

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

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 16-10527 (MFW)

Jointly Administered

Proposed Hearing Date:
April 5, 2016 at 1:00 p.m. (ET)

Proposed Objection Deadline:
At the Hearing

**DEBTORS’ MOTION FOR AN ORDER, PURSUANT TO SECTION 105(a) OF THE
BANKRUPTCY CODE AND BANKRUPTCY RULE 9019, APPROVING THE
SETTLEMENT AGREEMENT BETWEEN THE DEBTORS AND CERTAIN
CONSIGNMENT VENDORS PARTY THERETO**

Sports Authority Holdings, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors,” and each individually, a “Debtor”) in the above-captioned cases (the “Chapter 11 Cases”) hereby move this Court (this “Motion”) for entry of an order substantially in the form attached hereto as Exhibit A (the “9019 Order”), pursuant to section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving the settlement of (i) certain claims asserted by Debtor TSA Stores, Inc. against the Consenting Vendors (as defined below) and (ii) certain objections filed by the Consenting Vendors related to the Prepetition PBS Goods (as defined below) (collectively, the “Disputes”). In support of this Motion, the Debtors respectfully represent as follows:

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.



JURISDICTION

1. This Court has jurisdiction to consider 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. This is a core proceeding under 28 U.S.C. § 157(b) and venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019.

PRELIMINARY STATEMENT

3. The Settlement Agreement (as defined below) is the result of extensive negotiations by and between the Debtors and the Consenting Vendors, and, among other things, (i) paves a clear path for resolving all disputes with respect to the Consenting Vendors pertaining to the sale of such Consenting Vendors' respective Prepetition PBS Goods and Postpetition PBS Goods (as defined below), as well as related issues implicating ownership and title thereof; (ii) clears the litigious cloud that has burdened these Chapter 11 Cases since the Petition Date (as defined below), and, as a consequence thereof, renders moot a significant number of complaints and pending adversary proceedings filed against each of the Consenting Vendors; (iii) resolves the interrelated objections filed by the Consenting Vendors to the Debtors' pending motions seeking approval of postpetition financing, bid procedures and the Debtors' store closing plan, respectively; and (iv) facilitates and re-establishes advantageous and cooperative business relationships between the Debtors and the Consenting Vendors on a go-forward basis.

4. In this respect, the Vendor Settlement (as defined below), if approved, will allow the Debtors to resume their ordinary course business operations, continue to sell merchandise on hand and restock with new merchandise, generate significant returns for the Debtors' estates and stakeholders, and foster important vendor relationships that should improve value in the context

of these Chapter 11 Cases. Importantly, the Vendor Settlement provides the Debtors and the Consenting Vendors a path forward, enabling the Debtors to finally shift their attention from the Disputes (which have monopolized a material portion the Debtors' attention since the Petition Date) and back to the business of operating their sporting good stores, and providing the PBS Vendors with the compromise deal and the assurances they need to resume deliveries to the Debtors of the fresh inventory that is essential to the Debtors' go-forward business and the sale or reorganization of the Debtors' business.

5. In addition, the Vendor Settlements executed as of the date hereof will increase the Debtors' liquidity materially. Pursuant to the Vendor Settlements, the Consenting Vendors have agreed to reallocate to the Debtors 40 percent of the Consenting Vendors' proceeds arising from the sale of the Prepetition PBS Goods. In addition, the Consenting Vendors have also agreed to ship more goods in the ordinary course of business, which will help enable the Debtors to remain in compliance with their DIP financing budget. In addition, the implementation of the Vendor Settlements will cut the professional fee burn associated with the material contested matters arising from the Disputes.

6. For the reasons outlined herein, the Debtors believe that the Vendor Settlement is not only in the best interests of the Debtors' estates, but also represents a pivotal shift in the course of these Chapter 11 Cases, and should therefore be approved.

