

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re: ) Chapter 11  
 ) Case No. 15-35358  
LB STEEL, LLC, )  
 ) Honorable Janet S. Baer  
Debtor. )

**Revised Proposed Order Approving Section 363 Sale Of The Debtor's Assets**

LB Steel, LLC, by and through its undersigned counsel, hereby submits a revised proposed order approving the section 363 sale of its assets, and a redline of the revised proposed order.

Dated: February 24, 2016

Respectfully submitted,

**LB STEEL, LLC**

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*Its Attorneys*

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In re: ) Chapter 11  
 ) Case No. 15-35358  
LB STEEL, LLC, )  
 ) Honorable Janet S. Baer  
Debtor. )

**ORDER (I) AUTHORIZING AND APPROVING THE SALE OF THE DEBTOR'S  
ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,  
AND INTERESTS, (II) AUTHORIZING AND APPROVING ASSET PURCHASE  
AGREEMENT, AND (III) SETTING DATE FOR THE AUTHORIZATION AND  
APPROVAL OF THE ASSUMPTION AND ASSIGNMENT OF CERTAIN  
EXECUTORY CONTRACTS**

Upon consideration of the motions (the “Motions”) dated November 2, 2015 [*Docket No.* 75] and December 30, 2015 [*Docket No. 160*] of the Debtor, pursuant to sections 363, 365, 503, 1146 and 105(a) of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure; the Debtor having conducted an auction for the sale of substantially all of its assets on February 22, 2016 (the “Auction”); LB Metals, LLC (the “Purchaser”)<sup>1</sup> having submitted the highest or otherwise best offer for the assets of the estate; the Court having conducted the Sale Hearing on February 23, 2016, to consider the approval of the Sale and related transactions pursuant to the terms of the Asset Purchase Agreement (the “APA”),<sup>2</sup> substantially in the form annexed to this Sale Order as Exhibit A, between the Debtor and the Purchaser; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the approval of the Motions and the contemplated transactions; and the Court having reviewed and considered the Motions and any objections, and the arguments of counsel

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<sup>1</sup> “Purchaser” shall include LB Metals, LLC or its designee.

<sup>2</sup> Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the APA.

and the other evidence adduced; and upon the record of the Sale Hearing and the full record of this case, including the record established at the Auction and filed with the Court; and it appearing that the relief requested in the Motions is in the best interests of the Debtor, its creditors and estate and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby:

**FOUND AND DETERMINED THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. This Court has jurisdiction over the Motions and the transactions contemplated by the APA pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue in this District is proper under 28 U.S.C. §§ 1408 and 1409.

C. Good and sufficient notice of the Motions and the relief sought therein has been given to all interested persons and entities, including, without limitation, (i) all entities that claim any interest in or lien on the Purchased Assets, including without limitation, MB Financial Bank, N.A. (the "Secured Lender"); (ii) all parties to Assigned Contracts that may be assumed and assigned pursuant to this Sale Order; (iii) all governmental taxing authorities that have, or as a result of the sale of the Purchased Assets may have, claims, contingent or otherwise, against the Debtor; (iv) all parties that filed requests for notices under Bankruptcy Rule 9010(b) or were entitled to notice under Bankruptcy Rule 2002; (v) all creditors (whether liquidated, contingent or unmatured) of the Debtor; (vi) all interested governmental entities; (vii) parties expressing an interest in the Purchased Assets; (viii) the Office of the United States Trustee and (ix) the

Official Committee of Unsecured Creditors, and no other or further notice is required.

D. A sound business purpose justifies the Sale of the Purchased Assets outside of the ordinary course of business.

E. An Amended Order (i) Approving Bidding Procedures in Connection with the Sale of All or Substantially All Assets of the Debtor; (ii) Scheduling an Auction and Hearing to Consider the Sale of Assets, and (iii) Approving the Form and Manner of Notice of the Sale (the “Sales Procedure Order”) was entered on January 5, 2016 [*Docket No. 208*], approving, among other things, the sale procedures attached thereto as Schedule 1. The Sale Procedures Order, among other things, established procedures for submitting bids on the Debtor’s assets, set February 17, 2016 as the deadline for submitting bids, set February 22, 2016 as the auction date, and set a hearing to approve the sale to successful bidders on February 23, 2016.

F. On November 18, 2015, in accordance with the Sale Procedures Order, the Debtor served a Notice of Potential Assumption and Assignment of Leases and Executory Contracts (the “Cure Notice”) on counterparties to certain executory contracts and unexpired leases of non-residential real property [*see Docket No. 146*], notifying such parties (the “Executory Contract Parties”) of the entry of the Sale Procedures Order, the potential assumption and assignment of their contracts and leases with the Debtor in connection with the Sale, and the amounts, if any, the Debtor would have to pay to cure any then existing defaults. The Debtor received objections from MZG Associates LLC and Goich Real Estate LLC (the “Objecting Parties”) as to the cure cost on their leases. At the Sale, the Objecting Parties on the record withdrew their objections as to the cure cost for their leases and agreed to accept the cure costs stated in the Cure Notice.

G. The Debtor provided sufficient notice of the entry of the Sale Procedures Order and Notice of Auction to all parties in interest in this chapter 11 case, as set forth in the affidavits

of service at Docket Nos. 76, 160. The Debtor also published the Notice of Auction in the Chicago Tribune [*see Docket No. 211*].

H. The Debtor received five bids on the Bid Deadline, each for varying portions of or substantially all of the Debtor's assets. Four of the bids were subsequently qualified.

I. On January 11, 2016, Everflow Eastern, Inc. filed a Precautionary Limited Objection to the sale [*Docket No. 176*], which objection was amended on February 8, 2016 [*Docket No. 207*].

J. On February 18, 2016, pursuant to the Sale Procedure Order, the Debtor served notice of the identities of the bidders for the bids that the Debtor had received by the Bid Deadline [*see Docket No. 212*]. On February 22, 2016, one of the Executory Contract Parties, Gerdes Family LLC, filed a limited objection [*Docket No. 214*] stating that it lacked sufficient information about the winning bidder at the Sale, the identity of which had not been determined at the time of the filing of the objection, and that thus Gerdes Family LLC had not been provided with adequate assurance of performance by the winning bidder.

K. On February 22, 2016, the Debtor conducted the Auction. As set forth in the Auction Transcript, the Purchased Assets were subject to competitive bidding from qualified bidders. The highest and best bid was made by the Purchaser. The Armor Group, Inc. (the "Back-Up Bidder") submitted the next highest qualified bid (the "Back-Up Bid") for the Purchased Assets at the Sale.

