order, the Consulting Agreement, or the Store Closing Procedures shall in any way: (a) diminish the obligation of any entity to comply with environmental laws; or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with their rights and obligations as debtors in possession under the Bankruptcy Code.

33. The Debtors shall have the authority, but not the obligation, to pay Store Closing Bonuses to applicable non-insider employees as provided for the in Consulting Agreement. The

Consultant shall have the authority to determine the individual amounts of each Store Closing Bonus, except that the total aggregate cost of the Store Closing Bonus program will not exceed \$300,000.

V. Other Provisions.

34. The Consultant shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against Consultant, in each case, other than as expressly provided for in the Consulting Agreement.

35. To the extent that the Debtors are subject to any state Fast Pay Laws in connection with the Store Closing Sales, the Debtors shall be presumed to be in compliance with such laws to the extent, in applicable states, such payroll payments are made by the later of: (a) the Debtors' next regularly scheduled payroll; and (b) seven (7) calendar days following the termination date of the relevant employee, and in all such cases consistent with, and subject to, any previous orders of this Court regarding payment of same.

36. Neither the Consultant nor any of its respective affiliates (whether individually, as part of a joint venture, or otherwise), shall be precluded from providing additional services to the Debtors and/or bidding on the Debtors' assets not subject to the Consulting Agreement in connection with any other future process that may or may not be undertaken by the Debtors to close additional stores, *provided* that any such services and/or transactions is approved by separate order of this Court.

37. On a confidential basis and for professionals' "eyes only" and upon the written (including email) request of the U.S. Trustee, the Debtors shall provide such requesting party, if any, with copies of periodic reports concerning Store Closing Sales that are prepared by the Debtors, their professionals or the Consultant, *provided*, that the foregoing shall not require the Debtors, their professionals, or the Consultant to prepare or undertake to prepare any additional or

new reporting not otherwise being prepared by the Debtors, their professionals, or the Consultant in connection with Store Closing Sales.

38. Consultant shall act solely as an independent consultant to the Debtors and shall not be liable for any claims against the Debtors other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Store Closing Procedures, with the exception of acts of gross negligence or willful misconduct and, for greater certainty, the Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labor standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successor liability whatsoever.

39. The Debtors are authorized and permitted to transfer to the Consultant personal information in the Debtors' custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes, *provided* that Consultant removes such personal information from the FF&E prior to the abandonment of the same.

40. Within thirty (30) days of conclusion of the Sale, the Debtors shall (a) file with the Court a summary report of the store closing process that will include (i) a list of the stores closed and (ii) gross revenue from the Store Closure Assets sold, and (b) file with this Court and serve on the U.S. Trustee a report showing payment of each of the Consultant's fees, setting forth detail and information regarding the calculation of such fees paid to the Consultant and expenses reimbursed to the Consultant, *provided* that such invoice may be redacted for privilege.

41. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order or any payment made pursuant to this Final

Order shall constitute, nor it is intended to constitute: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission to the validity, priority, enforceability, or perfection of any lien on, security interest in, or encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Any payment made pursuant to this Final Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party-in-interest's rights to subsequently dispute such claim, other than with respect to payments made to the Consultant, which are governed by the reconciliation procedures in the Consulting Agreement.

42. All payments authorized by this Final Order may be made solely to the extent in compliance with the DIP Budget (as defined in the interim or final order authorizing the Debtors to obtain postpetition senior secured financing and related relief) then in effect.

43. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

44. This Court shall retain jurisdiction with regard to all issues or disputes relating to this Final Order or the Consulting Agreement, including, but not limited to, (a) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being

conducted in a safe, professional, and non-deceptive manner, (b) any claim of the Debtors, the landlords and/or the Consultant for protection from interference with the Store Closing Sales, (c) any other disputes related to the Store Closing Sales, and (d) protect the Debtors and/or the Consultant against any assertions of any liens, claims, encumbrances, and other interests. No such parties or person shall take any action against the Debtors, the Consultant, the landlords, or the Store Closing Sales until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