SUMMARY OF VENDOR SETTLEMENT

7. The Debtors hereby seek approval of the form of settlement agreement attached hereto as Exhibit B (the "Settlement Agreement") to be entered into by and among TSA Stores, Inc. and each PBS Vendor (as defined below) that has delivered to the Debtors an executed Settlement Agreement as of the date hereof and is listed on Schedule A hereto (collectively, the "Initial Consenting Vendors," and each individually, an "Initial Consenting Vendor"). Prior to

the hearing on this Motion (the “9019 Hearing”), any other PBS Vendor has the option to deliver to the Debtors an executed Settlement Agreement (collectively, the “Additional Consenting Vendors,” and each individually, an “Additional Consenting Vendor,” and collectively with the Initial Consenting Vendors, the “Consenting Vendors,” and each individually, a “Consenting Vendor”).² The Settlement Agreements with each of the Consenting Agreements are collectively referred to herein as the “Vendor Settlement.”

8. Following the 9019 Hearing, any other PBS Vendor has the option to deliver to the Debtors an executed Settlement Agreement no later than fourteen (14) days following the entry of the 9019 Order (collectively, the “Subsequent Consenting Vendors,” and each individually, a “Subsequent Consenting Vendor”). Upon timely delivery of such Settlement Agreement by a Subsequent Consenting Vendor, such agreement shall also be deemed approved pursuant to, and shall also be subject to, the 9019 Order.

BACKGROUND

9. On March 2, 2016 (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession. On March 10, 2016, the Office of the United States Trustee for the District of Delaware appointed the Official Committee of Unsecured Creditors (the “Committee”) in connection with the Chapter 11 Cases [Docket No. 262].

10. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of the Chapter 11 Cases is set forth in detail in the *Declaration of Jeremy Aguilar in Support of the Debtors’*

² The Debtors will amend Schedule A as needed in advance of the 9019 Hearing to include any Additional Consenting Vendors.

Chapter 11 Petitions and Requests for First Day Relief [Docket No. 22], which is fully incorporated herein by reference.

**THE SETTLEMENT AGREEMENT
AND BACKGROUND RELATED THERETO**

A. The Consigned Goods Motion

11. On the Petition Date, the Debtors filed the *Debtors' Motion for Interim and Final Orders (a) Authorizing the Debtors to (i) Continue to Sell Consigned Goods in the Ordinary Course of Business Free and Clear of All Liens, Claims and Encumbrances and (ii) Grant Administrative Expense Priority to Consignment Vendors for Consigned Goods Delivered Postpetition; and (b) Grant Replacement Liens to Consignment Vendors with Perfected Security Interests in Consigned Goods and/or Remit the Consignment Sale Price Arising from Sale of Consigned Goods to Putative Consignment Vendors* [Docket No. 9] (the "Consigned Goods Motion"), and as outlined therein, a significant portion of the Debtors' business involves the sale of a wide range of popular goods (collectively, the "Prepetition PBS Goods") delivered to the Debtors from various vendors (collectively, the "PBS Vendors" and each individually, a "PBS Vendor") pursuant to pay-by-scan ("PBS") vendor agreements executed prior to the Petition Date by Debtor TSA Stores, Inc. ("TSA") and each PBS Vendor and the prepetition contracts between TSA and each respective PBS Vendor (collectively, the "PBS Agreements," and each individually, a "PBS Agreement").

12. Through the Consigned Goods Motion, the Debtors sought interim and final orders authorizing the Debtors to, among other things, continue to sell, in the ordinary course of business, free and clear of all liens, claims and encumbrances, the Prepetition PBS Goods pursuant to section 363(f) of the Bankruptcy Code, and to place into an escrow account any portion allocable to PBS Vendors under the applicable PBS Agreement (the "Vendor Portion")

on account of Prepetition PBS Goods sold on or after the Petition Date. The Debtors also sought authority to grant administrative expense priority status under section 503(b) of the Bankruptcy Code in the amount of the Vendor Portion on account of any goods received from any PBS Vendors on or after the Petition Date.