L. The consideration to be provided by the Purchaser: (i) is fair and reasonable; (ii) is the highest or otherwise best offer for the Purchased Assets identified in the APA; and (iii) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and the Uniform Fraudulent Conveyance Act (7A part II, U.L.A. 2 (1999)) or the Uniform

Fraudulent Transfer Act (7A part II, U.L.A. 66 (1999)) or any similar laws of any state or other jurisdiction whose law is applicable to the contemplated transactions; and (v) will provide a greater recovery for the Debtor's creditors and other interested parties than would be provided by any other practically available alternative. In reaching this determination, the Court has taken into account both the consideration to be realized directly by the Debtor, including the assumption of claims against the Debtor's estate, and the indirect benefits of such Sale for the Debtor's vendors and suppliers, employees, relevant governmental and taxing authorities and the public served, directly and indirectly, by the Debtor's business.

M. Consummation of the Sale contemplated by the APA will provide the highest and otherwise best value for the Purchased Assets and is in the best interests of the Debtor, its creditors and estate.

N. Entry into the APA and consummation of the transactions contemplated thereby constitute the exercise of the Debtor's sound business judgment and fiduciary duties and such acts are in the best interests of the Debtor, its creditors and estate.

O. The transactions contemplated by the APA are undertaken by the Debtor and the Purchaser at arms' length, without collusion and in good faith within the meaning of section 363(m) of the Bankruptcy Code. The Purchaser is a good faith purchaser under section 363(m) of the Bankruptcy Code and as such, is entitled to all of the protections afforded thereby and otherwise has proceeded in good faith in all respects in connection with this proceeding in that: (a) the Purchaser recognized that the Debtor was free to deal with any other party interested in acquiring the Purchased Assets; (b) the Purchaser did not in any way induce or cause the chapter 11 filing of the Debtor; (c) based on the Auction Transcript, the Purchaser made the highest or otherwise best bid for the Purchased Assets after competitive bidding with the other arms'-length

bidders; and (d) the negotiation and execution of the APA and any other agreements or instruments related thereto was in good faith and an arms'-length transaction between the Purchaser and the Debtor.

P. The Debtor and the Purchaser have not engaged in any conduct that would permit the APA or the Sale to be avoided under section 363(n) of the Bankruptcy Code.

Q. The APA was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession or the District of Columbia.

R. The Purchaser is not an "insider" of the Debtor, as that term is defined in section 101(31) of the Bankruptcy Code.

S. The Debtor is the sole and lawful owner of the Purchased Assets, and holds good title thereto, immediately prior to the Closing. Except as permitted under the express terms of the APA, the consummation of the Sale pursuant to the APA will be a legal, valid and effective Sale of the Purchased Assets and will vest the Purchaser (and its designees or assignees, as applicable) with all right, title, and interest of the Debtor and its estate in and to the Purchased Assets subject to the APA free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts), including, without limitation, any such Liens, Claims, encumbrances and interests (i) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of Debtor's, the Debtor's estate's or the Purchaser's interest in such Purchased Assets, or any similar rights, or (ii) relating to taxes or any other liabilities, arising under or out of, in connection with, or in any way relating to, the Purchased Assets, the Debtor, the Debtor's estate, or its operations or activities prior to the Closing Date. Without limiting the generality of the

foregoing, the Purchaser shall not have any liability as a successor to the Debtor for any tax or other obligations of the Debtor to the Illinois Department of Revenue, the Kansas Department of Revenue or the Ohio Department of Taxation, including those arising pursuant to any bulk sales act.

T. A Sale of the Purchased Assets other than free and clear of Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts) would be of substantially less benefit to and would adversely affect the Debtor's estate. The sale of the Purchased Assets outside of a plan of reorganization pursuant to the APA neither impermissibly restructures the rights of the Debtor's creditors nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtor.

U. Based upon the representations of the Debtor, the Purchased Assets constitute property of the Debtor's estate and title thereto is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code. Based upon the representations of the Debtor, the Debtor has all right, title and interest in, to and under the Purchased Assets to transfer and convey the Purchased Assets as contemplated by the APA.

V. With respect to all parties asserting Liens, Claims, encumbrances and interests in, to, or against the Purchased Assets, the Sale complies with all the requirements of section 363(f) of the Bankruptcy Code. With respect to each interest in the Purchased Assets: (a) applicable non-bankruptcy law permits the sale free and clear of such interest (including any interest arising under section 365(h) of the Bankruptcy Code); (b) the holder of such interest consents to the Sale; (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 the Purchased Assets; (d) such interest is in bona fide dispute; or (e) the holder of such interest could be compelled, in a legal or equitable proceeding, to accept



a money satisfaction of such interest. Specifically, the Secured Lender and any other known creditors having Liens on the Purchased Assets have thoroughly reviewed the Debtor's alternatives and have consented to the Sale pursuant to section 363 of the Bankruptcy Code or their objections have been overruled.

W. The Liens of all creditors, including the Secured Lender, on the Purchased Assets, if any, shall attach to the proceeds of the Sale to the same extent and with the same priority as the liens they now hold against the Purchased Assets. These funds shall be on the order of adequate protection and shall constitute neither the allowance of the claims of such creditors, nor a cap on the amounts they may be entitled to receive. Furthermore, the Claims and Liens of the creditors, if any, shall remain subject to any objections any party would otherwise be entitled to raise as to the priority, validity or extent of such liens. The Debtor is authorized to pay proceeds of the Sale to the Secured Lender upon the closing of the Sale (the "Secured Lender Payment") to satisfy the Secured Lender's claim. All other Sale proceeds may be distributed upon agreement between the Debtor and the Official Committee of Unsecured Creditors and the respective creditor asserting a lien, or by subsequent order of the Court. This Order does not constitute a determination of whether, and to what extent, the claim of the Secured Lender may be allowed, and this Order is without prejudice to any lawful objections asserted against the Secured Lender's claim, including without limitation the Limited Objection of the Official Committee of Unsecured Creditors to the Validity, Enforceability, Priority, and Perfection of MB Financial Bank, N.A.'s Loan Documents filed on January, 29, 2016 [*Docket No. 200*], and the Secured Lender's defense of its claim. This Order shall not affect the Secured Lender's liens, if any, on assets of the Debtor's estate that are not Purchased Assets.

X. All parties with Liens, Claims, encumbrances, interests, leaseholds and

possessory rights in or against the Purchased Assets identified to be sold under the APA, if any, who did not object to the Motions and the relief requested therein, who did not request adequate protection of any possessory right, or who withdrew their objections to the Motions, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code; and all parties with Liens, Claims, encumbrances and interests against the Purchased Assets who objected to the Motions, but who did not withdraw any such objection, can be compelled to accept a monetary satisfaction of their Liens, Claims, encumbrances and interests within the meaning of section 363(f)(5) of the Bankruptcy Code, and in each case, are enjoined from taking any action against the Purchaser, its affiliates or any agent of the foregoing to recover any claim which such person or entity has solely against the Debtor, or any of its affiliates.

Y. Upon the consummation of the Sale of the Purchased Assets, (a) the Purchaser shall not be, as a result of the purchase of the Purchased Assets or otherwise, considered to have continued the business operations associated with the Purchased Assets without interruption or substantial change, and (b) substantial continuity in the operation of Debtor's business before and after the purchase of the Purchased Assets shall not be considered to exist.