Exhibit C

B. Riley Declaration

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

In re:)	
	)	Chapter 11
INDEPENDENT PET PARTNERS)	
HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 23-10153 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	

DECLARATION OF B. RILEY RETAIL SOLUTIONS, LLC IN SUPPORT OF MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO ASSUME THE CONSULTING AGREEMENT RELATED TO STORE CLOSING SALES, (II) AUTHORIZING AND APPROVING THE CONDUCT OF STORE CLOSING SALES, WITH SUCH SALES TO BE FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, (III) AUTHORIZING AND APPROVING THE STORE CLOSING PROCEDURES, (IV) AUTHORIZING CUSTOMARY BONUSES FOR NON-INSIDER EMPLOYEES OF CLOSING STORES AND (V) GRANTING RELATED RELIEF

I, Marina Fineman, make this declaration pursuant to 28 U.S.C. § 1746:

1. I am Vice President and Associate General Counsel at B. Riley Retail Solutions, LLC (“Consultant” or “B. Riley Retail”), whose principal place of business is located at 30870 Russell Ranch Road, Suite 250, Westlake Village, California 91362. B. Riley Retail is a wholly owned subsidiary of B. Riley Financial, Inc.

2. B. Riley Retail is a retail consulting firm that has been hired by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (these “Chapter 11 Cases”) to act as their exclusive consultant to assist with ongoing “store closing” or similar themed sales at certain of the Debtors’ retail locations that have been designated

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Independent Pet Partners Holdings, LLC (5913), Independent Pet Partners Intermediate Holdings I, LLC (4827), Independent Pet Partners Intermediate Holdings II, LLC (7550), Independent Pet Partners Employer Holdings, LLC (6785), Independent Pet Partners Employer, LLC (7531), Independent Pet Partners Intermediate Holdings, LLC (8793), IPP - Stores, LLC (6147), IPP Stores Employer, LLC (0847), Especially For Pets, LLC (6801), Pet Life, LLC (3420), Whole Pet Central, LLC (7833), Natural Pawz, LLC (5615), and Pet Source, LLC (1905). The corporate headquarters and the mailing address for the Debtors is 8450 City Centre Dr., Woodbury, MN 55125.

by Debtors' management for closing (the "Closing Stores").

3. On January 24, 2023, B. Riley Retail and IPP-Stores, LLC, a Delaware limited liability company, one of the Debtors, entered into that certain *Consulting Agreement* (the "Consulting Agreement") pursuant to which Consultant was engaged to provide consulting services in connection with a liquidation sale (the "Sale") at the Debtors' stores.

4. I submit this declaration (this "Declaration") in support of the following motion: *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Assume Consulting Agreement Related to Store Closing Sales, (II) Authorizing and Approving the Conduct of Store Closing Sales, With Such Sales to be Free and Clear of All Liens, Claims, and Encumbrances, (III) Authorizing and Approving Store Closing Procedures, (IV) Authorizing Customary Bonuses for Non-Insider Employees of Closing Stores, and (V) Granting Related Relief* (the "Motion").

5. Although not required for purposes of approval of the Motion pursuant to sections 363 or 365 of the Bankruptcy Code, I submit this Declaration and disclose B. Riley Retail's connections to the Debtors and Parties-In-Interest (as defined below) in support of the Motion. I have reviewed and am familiar with the Motion and the relief sought therein.

6. Unless otherwise stated herein the facts set forth in my Declaration are based upon my personal knowledge, information, and belief, and upon records kept in the ordinary course of business that were reviewed by me or other employees of B. Riley Retail, B. Riley Financial, Inc. and its subsidiaries, under my supervision and direction. If called as a witness, I would testify to the facts set forth in this Declaration.

7. B. Riley Retail has substantial experience in conducting bankruptcy and non-bankruptcy going out of business, store closing, and similar theme sales at retail stores. B. Riley

Retail has rendered services similar to those to be rendered herein in other bankruptcy and non-bankruptcy cases, including the following cases: Barneys New York Inc., Modell's Sporting Goods, Inc., JC Penny Company Inc., Sur La Table, Inc., RTW Retailwinds, Inc., Steinmart, Inc., The Gymboree Corporation, and Payless Shoesource, Inc.