13. On March 3, 2016 (the “First Day Hearing”), the Court heard argument in support of the Consigned Goods Motion and the objections thereto. In opposing the Motion, several PBS Vendors argued, among other things, that they had retained title to the Prepetition PBS Goods that were in the Debtors’ possession. At the conclusion of the First Day Hearing, the Court issued its ruling with respect to the interim relief sought in the Consigned Goods Motion, and upon submission of competing orders from the Debtors and the PBS Vendors, the Court entered the first interim order [Docket No. 278] (the “Initial Interim Order”) denying the Consigned Goods Motion in part, but allowing the Debtors to continue to sell Prepetition PBS Goods under certain circumstances set forth therein. Shortly thereafter, the Court convened an emergency telephonic conference on March 11, 2016 (the “Emergency Conference”) with the Debtors and certain PBS Vendors regarding the requirements imposed on the pursuant to the Initial Interim Order and scheduled a subsequent hearing on March 16, 2016.

14. On March 16, 2016 (the “Emergency Hearing”), the Court heard argument from, among others, the Debtors and certain PBS Vendors regarding the implementation of the Initial Interim Order. In connection therewith, the Debtors disputed the claims by the PBS Vendors that they had retained title in the Prepetition PBS Goods and demonstrated the existence of a bona fide dispute with respect to such goods. At the conclusion of the Emergency Hearing, the Court ruled, among other things, that (i) the Debtors are authorized to sell the Prepetition PBS Goods so long as the Debtors comply with the terms of the applicable PBS Agreements; (ii) the

Debtors are directed to remit proceeds of Prepetition PBS Goods to the respective PBS Vendors pursuant to the terms of the applicable PBS Agreements in the ordinary course of business; (iii) a PBS Agreement that was not terminated prior to the Petition Date shall constitute written consent of the applicable PBS Vendor to the sale by the Debtors of the respective Prepetition PBS Goods; (iv) all parties in interest shall reserve all other rights under the Bankruptcy Code or applicable law; and (v) to the extent that any of the Debtors are a party to a PBS Agreement that was terminated prior to the Petition Date, the Debtors shall comply with applicable law.

Additionally, the Court reserved the claw back right of the Debtors' estates to seek disgorgement of any payments made to a PBS Vendor on account of Prepetition PBS Goods to the extent the Court (or an appellate court) ruled that such PBS Vendor does not hold an interest in the applicable Prepetition PBS Goods senior to the rights of the Debtors' estates or secured lenders. The Court requested that the Debtors draft and submit a proposed form of order (the "Proposed Supplemental Interim Order") memorializing the Court's ruling, and overruled all objections on, and solely to the extent necessary for, the entry of such Supplemental Interim Order.

15. Since the conclusion of the Emergency Hearing, the Debtors have been diligently negotiating the form of the Proposed Supplemental Interim Order with each of the ABL DIP Lenders, the FILO DIP Lenders, and the Term Lenders (collectively, the "Secured Lenders"), on the one hand, and the PBS Vendors, on the other hand. The Debtors were committed to working with both the Secured Lenders and the PBS Vendors to reach consensus on the proposed form of order. On March 31, 2016, the Debtors, the PBS Vendors, and the Secured Lenders convened a joint conference call to finalize the Proposed Supplemental Interim Order, which the Debtors subsequently filed with the Court under certification of counsel on April 1, 2016 [Docket No. 943].

16. However, the Initial Interim Order and the Supplemental Interim Order do not resolve the underlying material disputes among the Debtors and the PBS Vendors, which are reflected in the Complaints described below.