Z. By virtue of the APA or otherwise, the Purchaser will not acquire any liabilities of the Debtor, other than the Assumed Liabilities as set forth in Section 1.3 of the APA.

AA. Without limiting the generality of the foregoing, other than the Assumed Liabilities, the Purchaser would not have entered into the APA and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtor, its estate and creditors, if the Sale of the Purchased Assets and the assignment of the Assigned Contracts was not free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts) of any kind or nature whatsoever, other than the Assumed

Liabilities, or if the Purchaser would or in the future could, be liable for any Liens, Claims, encumbrances and interests, other than the Assumed Liabilities.

BB. The legal and factual bases set forth in the Motions and at the Sale Hearing establish just cause for the relief granted herein.

CC. The Debtor shall seek to assume and assign any Assigned Contracts at a subsequent hearing of this Court.

DD. Upon entry of this Sale Order, the Debtor shall have full power and authority to consummate the Sale contemplated by the APA. The APA and the Sale have been duly and validly authorized by all necessary action of the Debtor and no shareholder vote, board resolution or other corporate action is required of the Debtor for the Debtor to consummate such Sale or the other transactions contemplated in the APA.

EE. Cause has been shown as to why this Sale Order should not be subject to the stay provided by Bankruptcy Rules 6004 and 6006.

FF. The purchase of the Purchased Assets as a going concern, and the assumption of employee obligations as set forth in the APA, provides value to the Debtor's creditors and employees.

GG. The entry of this Sale Order is in the best interests of the Debtor, its creditors and estate, and other parties in interest.

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

1. The Motions, the APA, and the transactions contemplated thereby shall be, and hereby are, granted and approved in all respects as modified by this Sale Order.

2. The Debtor is authorized and directed to close, consummate and comply with the APA and all other agreements and documents related to and contemplated thereby (collectively,

the “Sale Documents”), which Sale Documents are authorized and approved in all respects, and to execute such other documents and take such other actions as are necessary or appropriate to effectuate the APA.

3. All objections and responses to the Motions are hereby resolved in accordance with the terms of this Sale Order and as set forth in the record at the Sale Hearing. To the extent such objections or responses were not otherwise overruled, withdrawn, waived, settled or resolved, they, and all reservations of rights included therein, are hereby overruled and denied.

4. The Purchaser’s offer for Purchased Assets, as embodied in its APA, is the highest or otherwise best offer for the Purchased Assets and is approved.

5. The Back-Up Bid shall be irrevocable until the earlier of: (i) 20 days after entry of this Order; (ii) the closing of the sale to the Purchaser; and (iii) such date as the Debtor affirms in writing that the Debtor does not intend to proceed with a sale to the Purchaser. Following entry of this Order, if the Purchaser fails to consummate the Sale in accordance with the terms of the APA, the Back-Up Bid will be deemed to be the new successful bid and the Debtor will be authorized, but not required, to consummate the Sale with the Back-Up Bidder without further order of Court. If the Purchaser fails to consummate the Sale in accordance with the terms of the APA for any reason, the Debtor shall retain the Successful Bidder’s Minimum Deposit as partial liquidated damages and maintain the right to pursue all other available remedies, whether legal or equitable.

6. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Sale of the Purchased Assets by the Debtor to the Purchaser, and the transactions related thereto, upon the Closing under the APA, are authorized and approved in all respects.

7. Subject to the payment of the consideration provided for in the APA to the Debtor

by the Purchaser pursuant to sections 363 and 365(a) of the Bankruptcy Code, the Sale of the Purchased Assets by the Debtor to the Purchaser shall constitute a legal, valid, and effective transfer of the Purchased Assets and shall vest the Purchaser with all right, title and interest of the Debtor in the Purchased Assets as set forth on Exhibit A free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights pursuant to section 363(f) of the Bankruptcy Code, effective as of the closing of the transaction under the APA.

8. To the greatest extent available under applicable law, the Purchaser shall be authorized, as of the Closing, to operate under any license, permit, registration and governmental authorization or approval of the Debtor with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, authorized to be transferred to the Purchaser as of the Closing Date. Pursuant to section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Purchased Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of this chapter 11 case or the consummation of the transaction contemplated by the APA.

9. Pursuant to section 363(f) of the Bankruptcy Code, the Sale of the Purchased Assets shall be free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (including any interests arising under section 365(h) of the Bankruptcy Code) and all liabilities of the Debtor whether known or unknown, including, but not limited to, Liens, Claims, encumbrances and interests asserted by any of the Debtor's creditors, vendors, suppliers, employees, executory contract counterparties, or lessors. The Purchaser shall not be liable in any way for any claims that any of the foregoing parties or any other third party may have against the Debtor. Any and all valid and enforceable Liens, Claims, encumbrances and interests on, against

or in the Purchased Assets, including those asserted by the Secured Lender, shall be transferred, affixed, and attached to the net proceeds of the Sale with the same validity, priority, force and effect such Liens, Claims, encumbrances and interests had on the Purchased Assets immediately prior to the Sale and subject to the rights, claims, defenses, and objections, if any, of the Debtor, the Official Committee of Unsecured Creditors, and all interested parties with respect to any such asserted Liens, Claims, encumbrances, interests, leaseholds and possessory rights.

10. The Sale of the Purchased Assets to the Purchaser shall vest the Purchaser with all the right, title and interest of the Debtor in and to the Purchased Assets free and clear of Liens, Claims, encumbrances, interests, leaseholds and possessory rights.

11. The Purchaser has not assumed or otherwise become obligated for any of the Debtor's liabilities other than as set forth in the APA, and the Purchaser has not purchased any of the "Excluded Assets," as defined in Section 1.2 of the APA.

12. Except for the "Assumed Liabilities" as defined and provided for in the APA, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, all persons and entities, including, without limitation, the Debtor, the Debtor's affiliates, all debt security holders, equity security holders, the Debtor's employees or former employees, governmental, tax, and regulatory authorities, lenders, parties to or beneficiaries under any benefit plan, trade and other creditors asserting or holding any Liens, Claims, encumbrances and interests, in or with respect to the Debtor or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtor, the Purchased Assets, the operation of the Debtor's business prior to the Closing date under the APA or the transfer of the Purchased Assets to the Purchaser (including any claim for any tax arising under a bulk sales or similar act), shall

be forever barred, estopped, and permanently enjoined from asserting, prosecuting or otherwise pursuing such Liens, Claims, encumbrances and interests against the Purchaser or any of its affiliates, successors or assigns thereof and each of their respective current and former members, officers, directors, managed funds, investment advisors, attorneys, employees, partners, affiliates and representatives (each of the foregoing in its individual capacity), or the Purchased Assets; including claims under section 365(n) of the Bankruptcy Code against the Purchaser with respect to the Purchased Assets. To avoid doubt, the foregoing shall not prevent the Debtor, its estate, successors, or permitted assigns from pursuing claims, if any, against the Purchaser and/or its successors and assigns in accordance with the terms of the APA.