B. RILEY RETAIL'S DISINTERESTEDNESS

B. Riley Retail's Corporate Structure

8. B. Riley Financial, Inc. and its subsidiaries provide collaborative financial services and solutions through the following entities:

(a) B. Riley Securities, Inc. ("B. Riley Securities") is a leading, full-service investment bank providing financial advisory, corporate finance, research, securities lending and sales and trading services to corporate, institutional and high net worth individual clients. B. Riley Securities (fka B. Riley FBR) was formed in November 2017 through the merger of B. Riley & Co, LLC and FBR Capital Markets & Co., which B. Riley Securities acquired in June 2017.

(b) B. Riley Wealth Management, Inc. ("B. Riley Wealth Management") provides comprehensive wealth management and brokerage services to individuals and families, corporations and non-profit organizations, including qualified retirement plans, trusts, foundations and endowments. B. Riley Wealth Management was formerly Wunderlich Securities, Inc., which the B. Riley Financial Inc. acquired on July 3, 2017, and changed the name in June 2018.

(c) B. Riley Capital Management, LLC, a Securities and Exchange Commission registered investment advisor, which includes:

(i) B. Riley Asset Management, an advisor to certain private funds and to institutional and high net worth investors.

(ii) Great American Capital Partners, LLC, the general partner of two private funds, GACP I, L.P. and GACP II, L.P., both direct lending funds that provide senior secured loans and second lien secured loan facilities to middle market public and private U.S. companies.

(d) B. Riley Financial, Inc. subsidiaries doing business as B. Riley Advisory Services:

(i) GlassRatner Advisory & Capital Group LLC dba B. Riley Advisory Services, a specialty financial advisory services firm that provides consulting services to shareholders, creditors and companies, including due diligence, fraud

investigations, corporate litigation support, crisis management and bankruptcy services.

(ii) B. Riley Advisory and Valuation Services, LLC dba B. Riley Advisory Services (“B. Riley Valuation Services”), a leading provider of appraisal and valuation services for asset-based lenders, private equity firms and corporate clients.

(e) B. Riley Retail, a leading provider of asset disposition and auction solutions to a wide range of retail and industrial clients.

(f) B. Riley Real Estate, LLC is a leader in all aspects of commercial real estate restructuring.

(g) B. Riley Financial, Inc. and its subsidiaries also pursue a strategy of investing in or acquiring companies that they believe have attractive investment return characteristics.

1. B. Riley Financial, Inc. acquired United Online, Inc. (“UOL”) on July 1, 2016, and MagicJack VocalTec Ltd. (“MagicJack”) on November 14, 2018 as part of our principal investment strategy.

i. UOL is a communications company that offers consumer subscription services and products, consisting of Internet access services and devices under the NetZero and Juno brands primarily sold in the United States.

ii. MagicJack is a Voice over IP (VoIP) cloud-based technology and services communications provider.

2. In October 2022, B. Riley Principal Investments, LLC acquired Targus Cayman HoldCo Limited (“Targus”), a multinational company that designs, manufactures, and sells consumer and enterprise productivity products. The Targus® product line includes laptop and tablet cases, backpacks, universal docking stations, and computer accessories.

(h) BR Brand, in which B. Riley Securities owns a majority interest, provides licensing of a brand investment portfolio. BR Brand owns the assets and intellectual property related to licenses of six brands: Catherine Malandrino, English Laundry, Joan Vass, Kensie Girl, Limited Too and Nanette Lepore.

(i) On November 14, 2018, B. Riley Financial, Inc. entered into an agreement to acquire shares of National Holdings Corporation (“National Holdings”), a Nasdaq-listed issuer. The acquisition was completed in the first quarter of 2021. National Holdings, now a wholly owned subsidiary of B. Riley Financial, Inc.

(j) On January 19, 2022, B. Riley Financial, Inc. acquired FocalPoint Securities, LLC, an independent investment bank based in Los Angeles. The firm includes approximately 50 investment banking professionals. The acquisition is expected to significantly expand B. Riley Securities' mergers and acquisitions advisory business and enhance its debt capital markets and financial restructuring capabilities.