B. Terms of the Settlement Agreement

17. As a result of extensive negotiations, as described in more detail below, the Debtors and the Consenting Vendors (collectively, the “Parties”) entered into the Settlement Agreement. Pursuant to the Settlement Agreement, the Parties have agreed to the following key terms and conditions:³

- **Goods Received by Debtors Prior to Petition Date:**
 - Commercial relationship is governed by existing PBS Agreement.
 - TSA will continue to sell such Prepetition PBS Goods and Vendor will receive 60% of the Vendor Allocation. TSA will retain the remainder of all proceeds of the Prepetition PBS Goods. The Vendor Settlement Proceeds will not be subject to any claw back or right of return arising from any dispute or proceeding relating to title, ownership, nature of the consignment relationship, or security interests in the Prepetition PBS Goods, or otherwise.
 - All parties’ rights are reserved with respect to whether the PBS Agreement constitutes an executory contract.

- **Goods Received By Debtors Post-Petition**
 - Vendor agrees to continue to ship goods to TSA in the ordinary course of business. TSA will pay for such Postpetition PBS Goods pursuant to the terms of the PBS Agreement.

³ This summary of the terms of the Settlement Agreement is provided for the convenience of the Court and the parties in interest. Nothing in this Motion is intended to modify or otherwise alter the terms of the Settlement Agreement. The summary is limited to this Motion and shall not be considered for purposes of interpreting the Settlement Agreement. To the extent the terms of this summary contradict the terms of the Settlement Agreement, the Settlement Agreement shall govern.

- Vendor will receive 100% of the Vendor Allocation specified in the PBS Agreement and Vendor will have a first priority, perfected security interest in Postpetition PBS Goods delivered post-petition and the Vendor Allocation of the proceeds therefrom that is senior to any rights asserted by TSA's existing and future secured lenders; provided, however, that such security interest shall not entitle Vendor to any adequate protection claim or other administrative expense claim (pursuant to 11 U.S.C. § 506(a) or otherwise).
- TSA will retain its portion of the proceeds and Vendor will receive the Vendor Allocation of the proceeds of Postpetition PBS Goods, as specified in the PBS Agreement.
- **Other Terms**
 - Any and all termination notices with respect to the PBS Agreements will be deemed withdrawn.
 - Upon a final 9019 Order, TSA will dismiss its pending complaints against the Consenting Vendor.
 - With respect to all Prepetition PBS Goods and all Postpetition PBS Goods transferred prior to the date of the Settlement Agreement to certain stores that TSA has designated as "closing stores" (the "Closing Stores"), TSA may continue to sell such PBS Goods at the Closing Stores and TSA shall use reasonable efforts to conduct closing sales (collectively, the "Closing Sales") at the Closing Stores with reasonable diligence.
 - On or before 120 days from the date that is the earlier of (i) the effective date of the Debtors' chapter 11 plan as confirmed by the Bankruptcy Court and (ii) the effective date of a sale of all or substantially all of the Debtors' assets (a "Sale"), the Debtors may decide to close additional stores (in addition to the Closing Stores referenced in Paragraph 3(d) above, and such stores will thereafter also be referred to herein as the Closing Stores) as part of the Chapter 11 Plan and/or the Sale.
 - All promotions with respect to all PBS Goods shall continue in accordance with the terms of the deal sheet used in connection with the PBS Agreement or as confirmed in writing as the usual course of dealing among Vendor and TSA.
 - In the event of a Sale of TSA and/or its affiliates, the Settlement Agreement shall govern the disposition of PBS Goods delivered prior to the closing of such Sale and the proceeds therefrom. Post-closing deliveries will be the subject of the existing PBS Agreement (in the event that the assumption and assignment of such PBS Agreement is approved by the Bankruptcy Court) or as otherwise agreed to (presuming there is an

agreement) between the buyer in the Sale and Vendor, and will not be governed by the Settlement Agreement.