13. If any person or entity that has filed any financing statement, mortgage, mechanics' lien, *lis pendens* or other document or instrument evidencing liens with respect to any of the Purchased Assets shall have failed to deliver to the Debtor, in proper form for filing and executed by the appropriate entity or entities, termination statements, instruments of satisfaction and releases of all Liens, Claims, encumbrances or interests which such person or entity has with respect to the Purchased Assets, then (a) the Debtor is authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity and (b) the Purchaser is authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all liens, claims, encumbrances, and interests in the Purchased Assets as of the Closing of the APA.

14. This Sale Order: (a) is and shall be effective as a determination that, upon Closing, Liens existing as to the Purchased Assets conveyed to the Purchaser have been and hereby are adjudged and declared to be unconditionally released, discharged and terminated; and

(b) is and shall be binding upon and govern the acts of all entities, including, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets conveyed to the Purchaser.

15. The provisions of this Sale Order authorizing the sale of the Purchased Assets free and clear of Liens, other than Assumed Liabilities, shall be self-executing, and neither the Debtor nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Sale Order. However, the Debtor and the Purchaser, and each of their respective officers, employees, and agents, are authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Debtor or the Purchaser deem necessary or appropriate to implement and effectuate the terms of the APA and this Sale Order.

16. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA and this Sale Order.

17. After the date of Closing of the APA, no person or entity, including, without limitation, any federal, state or local taxing authority, may: (a) attach or perfect liens or a security interest against any of the Purchased Assets on account of or (b) collect or attempt to collect from the Purchaser or any of its affiliates, any tax (or other amount alleged to be owing



by the Debtor) for any period commencing before and concluding prior to the date of Closing. Without limiting the generality of the foregoing, the Purchaser shall have no liability to the Illinois Department of Revenue, the Kansas Department of Revenue, the Ohio Department of Taxation for any tax liability incurred by the Debtor prior to the Closing of the transactions under the APA, or for any claim arising under any bulk sales act solely as a result of the Closing.

18. This Sale Order shall be binding upon and govern the acts of all entities, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons or entities who may be required by operation of law, the duties of their office or contract to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report to or insure title or state of title in or to any of the Purchased Assets.

19. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, all “persons” (as that term is defined in section 101(41) of the Bankruptcy Code) are hereby enjoined from taking any action against the Purchaser or its affiliates (as they existed immediately prior to the Closing) to recover any claim which such “person” has solely against the Debtor or the Debtor’s affiliates (as they exist immediately following such Closing).

20. The transactions contemplated under the APA do not amount to a consolidation, merger, or *de facto* merger of the Purchaser and the Debtor and/or the Debtor’s estate, there is not substantial continuity between any Purchaser and the Debtor, there is no continuity of enterprise between the Debtor and the Purchaser, the Purchaser is not a mere continuation of the Debtor or its estate, and the Purchaser does not constitute a successor to the Debtor or its estate. Other than the Assumed Liabilities under the APA, the Purchaser shall not assume, nor be

deemed to assume or in any way be responsible for any liability or obligation of any of the Debtor and/or its estate including, but not limited to, any bulk sales law, successor or transferee liability, liability or responsibility for any claim against the Debtor or against any insider of the Debtor or similar liability. The Motions and notice thereof contains sufficient notice of such limitation in accordance with the Bankruptcy Rules.

21. The Purchaser is a good faith purchaser entitled to the benefits and protections afforded by section 363(m) of the Bankruptcy Code; accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale of the Purchased Assets shall not affect the validity of the Sale of the Purchased Assets to the Purchaser.

22. The consideration provided by the Purchaser for the Purchased Assets under the APA is fair and reasonable, and shall be deemed for all purposes to constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law, and the Sale may not be avoided under section 363(n) of the Bankruptcy Code.

23. With respect to the transactions consummated pursuant to this Sale Order, this Sale Order shall be sole and sufficient evidence of the transfer of title to the Purchaser, and the Sale consummated pursuant to this Sale Order shall be binding upon and shall govern the acts of all persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the property sold pursuant to this Sale Order, including without limitation, all foreign affiliates and foreign receivers, filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state, and local officials, and each of such persons and entities is hereby directed to

accept this Sale Order as sole and sufficient evidence of such transfer of title and shall rely upon this Sale Order in consummating the transactions contemplated hereby.

24. This Court shall retain exclusive jurisdiction to interpret and enforce the provisions of the APA, the Sales Procedures Order, and this Sale Order in all respects and further to hear and determine any and all disputes between the Debtor and the Purchaser; *provided, however*, that in the event the Court abstains from exercising or declines to exercise such jurisdiction or is without jurisdiction with respect to the APA, the Sales Procedures Order, and this Sale Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon, and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

25. The APA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by such parties, in accordance with the terms thereof without further order of the Court.

26. From and after the date hereof, the Debtor shall act in accordance with the terms of the APA and the Debtor, to the extent it already has not done so, shall execute any Sale Document at or prior to Closing.

27. To the extent of any inconsistency between the provisions of this Sale Order and the APA, or any documents executed in connection therewith, the provisions contained in this Sale Order shall govern.

28. The provisions of this Sale Order are nonseverable and mutually dependent.

29. This Sale Order shall inure to the benefit of the Purchaser, the Debtor, and their respective successors and assigns, including, but not limited to, any chapter 11 or chapter 7 trustee that may be appointed in the Debtor's case and shall be binding upon any trustee, party,

entity or fiduciary that may be appointed in connection with this chapter case or any other or further case involving the Debtor, whether under chapter 7 or chapter 11 of the Bankruptcy Code.

30. Nothing in any order of this Court or contained in any plan of reorganization or liquidation confirmed in this chapter 11 case, or in any subsequent or converted case of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with or derogate from the provisions of the APA or the terms of this Sale Order. The provisions of this Sale Order and any actions taken pursuant hereto shall survive the entry of any order which may be entered confirming any chapter 11 plan of the Debtor, converting the Debtor's case from chapter 11 to a case under chapter 7 of the Bankruptcy Code, or dismissing the Debtor's chapter 11 case.

31. The transactions contemplated by the APA shall be exempt from any so- called "bulk-sale" law in all necessary jurisdictions arising as a result of or in connection with the Debtor's Sale and transfer of the Purchased Assets to the Purchaser.

32. The Purchaser shall identify the Assigned Contracts under the APA on or before March 2, 2016 and the Debtor shall notify the non-Debtor parties to those contracts at that time.

33. The matter is set for hearing on March 8, 2016 at 10:30 a.m. for consideration of the assumption and assignment of the Assigned Contracts under the APA. Notwithstanding anything to the contrary in this Order, Gerdes Family LLC's limited objection to the Debtor's assumption of its lease is entered and continued for hearing on March 8, 2016.