B. Riley Retail's Disclosures Regarding Disinterestedness

9. From time to time, B. Riley Retail and its affiliates have provided services, and likely will continue to provide services, to certain attorneys, other professionals, creditors (including lenders) and/or security holders of the Debtors and various other parties, some of whom may be providing services to, or may be adverse to, or may be otherwise connected to, the Debtors, in each case in matters unrelated to these Chapter 11 Cases and unrelated to the Debtors.

10. B. Riley Retail and its affiliates provide services to a wide range of institutions and individuals and may in the past have had, and may currently or in the future have, relationships with parties that may have interests with respect to the Debtors. In the ordinary course of business, investment funds affiliated with B. Riley Financial Inc., B. Riley Securities, and its affiliates and certain of their affiliates' employees, as well as investment funds in which such employees may have financial interests, but over whose investment decisions such employees have no input or control, may acquire, hold or sell, long or short positions, or trade or otherwise effect transactions, in debt, equity, and other securities and financial instruments (including bank loans and other obligations) of, or investments in, the Debtors or other parties that may have an interest in these Chapter 11 Cases or have other relationships with such parties. With respect to any such securities, financial instruments and/or investments, all rights in respect of such securities, financial instruments and investments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion. Moreover, the B. Riley Retail employees who are working on these

Chapter 11 Cases are subject to compliance mechanisms and policies and procedures designed to prevent confidential, non-public information from being improperly shared.

11. Affiliates of B. Riley Retail, including B. Riley Valuation Services, provide valuation opinions on the securities and derivative holdings of various business development companies, private equity firms, and hedge funds, which may include debt securities of the Debtors. This work is unrelated to the services that B. Riley Retail intends to provide in these Chapter 11 Cases. Moreover, such affiliates through the establishment of an “Information Wall” have separated their employees who provide valuation opinions on securities and derivative holdings from the rest of the employees of B. Riley Retail. This “Information Wall” includes physical and technological barriers, compliance mechanisms and policies and procedures designed to prevent confidential, non-public information and work product from being shared improperly.

12. In the ordinary course of their businesses, B. Riley Retail and its affiliates, including B. Riley Securities, from time to time discuss issues concerning stressed and distressed companies with creditors and prospective creditors that are clients of the firm, or that otherwise contact B. Riley Retail or its affiliates, or that are referred to the firm in light of B. Riley Retail’s or its affiliates’ reputation for covering such companies and/or relevant industry expertise or performing liquidation services, such as those contemplated in the Motion. At the time of those contacts, it is not known whether any particular company will actually file for bankruptcy, or if any of these creditors and/or potential creditors will serve on any future committee, or even be creditors of the relevant estates in the event of a future bankruptcy. B. Riley Retail may communicate with, and, when appropriate or requested, send materials to, one or more of the 30 largest unsecured creditors identified by a debtor and who are, therefore, potential members of a creditors’ committee, if we either know, work with, are contacted by, or are otherwise referred to

the relevant creditor. In some circumstances, we or our affiliates may contact potential committee members with whom we are not previously familiar.

13. B. Riley Retail's and its affiliates' personnel may have business associations with certain creditors of the Debtors or counsel or other professionals involved in these Chapter 11 Cases on matters unrelated to these Chapter 11 Cases. In addition, in the ordinary course of their businesses, B. Riley Retail and its affiliates may engage, or may be engaged by, counsel or other professionals in unrelated matters who now represent, or in the future may represent, creditors or other interested parties in these Chapter 11 Cases. Specifically, without limitation, in matters unrelated to these Chapter 11 cases, B. Riley Retail and/or its affiliates have retained or worked for or with Alston & Bird LLP, Katten Muchin Rosenman LLP, Blank Rome, LLP, Cooley LLP, Squire Patton Boggs (US) LLP, Dechert LLP and Ropes & Gray LLP, McDonald Hopkins LLC, Omni Agent Solutions, Young Conaway Stargatt & Taylor, LLP, and have been involved in litigation matters as professionals retained by counsel in which some of the parties in interest are involved, including Deloitte & Touche LLP. Other professionals have also been involved in professional relationships with Sprout.