- The terms of the Settlement Agreement shall apply to the proceeds of all PBS Goods sold on or after the Petition Date.).
- All PBS Goods shall be accounted for on the FIFO (first in, first out) method on a consolidated basis.
- The Settlement Agreement shall govern the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement with respect to all sales by TSA, to the extent, without limitation, that the Bankruptcy Court's interim and/or final orders and/or future orders granting TSA's motion regarding closing store procedures, any future order(s) granting the Debtors' motion for authority to sell all or substantially all assets (including any sales pursuant to section 363), interim and/or final orders approving DIP financing, or any other interim and/or final orders conflict with the terms of the Settlement Agreement with respect to the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement, the terms of the Settlement Agreement shall govern.
- In the event that TSA (or any of its affiliates) enters into an agreement with any other PBS vendor that is approved by the Court containing material terms involving matters that are the subject of the Settlement Agreement more favorable to such PBS vendor than the terms of the Settlement Agreement with Vendor, the Settlement Agreement will be deemed to be amended to incorporate such more favorable terms to Vendor and, without the need for further notice or approval of the Bankruptcy Court, TSA shall enter into an agreement with Vendor amending the Settlement Agreement to memorialize such incorporated terms.

C. Summary of the Pending Complaints and the Parties' Positions Relating to Prepetition PBS Goods

18. On March 15, 2016 and March 16, 2016, certain of the Debtors filed a total of 160 complaints (each, a "Complaint" and collectively, the "Complaints") and commenced an adversary proceeding against each of the PBS Vendors, respectively, to, among other things, demonstrate a bona fide dispute that would permit the Debtors to sell the Prepetition PBS Goods free and clear of all liens, claims and interests (including any asserted interests of BS Vendors)

pursuant to section 363(f)(4) of the Bankruptcy Code. Pursuant to each of the Complaints, the Debtors seek, among other things, a declaratory judgment with respect to (i) the rights and interest in the Prepetition PBS Goods with respect to each PBS Vendor, and (ii) the Debtors' ability to sell the Prepetition PBS Goods under applicable provisions of the Bankruptcy Code and applicable provisions of the Uniform Commercial Code (the "UCC") (collectively, the "Adversary Proceedings," and each individually, an "Adversary Proceeding"). Each of the Adversary Proceedings remains pending as of the date hereof. Each of the Adversary Proceedings remains pending as of the date hereof. Bank of America, N.A., as the Prepetition ABL Agent and DIP Agent, has filed a notice of intent to intervene in the Adversary Proceedings and Wilmington Savings Fund Society, FSB, in its capacity as the Term Loan Agent, has filed an omnibus motion to intervene in each of the Adversary Proceedings. Each of the Adversary Proceedings remains pending as of the date hereof. Bank of America, N.A., in its capacity as Administrative Agent and Collateral Agent for the ABL DIP Lenders (as defined below), has filed a notice of intent to intervene in the Adversary Proceedings, and Wilmington Savings Fund Society, FSB, in its capacity as the Administrative Agent and Collateral Agent for the Term Lenders, has filed an omnibus motion to intervene in each of the Adversary Proceedings, but such motion has not been set for hearing as of the date hereof.

19. As the Court is aware, the Debtors and the PBS Vendors have taken contrary and mutually exclusive positions with respect to the parties' relative rights and interests in the Prepetition PBS Goods. The PBS Vendors have alleged that they hold title in the Prepetition PBS Goods and the ability to restrict the Debtors from selling the Prepetition PBS Goods, whereas the Debtors have disputed any alleged retention of title and have sought to avoid what the Debtors believe are the PBS Vendors' unperfected security interests in the Prepetition PBS

Goods; each of the parties has supported its respective and contrary positions with citations to statutes and case law.

D. The Significance of Prepetition PBS Goods

20. As of the Petition Date, the Debtors were in possession of approximately 8.5 million individual units of Prepetition PBS Goods, across all Stores, that are estimated to generate a maximum of approximately \$85 million (assuming such goods are sold at full retail price) in Vendor Proceeds. In accordance with the terms of the PBS Agreements, the Debtors calculated that an equal amount in Debtor Proceeds – a maximum of approximately \$85 million (assuming such goods are sold at full retail price)⁴ – would be generated on account of the sale of the Prepetition PBS Goods.