ENTER:

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HON JANET S. BAER  
UNITED STATES BANKRUPTCY JUDGE

Dated: February 23, 2016  
Chicago, Illinois

Prepared by:

**PERKINS COIE LLP**

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*Counsel for the Debtor*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Chapter 11
	)	Case No. 15-35358
LB STEEL, LLC,	)	
	)	Honorable Janet S. Baer
Debtor.	)	

**ORDER (I) AUTHORIZING AND APPROVING THE SALE OF THE DEBTOR'S  
ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,  
AND INTERESTS, (II) AUTHORIZING AND APPROVING ASSET PURCHASE  
AGREEMENT, AND (III) SETTING DATE FOR THE AUTHORIZATION AND  
APPROVAL OF THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY  
CONTRACTS**

Upon consideration of the motions (the "Motions") dated November 2, 2015 [*Docket No.* 75] and December 30, 2015 [*Docket No. 160*] of the Debtor, pursuant to sections 363, 365, 503, 1146 and 105(a) of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure; the Debtor having conducted an auction for the sale of substantially all of its assets on February 22, 2016 (the "Auction"); LB Metals, LLC (the "Purchaser")<sup>1</sup> having submitted the highest or otherwise best offer for the assets of the estate; the Court having conducted the Sale Hearing on February 23, 2016, to consider the approval of the Sale and related transactions pursuant to the terms of the Asset Purchase Agreement (the "APA"),<sup>2</sup> substantially in the form annexed to this Sale Order as Exhibit A, between the Debtor and the Purchaser; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the approval of the Motions and the contemplated transactions; and the Court having reviewed and considered the Motions and any objections, and the arguments of counsel and the other evidence adduced; and upon the record of the Sale Hearing and the full record of

<sup>1</sup> "Purchaser" shall include LB Metals, LLC or its designee.

<sup>2</sup> Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the APA.

this case, including the record established at the Auction and filed with the Court; and it appearing that the relief requested in the Motions is in the best interests of the Debtor, its creditors and estate and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby:

**FOUND AND DETERMINED THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. This Court has jurisdiction over the Motions and the transactions contemplated by the APA pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue in this District is proper under 28 U.S.C. §§ 1408 and 1409.

C. Good and sufficient notice of the Motions and the relief sought therein has been given to all interested persons and entities, including, without limitation, (i) all entities that claim any interest in or lien on the Purchased Assets, including without limitation, MB Financial Bank, N.A. [\(the "Secured Lender"\)](#); (ii) all parties to Assigned Contracts that may be assumed and assigned pursuant to this Sale Order; (iii) all governmental taxing authorities that have, or as a result of the sale of the Purchased Assets may have, claims, contingent or otherwise, against the Debtor; (iv) all parties that filed requests for notices under Bankruptcy Rule 9010(b) or were entitled to notice under Bankruptcy Rule 2002; (v) all creditors (whether liquidated, contingent or unmatured) of the Debtor; (vi) all interested governmental entities; (vii) parties expressing an interest in the Purchased Assets; (viii) the Office of the United States Trustee and (ix) the Official Committee of Unsecured Creditors, and no other or further notice is required.

D. A sound business purpose justifies the Sale of the Purchased Assets outside of the ordinary course of business.

E. An Amended Order (i) Approving Bidding Procedures in Connection with the Sale of All or Substantially All Assets of the Debtor; (ii) Scheduling an Auction and Hearing to Consider the Sale of Assets, and (iii) Approving the Form and Manner of Notice of the Sale (the “Sales Procedure Order”) was entered on January 5, 2016 [*Docket No. 208*], approving, among other things, the sale procedures attached thereto as Schedule 1. The Sale Procedures Order, among other things, established procedures for submitting bids on the Debtor’s assets, set February 17, 2016 as the deadline for submitting bids, set February 22, 2016 as the auction date, and set a hearing to approve the sale to successful bidders on February 23, 2016.

F. On November 18, 2015, in accordance with the Sale Procedures Order, the Debtor served a Notice of Potential Assumption and Assignment of Leases and Executory Contracts (the “Cure Notice”) on counterparties to certain executory contracts and unexpired leases of non-residential real property [*see Docket No. 146*], notifying such parties (the “Executory Contract Parties”) of the entry of the Sale Procedures Order, the potential assumption and assignment of their contracts and leases with the Debtor in connection with the Sale, and the amounts, if any, the Debtor would have to pay to cure any then existing defaults. The Debtor received objections from MZG Associates LLC and Goich Real Estate LLC (the “Objecting Parties”) as to the cure cost on their leases. At the Sale, the Objecting Parties on the record withdrew their objections as to the cure cost for their leases and agreed to accept the cure costs stated in the Cure Notice.

G. The Debtor provided sufficient notice of the entry of the Sale Procedures Order and Notice of Auction to all parties in interest in this chapter 11 case, as set forth in the affidavits



of service at Docket Nos. 76, 160. The Debtor also published the Notice of Auction in the Chicago Tribune [*see Docket No. 211*].

H. The Debtor received five bids on the Bid Deadline, each for varying portions of or substantially all of the Debtor's assets. Four of the bids were subsequently qualified.

I. On January 11, 2016, Everflow Eastern, Inc. filed a Precautionary Limited Objection to the sale [*Docket No. 176*], which objection was amended on February 8, 2016 [*Docket No. 207*].

J. On February 18, 2016, pursuant to the Sale Procedure Order, the Debtor served notice of the identities of the bidders for the bids that the Debtor had received by the Bid Deadline [*see Docket No. 212*]. On February 22, 2016, one of the Executory Contract Parties, Gerdes Family LLC, filed a limited objection [*Docket No. 214*] stating that it lacked sufficient information about the winning bidder at the Sale, the identity of which had not been determined at the time of the filing of the objection, and that thus Gerdes Family LLC had not been provided with adequate assurance of performance by the winning bidder.

K. On February 22, 2016, the Debtor conducted the Auction. As set forth in the Auction Transcript, the Purchased Assets were subject to competitive bidding from qualified bidders. The highest and best bid was made by the Purchaser. The Armor Group, Inc. (the "Back-Up Bidder") submitted the next highest qualified bid (the "Back-Up Bid") for the Purchased Assets at the Sale.

L. The consideration to be provided by the Purchaser: (i) is fair and reasonable; (ii) is the highest or otherwise best offer for the Purchased Assets identified in the APA; and (iii) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and the Uniform Fraudulent Conveyance Act (7A part II, U.L.A. 2 (1999)) or the Uniform Fraudulent

Transfer Act (7A part II, U.L.A. 66 (1999)) or any similar laws of any state or other jurisdiction whose law is applicable to the contemplated transactions; and (v) will provide a greater recovery for the Debtor's creditors and other interested parties than would be provided by any other practically available alternative. In reaching this determination, the Court has taken into account both the consideration to be realized directly by the Debtor, including the assumption of claims against the Debtor's estate, and the indirect benefits of such Sale for the Debtor's vendors and suppliers, employees, relevant governmental and taxing authorities and the public served, directly and indirectly, by the Debtor's business.

M. Consummation of the Sale contemplated by the APA will provide the highest and otherwise best value for the Purchased Assets and is in the best interests of the Debtor, its creditors and estate.