14. To the best of my knowledge, on matters entirely unrelated to the Debtors, B. Riley Retail and/or its subsidiaries and affiliates have provided due diligence, asset appraisal, consultation, enterprise valuation, and/or field exam services in the ordinary course of business to many lenders, investors, and other market participants, some of whom may be creditors, equity security holders and other parties in interest in these Chapter 11 Cases. Specifically, without limitation, within the last three years, in matters entirely unrelated to these Chapter 11 Cases, B. Riley Valuation Services has provided valuation, appraisal and related services to certain financial institutions that are parties in interest in these Chapter 11 Cases, including Citizens Bank, N.A.,

Bank of America, N.A., CIT Bank, N.A., and Wells Fargo Bank, N.A. (“Wells Fargo”). B. Riley Valuation Services has appraised American Distribution and Manufacturing Company (ADMC) for one of its bank clients.

15. B. Riley Retail and its affiliates have a banking relationship with Wells Fargo and it and certain of its affiliates also have credit facilities in place with Wells Fargo.

16. B. Riley Retail is a separate legal entity and observes all legal formalities between entities. B. Riley Retail adheres to all confidentially obligations across entities with respect to client information. B. Riley Retail personnel do not have access to the files of other business lines nor do other business lines have access to B. Riley Retail’s files.

17. In connection with B. Riley Retail’s proposed engagement by the Debtors, B. Riley Retail undertook to determine whether it has any conflicts or other relationships that might cause B. Riley Retail not to be disinterested or to hold or represent an interest adverse to the Debtors. To determine B. Riley Retail’s relationship with certain material parties in interest in these Chapter 11 Cases, B. Riley Retail researched the client databases maintained with respect to B. Riley Retail and its affiliates, to determine whether it has any relationships with certain entities connected to the Debtors that were identified to B. Riley Retail. The list of parties-in-interest that B. Riley Retail reviewed for purposes of this Declaration is identified on **Schedule 1** attached to this Declaration (each, a “Party-In-Interest” and, collectively, the “Parties-In-Interest”).

18. The review of the Parties-In-Interest described herein was conducted by B. Riley Retail pursuant the following procedures: we check the internal databases of B. Riley Financial, Inc. and its subsidiaries, and, additionally, we ask our corporate senior management, finance, accounting, compliance and legal departments, as well as managers at our above-described investment banking, retail, real estate, appraisal, advisory, operations, liquidation and wealth and

capital management affiliates to review the lists of parties in interest and to identify and describe any relationships that have existed in the last three years. Based on the process set forth herein, it is my understanding that the overall design and implementation of B. Riley Retail's current procedures provide a reasonable level of comfort to B. Riley Financial, Inc. and B. Riley Retail that relationships and potential conflicts will be identified and were identified in these Chapter 11 Cases. Continued inquiry will be made following the filing of this Declaration by undertaking the same procedures described herein on a periodic basis, with additional disclosures to be filed in this Court if necessary or otherwise appropriate.

19. Except as otherwise disclosed herein, and insofar as I have been able to ascertain after due diligence, to the best of my knowledge, information, and belief, after reasonable inquiry, neither I, B. Riley Retail, nor any principal, manager, or consultant of B. Riley Retail, represent any Parties-In-Interest or any other entity other than the Debtors. Thus, B. Riley Retail is a "disinterested person," as that term is defined in Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the Bankruptcy Code. Except as outlined above, B. Riley Retail's due diligence has revealed that B. Riley Retail:

- (a) does not hold or represent any interest adverse to the Debtors or their creditors;
- (b) is not a creditor, security holder, or insider of the Debtors and does not represent any entity (or its attorneys or accountants) other than the Debtors in connection with these Chapter 11 Cases;
- (c) is not, and was not, within two (2) years before the Petition Date, a director, officer, or employee of the Debtors;
- (d) does not have any interest materially adverse to the interests of the Debtors or their estates or any class of creditors or equity security holders of the Debtors, by reason of any direct or indirect relationship to, connection with, or any interest in, the Debtors or for any other reason; and
- (e) has no connections with the Debtors, creditors, equity interest holders, or any Party-In-Interest herein, or with the respective attorneys or accountants

of the foregoing, or with the Office of the United States Trustee or any person employed with the United States Trustee, except as set forth herein.