21. The sale of the Prepetition PBS Goods is critical to the Debtors' ability to preserve and maintain their business as a going concern and maximize value for stakeholders at a critical time in the Chapter 11 Cases when the Debtors are diligently marketing their business for a potential sale, or alternatively, seeking partners that will support a plan of reorganization. On the other hand, if the Debtors are barred from continuing to sell the Prepetition PBS Goods, such disruption to their business would cause the Debtors serious and irreparable harm.

22. Without the ability to sell Prepetition PBS Goods, the Debtors would have to invest significant time and resources (which are already necessarily limited) into the task of segregating all Prepetition PBS Goods from other inventory and removing the Prepetition PBS Goods from the shelves across all Stores. The Debtors have calculated that this enormous segregation projection, which they estimated would take approximately 15 to 20 weeks, would alone cost the Debtors approximately \$6.8 million: approximately \$2.5 million in additional

⁴ In the ordinary course of business, the Debtors run promotional activities that reduce both the Vendor Proceeds and the Debtor Proceeds.

payroll expenses, approximately \$2.55 million in packing expenses, and approximately \$1.78 million in shipping expenses. Given that the Debtors are already operating the Stores with minimum staffing, any employees who are tasked with the segregation of Prepetition PBS Goods would consequently not be engaged in customer service and sales efforts, resulting in substantial loss in customer goodwill.

23. The removal of Prepetition PBS Goods would not only significantly disrupt Stores operations, but it would also leave the shelves and displays empty or sparsely populated and radically reduce customer offerings in the Stores. Moreover, to accommodate the segregation project, the Debtors would have to stop any in-bound shipments of goods, especially in stores with limited backroom space or high-volume sales, in order to have the space needed to store the segregated Prepetition PBS Goods. Therefore, the segregation projection would be reduce inventory across all Stores while simultaneously making it prohibitively difficult, if not impossible, for the Debtors to replenish their inventory, thereby resulting in significant loss in sales volume and a reduction in the Debtors' going concern value. (*See* Notice of Filing of Presentation Utilized by the Debtors at the Hearing Held on March 16, 2016 [Docket No. 610].)

24. Ultimately, such result could cause the Debtors to shutter all Stores, terminate the employment of more than 8,000 individuals, and force the Debtors out of business, thereby precluding any and all potential options for reorganization or external investment, and jeopardizing the Debtors' ability to maximize value for the benefit of their estates and stakeholders in the context of either a sale or a plan. The impact on the Debtors' creditors would likewise be devastating.

E. PBS Inventory and the Debtors' Relationships with PBS Vendors Is Critical to the Debtors' Business

25. As described in detail in the *Declaration of Stephen Binkley in Support of the Debtors' Debtors' Motion for an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Approving the Settlement Agreement Between the Debtors and Certain Consignment Vendors Party Thereto* (the "Binkley Declaration"), filed concurrently herewith and fully incorporated herein by reference, the Debtors' PBS relationships with the PBS Vendors are critical to the Debtors' business.

26. First, the Debtors are able to offer a tremendous variety of goods because of the wide variety of inventory provided to the Debtors by the PBS Vendors (collectively, the "PBS Inventory"). The Prepetition Inventory includes without limitation, (a) active wear and outerwear for men, women, and children; (b) seasonal accessories; (c) recreational gear for a variety of outdoor activities, including camping, water sports, fishing, and hunting; (d) gear for team sports including baseball, soccer, football, and basketball; (e) gear for indoor exercise and fitness activities; (f) golf gear and apparel; and (g) select footwear, socks, insoles, and accessories. The Debtors rely on the PBS Inventory to provide this wide selection of goods to drive customer traffic. In fiscal year 2015, the PBS Inventory accounted for approximately 11 percent of total sales across all of the Debtors' stores (collectively, the "Stores").