N. Entry into the APA and consummation of the transactions contemplated thereby constitute the exercise of the Debtor's sound business judgment and fiduciary duties and such acts are in the best interests of the Debtor, its creditors and estate.

O. The transactions contemplated by the APA are undertaken by the Debtor and the Purchaser at arms' length, without collusion and in good faith within the meaning of section 363(m) of the Bankruptcy Code. The Purchaser is a good faith purchaser under section 363(m) of the Bankruptcy Code and as such, is entitled to all of the protections afforded thereby and otherwise has proceeded in good faith in all respects in connection with this proceeding in that: (a) the Purchaser recognized that the Debtor was free to deal with any other party interested in acquiring the Purchased Assets; (b) the Purchaser did not in any way induce or cause the chapter 11 filing of the Debtor; (c) based on the Auction Transcript, the Purchaser made the highest or otherwise best bid for the Purchased Assets after competitive bidding with the other arms'-length

bidders; and (d) the negotiation and execution of the APA and any other agreements or instruments related thereto was in good faith and an arms'-length transaction between the Purchaser and the Debtor.

P. The Debtor and the Purchaser have not engaged in any conduct that would permit the APA or the Sale to be avoided under section 363(n) of the Bankruptcy Code.

Q. The APA was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession or the District of Columbia.

R. The Purchaser is not an "insider" of the Debtor, as that term is defined in section 101(31) of the Bankruptcy Code.

S. The Debtor is the sole and lawful owner of the Purchased Assets, and holds good title thereto, immediately prior to the Closing. Except as permitted under the express terms of the APA, the consummation of the Sale pursuant to the APA will be a legal, valid and effective Sale of the Purchased Assets and will vest the Purchaser (and its designees or assignees, as applicable) with all right, title, and interest of the Debtor and its estate in and to the Purchased Assets subject to the APA free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts), including, without limitation, any such Liens, Claims, encumbrances and interests (i) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of Debtor's, the Debtor's estate's or the Purchaser's interest in such Purchased Assets, or any similar rights, or (ii) relating to taxes or any other liabilities, arising under or out of, in connection with, or in any way relating to, the Purchased Assets, the Debtor, the Debtor's estate, or its operations or activities prior to the Closing Date. Without limiting the generality of the

foregoing, the Purchaser shall not have any liability as a successor to the Debtor for any tax or other obligations of the Debtor to the Illinois Department of Revenue, the Kansas Department of Revenue or the Ohio Department of Taxation, including those arising pursuant to any bulk sales act.

T. A Sale of the Purchased Assets other than free and clear of Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts) would be of substantially less benefit to and would adversely affect the Debtor's estate. The sale of the Purchased Assets outside of a plan of reorganization pursuant to the APA neither impermissibly restructures the rights of the Debtor's creditors nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtor.

U. Based upon the representations of the Debtor, the Purchased Assets constitute property of the Debtor's estate and title thereto is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code. Based upon the representations of the Debtor, the Debtor has all right, title and interest in, to and under the Purchased Assets to transfer and convey the Purchased Assets as contemplated by the APA.

V. With respect to all parties asserting Liens, Claims, encumbrances and interests in, to, or against the Purchased Assets, the Sale complies with all the requirements of section 363(f) of the Bankruptcy Code. With respect to each interest in the Purchased Assets: (a) applicable non-bankruptcy law permits the sale free and clear of such interest (including any interest arising under section 365(h) of the Bankruptcy Code); (b) the holder of such interest consents to the Sale; (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 the Purchased Assets; (d) such interest is in bona fide dispute; or (e) the holder of such interest could be compelled, in a legal or equitable proceeding, to accept

a money satisfaction of such interest. Specifically, ~~MB Financial, N.A.~~ the Secured Lender and any other known creditors having Liens on the Purchased Assets have thoroughly reviewed the Debtor's alternatives and have consented to the Sale pursuant to section 363 of the Bankruptcy Code or their objections have been overruled.

W. The Liens of all creditors, including ~~MB Financial Bank, N.A.~~ the Secured Lender, on the Purchased Assets, if any, shall attach to the proceeds of the Sale to the same extent and with the same priority as the liens they now hold against the Purchased Assets. These funds shall be on the order of adequate protection and shall constitute neither the allowance of the claims of such creditors, nor a cap on the amounts they may be entitled to receive. Furthermore, the Claims and Liens of the creditors, if any, shall remain subject to any objections any party would otherwise be entitled to raise as to the priority, validity or extent of such liens. The Debtor is authorized to pay proceeds of the Sale to the Secured Lender upon the closing of the Sale (the "Secured Lender Payment") to satisfy the Secured Lender's claim. All other Sale proceeds may be distributed upon agreement between the Debtor and the Official Committee of Unsecured Creditors and the respective creditor asserting a lien, or by subsequent order of the Court. This Order does not constitute a determination of whether, and to what extent, the claim of the Secured Lender may be allowed, and this Order is without prejudice to any lawful objections asserted against the Secured Lender's claim, including without limitation the Limited Objection of the Official Committee of Unsecured Creditors to the Validity, Enforceability, Priority, and Perfection of MB Financial Bank, N.A.'s Loan Documents filed on January, 29, 2016 [Docket No. 200], and the Secured Lender's defense of its claim. This Order shall not affect the Secured Lender's liens, if any, on assets of the Debtor's estate that are not Purchased Assets.

X. All parties with Liens, Claims, encumbrances, interests, leaseholds and possessory

rights in or against the Purchased Assets identified to be sold under the APA, if any, who did not object to the Motions and the relief requested therein, who did not request adequate protection of any possessory right, or who withdrew their objections to the Motions, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code; and all parties with Liens, Claims, encumbrances and interests against the Purchased Assets who objected to the Motions, but who did not withdraw any such objection, can be compelled to accept a monetary satisfaction of their Liens, Claims, encumbrances and interests within the meaning of section 363(f)(5) of the Bankruptcy Code, and in each case, are enjoined from taking any action against the Purchaser, its affiliates or any agent of the foregoing to recover any claim which such person or entity has solely against the Debtor, or any of its affiliates.

Y. Upon the consummation of the Sale of the Purchased Assets, (a) the Purchaser shall not be, as a result of the purchase of the Purchased Assets or otherwise, considered to have continued the business operations associated with the Purchased Assets without interruption or substantial change, and (b) substantial continuity in the operation of Debtor's business before and after the purchase of the Purchased Assets shall not be considered to exist.

Z. By virtue of the APA or otherwise, the Purchaser will not acquire any liabilities of the Debtor, other than the Assumed Liabilities as set forth in Section 1.3 of the APA.

AA. Without limiting the generality of the foregoing, other than the Assumed Liabilities, the Purchaser would not have entered into the APA and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtor, its estate and creditors, if the Sale of the Purchased Assets and the assignment of the Assigned Contracts was not free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (other than with respect to Assigned Contracts) of any kind or nature whatsoever, other than the Assumed

Liabilities, or if the Purchaser would or in the future could, be liable for any Liens, Claims, encumbrances and interests, other than the Assumed Liabilities.