20. In addition, B. Riley Retail does not believe that any relationship that B. Riley Retail, or any of its professionals or employees participating in or connected with B. Riley Retail's engagement with the Debtors, may have with any Parties-In-Interest in connection with any unrelated matter will interfere with, or impair, B. Riley Retail's representation of the Debtors in these Chapter 11 Cases.

21. No agreement presently exists to share with any other person or firm any compensation received by B. Riley Retail for its services in these Chapter 11 Cases. If any such agreement is entered into, B. Riley Retail undertakes to amend and supplement this Declaration to disclose the terms of any such agreement.

22. B. Riley Retail submits that the Consultant's Fee and its expense structure, as set forth in the Consulting Agreement, is generally similar to the fees charged by B. Riley Retail in comparable matters, are similar to rates customarily charged in the industry, and were the result of arm's-length negotiations.

23. As provided in the Consulting Agreement, B. Riley Retail will be incurring expenses related to the marketing and sale of the Debtors' assets and earning a fee for the sale of such assets, and the Debtors are required to reimburse the Consultant for these expenses and pay such fees from the proceeds of the Sale and otherwise in accordance with the Consulting Agreement without further order of this Court. Pursuant to the Consulting Agreement, Consultant was advanced a deposit in the amount of \$150,000, as security for reimbursement of such expenses and payment of such fees upon the terms set forth therein. Upon completion of the Sale, Consultant will reconcile with the Debtors these expenses and the fees payable to Consultant, in accordance with the applicable terms of the Consulting Agreement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: February 5, 2023

By: /s/ Marina Fineman
Marina Fineman
Vice President, Associate General
Counsel
B. Riley Retail Solutions, LLC

Schedule 1

IPP
Parties in Interest
§

Party	Category
1) Joseph McMahon	United States Trustee's Office (DE)
2) Lauren Attix	United States Trustee's Office (DE)
3) Linda Casey	United States Trustee's Office (DE)
4) Denis Cooke	United States Trustee's Office (DE)
5) Joseph Cudia	United States Trustee's Office (DE)
6) Holly Dice	United States Trustee's Office (DE)
7) Shakima L. Dortch	United States Trustee's Office (DE)
8) Timothy J. Fox, Jr.	United States Trustee's Office (DE)
9) Diane Giordano	United States Trustee's Office (DE)
10) Christine Green	United States Trustee's Office (DE)
11) Benjamin Hackman	United States Trustee's Office (DE)
12) Ramona Harris	United States Trustee's Office (DE)
13) Nyanquoi Jones	United States Trustee's Office (DE)
14) Jane Leamy	United States Trustee's Office (DE)
15) Hannah M. McCollum	United States Trustee's Office (DE)
16) James R. O'Malley	United States Trustee's Office (DE)
17) Michael Panacio	United States Trustee's Office (DE)
18) Linda Richenderfer	United States Trustee's Office (DE)
19) Juliet Sarkessian	United States Trustee's Office (DE)
20) Richard Schepacarter	United States Trustee's Office (DE)
21) Edith A. Serrano	United States Trustee's Office (DE)
22) Rosa Sierra-Fox	United States Trustee's Office (DE)
23) Dion Wynn	United States Trustee's Office (DE)
24) Chief Judge Laurie Selber Silverstein	Bankruptcy Court Judges (DE)
25) Judge John T. Dorsey	Bankruptcy Court Judges (DE)
26) Judge Craig T. Goldblatt	Bankruptcy Court Judges (DE)
27) Judge Karen B. Owens	Bankruptcy Court Judges (DE)
28) Judge Brendan L. Shannon	Bankruptcy Court Judges (DE)
29) Judge J. Kate Stickle	Bankruptcy Court Judges (DE)
30) Judge Mary F. Walrath	Bankruptcy Court Judges (DE)
31) Judge Ashely M. Chan	Bankruptcy Court Judges (DE)
32) Berkeley Research Group	Debtor's Restructuring Professionals
33) Houlihan Lokey	Debtor's Restructuring Professionals
34) McDonald Hopkins LLC	Debtor's Restructuring Professionals
35) Omni Agent Solutions	Debtor's Restructuring Professionals
Young Conaway Stargatt & Taylor, LLP	Debtor's Restructuring Professionals
36) Dechert LLP	Secured Lenders' Professionals
37) Ropes & Gray LLP	Sponsor's Counsel
38) Independent Pet Partners Holdings, LLC	Debtors
39) Independent Pet Partners Intermediate Holdings I, LLC	Debtors
40) Independent Pet Partners Intermediate Holdings II, LLC	Debtors
41) Independent Pet Partners Intermediate Holdings, LLC	Debtors
42) Independent Pet Partners Employer Holdings, LLC	Debtors
43) Especially for Pets, LLC	Debtors