BB. The legal and factual bases set forth in the Motions and at the Sale Hearing establish just cause for the relief granted herein.

CC. The Debtor shall seek to assume and assign any Assigned Contracts at a subsequent hearing of this Court.

DD. Upon entry of this Sale Order, the Debtor shall have full power and authority to consummate the Sale contemplated by the APA. The APA and the Sale have been duly and validly authorized by all necessary action of the Debtor and no shareholder vote, board resolution or other corporate action is required of the Debtor for the Debtor to consummate such Sale or the other transactions contemplated in the APA.

EE. Cause has been shown as to why this Sale Order should not be subject to the stay provided by Bankruptcy Rules 6004 and 6006.

FF. The purchase of the Purchased Assets as a going concern, and the assumption of employee obligations as set forth in the APA, provides value to the Debtor's creditors and employees.

GG. The entry of this Sale Order is in the best interests of the Debtor, its creditors and estate, and other parties in interest.

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

1. The Motions, the APA, and the transactions contemplated thereby shall be, and hereby are, granted and approved in all respects as modified by this Sale Order.

2. The Debtor is authorized and directed to close, consummate and comply with the APA and all other agreements and documents related to and contemplated thereby (collectively,

the “Sale Documents”), which Sale Documents are authorized and approved in all respects, and to execute such other documents and take such other actions as are necessary or appropriate to effectuate the APA.

3. All objections and responses to the Motions are hereby resolved in accordance with the terms of this Sale Order and as set forth in the record at the Sale Hearing. To the extent such objections or responses were not otherwise overruled, withdrawn, waived, settled or resolved, they, and all reservations of rights included therein, are hereby overruled and denied.

4. The Purchaser’s offer for Purchased Assets, as embodied in its APA, is the highest or otherwise best offer for the Purchased Assets and is approved.

5. The ~~bid of the~~ Back-Up Bidder shall be irrevocable until the earlier of: (i) 20 days after entry of ~~the Sale~~this Order ~~approving the Successful Bid~~; (ii) the closing of the sale to the Purchaser; and (iii) such date as the Debtor affirms in writing that the Debtor does not intend to proceed with a sale to the Purchaser. Following entry of this Order, if the Purchaser fails to consummate the Sale ~~because of a breach or failure to perform on the part of the Purchaser~~in accordance with the terms of the APA, the Back-Up Bid will be deemed to be the new successful bid and the Debtor will be authorized, but not required, to consummate the Sale with the Back-Up Bidder without further order of Court. ~~In such case, the Purchaser~~If the Purchaser fails to consummate the Sale in accordance with the terms of the APA for any reason, the Debtor shall retain the Successful Bidder’s Minimum Deposit ~~(as defined in the Sales Procedure Order) shall be forfeited to the Debtor and the Debtor shall have the right to seek any and~~as partial liquidated damages and maintain the right to pursue all other available remedies ~~and damages from the Purchaser, whether legal or equitable.~~

6. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Sale of the



Purchased Assets by the Debtor to the Purchaser, and the transactions related thereto, upon the Closing under the APA, are authorized and approved in all respects.

7. Subject to the payment of the consideration provided for in the APA to the Debtor by the Purchaser pursuant to sections 363 and 365(a) of the Bankruptcy Code, the Sale of the Purchased Assets by the Debtor to the Purchaser shall constitute a legal, valid, and effective transfer of the Purchased Assets and shall vest the Purchaser with all right, title and interest of the Debtor in the Purchased Assets as set forth on Exhibit A free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights pursuant to section 363(f) of the Bankruptcy Code, effective as of the closing of the transaction under the APA.

8. To the greatest extent available under applicable law, the Purchaser shall be authorized, as of the Closing, to operate under any license, permit, registration and governmental authorization or approval of the Debtor with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, authorized to be transferred to the Purchaser as of the Closing Date. Pursuant to section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Purchased Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of this chapter 11 case or the consummation of the transaction contemplated by the APA.

9. Pursuant to section 363(f) of the Bankruptcy Code, the Sale of the Purchased Assets shall be free and clear of all Liens, Claims, encumbrances, interests, leaseholds and possessory rights (including any interests arising under section 365(h) of the Bankruptcy Code) and all liabilities of the Debtor whether known or unknown, including, but not limited to, Liens, Claims, encumbrances and interests asserted by any of the Debtor's creditors, vendors, suppliers,

employees, executory contract counterparties, or lessors. The Purchaser shall not be liable in any way for any claims that any of the foregoing parties or any other third party may have against the Debtor. Any and all valid and enforceable Liens, Claims, encumbrances and interests on, against or in the Purchased Assets, including those asserted by ~~MB Financial, N.A.~~ the Secured Lender, shall be transferred, affixed, and attached to the net proceeds of the Sale with the same validity, priority, force and effect such Liens, Claims, encumbrances and interests had on the Purchased Assets immediately prior to the Sale and subject to the rights, claims, defenses, and objections, if any, of the Debtor, the Official Committee of Unsecured Creditors, and all interested parties with respect to any such asserted Liens, Claims, encumbrances, interests, leaseholds and possessory rights.

10. The Sale of the Purchased Assets to the Purchaser shall vest the Purchaser with all the right, title and interest of the Debtor in and to the Purchased Assets free and clear of Liens, Claims, encumbrances, interests, leaseholds and possessory rights.

11. The Purchaser has not assumed or otherwise become obligated for any of the Debtor's liabilities other than as set forth in the APA, and the Purchaser has not purchased any of the "Excluded Assets," as defined in Section 1.2 of the APA.

12. Except for the "Assumed Liabilities" as defined and provided for in the APA, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, all persons and entities, including, without limitation, the Debtor, the Debtor's affiliates, all debt security holders, equity security holders, the Debtor's employees or former employees, governmental, tax, and regulatory authorities, lenders, parties to or beneficiaries under any benefit plan, trade and other creditors asserting or holding any Liens, Claims, encumbrances and interests, in or with respect to the Debtor or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or

unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtor, the Purchased Assets, the operation of the Debtor's business prior to the Closing date under the APA or the transfer of the Purchased Assets to the Purchaser (including any claim for any tax arising under a bulk sales or similar act), shall be forever barred, estopped, and permanently enjoined from asserting, prosecuting or otherwise pursuing such Liens, Claims, encumbrances and interests against the Purchaser or any of its affiliates, successors or assigns thereof and each of their respective current and former members, officers, directors, managed funds, investment advisors, attorneys, employees, partners, affiliates and representatives (each of the foregoing in its individual capacity), or the Purchased Assets; including claims under section 365(n) of the Bankruptcy Code against the Purchaser with respect to the Purchased Assets. To avoid doubt, the foregoing shall not prevent the Debtor, its estate, successors, or permitted assigns from pursuing claims, if any, against the Purchaser and/or its successors and assigns in accordance with the terms of the APA.