DRAFT – PRIVILEGED AND CONFIDENTIAL
SUBJECT TO MATERIAL CHANGE

44) IPP-Stores, LLC	Debtors
45) Pet Life, LLC	Debtors
46) Whole Pet Central, LLC	Debtors
47) Natural Pawz, LLC	Debtors
48) Pet Source, LLC	Debtors
49) Independent Pet Partners Employer, LLC	Debtors
50) IPP Stores Employer, LLC	Debtors
51) Main Street Capital Corporation	Secured Debt
52) MCS Income Fund, LLC	Secured Debt
53) Newstone Capital Partners III, L.P.	Secured Debt
54) Newstone Capital Partners III-A, L.P.	Secured Debt
55) Newstone Capital Partners III-B, L.P.	Secured Debt
56) Cion Capital Investment Corporation	Secured Debt
57) 34th Street Funding, LLC	Secured Debt
58) Dechert LLP	Secured Debt
59) ADMC	Vendor
60) Pet Food Experts (New)	Vendor
61) Supreme Pet Supplies	Vendor
62) Tuffy's Pet Foods, Inc.	Vendor
63) 130 Needham St Trust;	Landlord
64) Regency Centers, L.P.	Landlord
65) General Pet Supply	Vendor
66) UnitedHealthcare Insurance Company	Vendor
67) Tall Tails	Vendor
68) The Trustees of the Bradley Boulevard Shopping Center	Landlord
69) Linear Retail Dedham #1, LLC	Landlord
70) Hill's Pet Nutrition	Vendor
71) c/o Edens Limited Partnership 1221 Main St; Suite 1000; Columbia, SC 29201	Landlord
72) Pet Palette	Vendor
73) Deloitte & Touche	Vendor
74) US Parcel D-2, LLC	Landlord
75) Redstone Operating Limited Partnership	Landlord
76) Eskridge (E&A), LLC (EDENS)	Landlord
77) Federal Realty Investment Trust - Property #1315	Landlord
78) Abbott Estates; c/o Haynes Management Inc; 34 Washington St; Suite DEC 7; Wellesley Hills, MA	Landlord
79) Congressional Plaza Associates, LLC	Landlord
80) Union Post LLC	Landlord
81) Newco	Vendor
82) Central Pet (East)	Vendor
83) Taylor Georgia A, LLC and Taylor Georgia B, LLC & 16800 Route 97, LLC	Landlord
84) ServiceChannel.com Inc.	Vendor
85) CEA Beverly LLC; 1105 Mass Ave; Suite 2F; Cambridge, MA 02138	Landlord
86) c/o Bozzuto Development Company	Landlord
87) SCC Tanglewood LP	Landlord
88) Giant Alexandria (E&A), LLC	Landlord
89) Pender, L.L.C.	Landlord
90) Charter Medway II, LLC	Landlord
91) Werner G. Scharff and Simone H. Scharff 1988 Family Trust and Jack M. Gross Revocable Trust	Landlord
92) Toomey-Guseman FLP	Landlord
93) Westcliff Retail Plaza, LLC	Landlord