13. If any person or entity that has filed any financing statement, mortgage, mechanics' lien, *lis pendens* or other document or instrument evidencing liens with respect to any of the Purchased Assets shall have failed to deliver to the Debtor, in proper form for filing and executed by the appropriate entity or entities, termination statements, instruments of satisfaction and releases of all Liens, Claims, encumbrances or interests which such person or entity has with respect to the Purchased Assets, then (a) the Debtor is authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity and (b) the Purchaser is authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all liens, claims, encumbrances, and interests in the Purchased Assets as of the

Closing of the APA.

14. This Sale Order: (a) is and shall be effective as a determination that, upon Closing, Liens existing as to the Purchased Assets conveyed to the Purchaser have been and hereby are adjudged and declared to be unconditionally released, discharged and terminated; and (b) is and shall be binding upon and govern the acts of all entities, including, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets conveyed to the Purchaser.

15. The provisions of this Sale Order authorizing the sale of the Purchased Assets free and clear of Liens, other than Assumed Liabilities, shall be self-executing, and neither the Debtor nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Sale Order. However, the Debtor and the Purchaser, and each of their respective officers, employees, and agents, are authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Debtor or the Purchaser deem necessary or appropriate to implement and effectuate the terms of the APA and this Sale Order.

16. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA and this Sale Order.

17. After the date of Closing of the APA, no person or entity, including, without limitation, any federal, state or local taxing authority, may: (a) attach or perfect liens or a security interest against any of the Purchased Assets on account of or (b) collect or attempt to collect from the Purchaser or any of its affiliates, any tax (or other amount alleged to be owing by the Debtor) for any period commencing before and concluding prior to the date of Closing. Without limiting the generality of the foregoing, the Purchaser shall have no liability to the Illinois Department of Revenue, the Kansas Department of Revenue, the Ohio Department of Taxation for any tax liability incurred by the Debtor prior to the Closing of the transactions under the APA, or for any claim arising under any bulk sales act solely as a result of the Closing.

18. This Sale Order shall be binding upon and govern the acts of all entities, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons or entities who may be required by operation of law, the duties of their office or contract to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report to or insure title or state of title in or to any of the Purchased Assets.

19. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, all “persons” (as that term is defined in section 101(41) of the Bankruptcy Code) are hereby enjoined from taking any action against the Purchaser or its affiliates (as they existed immediately prior to the Closing) to recover any claim which such “person” has solely against the Debtor or the Debtor’s affiliates (as they exist immediately following such Closing).

20. The transactions contemplated under the APA do not amount to a consolidation, merger, or *de facto* merger of the Purchaser and the Debtor and/or the Debtor’s estate, there is

not substantial continuity between any Purchaser and the Debtor, there is no continuity of enterprise between the Debtor and the Purchaser, the Purchaser is not a mere continuation of the Debtor or its estate, and the Purchaser does not constitute a successor to the Debtor or its estate. Other than the Assumed Liabilities under the APA, the Purchaser shall not assume, nor be deemed to assume or in any way be responsible for any liability or obligation of any of the Debtor and/or its estate including, but not limited to, any bulk sales law, successor or transferee liability, liability or responsibility for any claim against the Debtor or against any insider of the Debtor or similar liability. The Motions and notice thereof contains sufficient notice of such limitation in accordance with the Bankruptcy Rules.

21. The Purchaser is a good faith purchaser entitled to the benefits and protections afforded by section 363(m) of the Bankruptcy Code; accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale of the Purchased Assets shall not affect the validity of the Sale of the Purchased Assets to the Purchaser.

22. The consideration provided by the Purchaser for the Purchased Assets under the APA is fair and reasonable, and shall be deemed for all purposes to constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law, and the Sale may not be avoided under section 363(n) of the Bankruptcy Code.

23. With respect to the transactions consummated pursuant to this Sale Order, this Sale Order shall be sole and sufficient evidence of the transfer of title to the Purchaser, and the Sale consummated pursuant to this Sale Order shall be binding upon and shall govern the acts of all persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the property sold

pursuant to this Sale Order, including without limitation, all foreign affiliates and foreign receivers, filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state, and local officials, and each of such persons and entities is hereby directed to accept this Sale Order as sole and sufficient evidence of such transfer of title and shall rely upon this Sale Order in consummating the transactions contemplated hereby.

24. This Court shall retain exclusive jurisdiction to interpret and enforce the provisions of the APA, the Sales Procedures Order, and this Sale Order in all respects and further to hear and determine any and all disputes between the Debtor and the Purchaser; *provided, however*, that in the event the Court abstains from exercising or declines to exercise such jurisdiction or is without jurisdiction with respect to the APA, the Sales Procedures Order, and this Sale Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon, and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

25. The APA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by such parties, in accordance with the terms thereof without further order of the Court.

26. From and after the date hereof, the Debtor shall act in accordance with the terms of the APA and the Debtor, to the extent it already has not done so, shall execute any Sale Document at or prior to Closing.

27. To the extent of any inconsistency between the provisions of this Sale Order and the APA, or any documents executed in connection therewith, the provisions contained in this Sale Order shall govern.

28. The provisions of this Sale Order are nonseverable and mutually dependent.

29. This Sale Order shall inure to the benefit of the Purchaser, the Debtor, and their respective successors and assigns, including, but not limited to, any chapter 11 or chapter 7 trustee that may be appointed in the Debtor's case and shall be binding upon any trustee, party, entity or fiduciary that may be appointed in connection with this chapter case or any other or further case involving the Debtor, whether under chapter 7 or chapter 11 of the Bankruptcy Code.

30. Nothing in any order of this Court or contained in any plan of reorganization or liquidation confirmed in this chapter 11 case, or in any subsequent or converted case of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with or derogate from the provisions of the APA or the terms of this Sale Order. The provisions of this Sale Order and any actions taken pursuant hereto shall survive the entry of any order which may be entered confirming any chapter 11 plan of the Debtor, converting the Debtor's case from chapter 11 to a case under chapter 7 of the Bankruptcy Code, or dismissing the Debtor's chapter 11 case.

31. The transactions contemplated by the APA shall be exempt from any so-called "bulk-sale" law in all necessary jurisdictions arising as a result of or in connection with the Debtor's Sale and transfer of the Purchased Assets to the Purchaser.

32. The Purchaser shall identify the Assigned Contracts under the APA on or before March 2, 2016 and the Debtor shall notify the non-Debtor parties to those contracts at that time.

33. The matter is set for hearing on March 8, 2016 at 10:30 a.m. for consideration of the assumption and assignment of the Assigned Contracts under the APA. Notwithstanding anything to the contrary in this Order, Gerdes Family LLC's limited objection to the Debtor's assumption of its lease is entered and continued for hearing on March 8, 2016.

ENTER:



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HON JANET S. BAER  
UNITED STATES BANKRUPTCY JUDGE

Dated: February 23, 2016  
Chicago, Illinois

Prepared by:

**PERKINS COIE LLP**

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