DRAFT – PRIVILEGED AND CONFIDENTIAL
SUBJECT TO MATERIAL CHANGE

- 94) Canton R2G Owner, LLC Landlord
- 95) Point-LC1, LLC Landlord
- 96) UDR, Inc Landlord
- 97) MR 3629 Western Waveland, LLC Landlord
- 98) 50 Market Street Limited Partnership Landlord
- 99) Kentlands Square LLC Landlord
- 100) Alton Square LP Landlord
- 101) City of Brea Police Department (CA) Governmental Agencies- Licensing/Permit
- 102) City of Greenwood Village (CO) Governmental Agencies- Licensing/Permit
- 103) Clerk of the Circuit Court of Baltimore County (MD) Governmental Agencies- Licensing/Permit
- 104) Cottage Grove (MN) Governmental Agencies- Licensing/Permit
- 105) Illinois Secretary of State (IL) Governmental Agencies- Licensing/Permit
- 106) Kansas Department of Revenue (KS) Governmental Agencies- Licensing/Permit
- 107) Kansas Secretary of State (KS) Governmental Agencies- Licensing/Permit
- 108) Kildeer (IL) Governmental Agencies- Licensing/Permit
- 109) Massachusetts Secretary of the Commonwealth (MA) Governmental Agencies- Licensing/Permit
- 110) Minnesota Secretary of State (MN) Governmental Agencies- Licensing/Permit
- 111) Mission Viejo Animal Services (CA) Governmental Agencies- Licensing/Permit
- 112) Montgomery County Department of Permitting Services (MD) Governmental Agencies- Licensing/Permit
- 113) Montgomery County Police Department (MD) Governmental Agencies- Licensing/Permit
- 114) Virginia Dept of Revenue (VA) Governmental Agencies- Licensing/Permit
- 115) Virginia State Corporation Commission (VA) Governmental Agencies- Licensing/Permit
- 116) Wilmette Police Department (IL) Governmental Agencies- Licensing/Permit
- 117) Wisconsin Department of Financial Future (WI) Governmental Agencies- Licensing/Permit
- 118) Wisconsin Dept of Revenue (WI) Governmental Agencies- Licensing/Permit
- 119) Associated Material Handling Industries, Inc. Parties to Significant Executory Contracts and Leases
- 120) Jamf Vendors
- 121) Rocket Clicks Vendors
- 122) Primal Pet Foods, Inc. Vendors
- 123) M.X. Data, Inc. Vendors
- 124) Luther Cockrill Litigation Counterparties
- 125) The Irving J. Sherman Revocable Trust Parties to Significant Executory Contracts and Leases
- 126) 300 ELDEN STREET, LLC c/o SugarOak Management Services, LLC Parties to Significant Executory Contracts and Leases
- 127) Shapell Social Rental Properties, LLC Parties to Significant Executory Contracts and Leases
- 128) SCC Tanglewood LP Parties to Significant Executory Contracts and Leases
- 129) Greenwich Investment Group, LLC Parties to Significant Executory Contracts and Leases
- 130) W. Gray & Peden Realty, Ltd. c/o Braun Enterprises Parties to Significant Executory Contracts and Leases
- 131) CIT BANK, N.A., Parties to Significant Executory Contracts and Leases
- 132) ACQUIOM AGENCY SERVICES LLC, Parties to Significant Executory Contracts and Leases
- 133) WILMINGTON TRUST, NATIONAL ASSOCIATION, Parties to Significant Executory Contracts and Leases
- 134) 10PEARLS LLC, Parties to Significant Executory Contracts and Leases
- 135) COSTAR REALTY INFORMATION, INC Parties to Significant Executory Contracts and Leases
- 136) Privy Parties to Significant Executory Contracts and Leases
- 137) Weruva International, Inc. Parties to Significant Executory Contracts and Leases

DRAFT – PRIVILEGED AND CONFIDENTIAL
 SUBJECT TO MATERIAL CHANGE

- 138) Sprout Parties to Significant Executory Contracts and Leases