27. Second, the PBS Vendors provide a form of credit that is otherwise unavailable to the Debtors. Under the terms of the applicable PBS Agreements, the Debtors remit to each respective PBS Vendor a certain agreed upon percentage of the proceeds from the retail sale of PBS Inventory delivered by such PBS Vendor (the "Vendor Allocation," and the remainder of the retail sale proceeds, the "Debtor Allocation"). The PBS Vendors generally deliver the PBS Inventory to the Debtors on credit terms that do not require the Debtors to remit the amount of

the proceeds allocable to the PBS Vendors based on the respective Vendor Allocations (the “Vendor Proceeds,” and the remainder of the proceeds retained by the Debtors based on the respective Debtor Allocations, the “Debtor Proceeds”) until approximately two to four weeks after the end of the month following the retail sales of such PBS Inventory to the Debtors’ customers. The extended payment terms provided by most PBS Vendors enhance the Debtors’ liquidity because they relieve the Debtors of any obligation to pay for the PBS Inventory in advance or on expedited terms. Such enhanced liquidity, in turn, allows the Debtors to obtain and offer to their customers more inventory in the Stores, and therefore increase their overall sales. In 2015, the Debtors recorded retail sales of PBS inventory in excess of \$240 million, without the necessity of investing any upfront capital. In accordance with the PBS Agreements, the Company retained approximately 52 percent of the proceeds from the sale of PBS Inventory – in excess of \$125 million.

28. Third, certain larger PBS Vendors provide other valuable benefits to the Debtors in the context of the PBS relationship. For instance, these PBS Vendors provide, among other things: (i) dedicated sales representatives who monitor, analyze, and replenish the PBS Inventory provided by the respective PBS Vendors across all Stores, (ii) in-store fixtures and installations thereof for the display and marketing of the PBS Inventory, and (iii) outbound marketing efforts to promote the sale of the PBS Inventory. Absent these services by the PBS Vendors, the Debtors would have to hire more employees to undertake and fulfill these essential tasks. Additionally, these larger PBS Vendors also sponsor incentives for the Debtors’ store employees that are tied to the sale of the PBS Inventory of the respective PBS Vendors, which further drives sales.

29. For these and other reasons, the Debtors' PBS relationships with the PBS Vendors are invaluable and critical to the Debtors' business and to their continued efforts to maximize value in the context of these Chapter 11 Cases.

F. The Necessity of Postpetition PBS Goods and Detriments of Uncertainty

30. In order to sustain their business as a going concern, the Debtors are urgently in need of fresh PBS Inventory. To date, the Debtors have been mired in protracted litigation in connection with the Disputes. The PBS Vendors have represented that they will not ship new inventory to the Debtors absent a settlement of the Disputes as they relate to Prepetition PBS Goods and the Complaints. As a result, the lack of new shipments during the first month of the Chapter 11 Cases has left the Stores with material "out of stocks" in their inventory. A significant number of PBS Vendors, however, provide PBS Inventory that is not provided by any other vendor, which makes such PBS Vendors irreplaceable (or at least difficult to replace). The prolonged inability of the Debtors to receive new PBS Inventory will irreparably harm the Debtors' brand and will undermine their current value maximization efforts in the Chapter 11 Cases.

31. Therefore, absent a settlement, the Debtors are facing continuing shortfalls in their inventory generally, and specifically in the PBS Inventory, which will continue to have a detrimental effect on the Debtors' efforts in the Chapter 11 Cases. The PBS Vendors likewise face uncertainty in connection with the Disputes, and are subject to, for instance, claw back rights on payments that the Debtors are currently remitting on account of Prepetition PBS Goods that have been sold on or after the Petition Date.

G. The Parties' Mutual Desire for Settlement and a Path Forward

32. Since the First Day Hearing, the Debtors and the PBS Vendors have conferred and explored various options for resolving the Disputes. In furtherance of this objective, the

Debtors have engaged in countless settlement discussions with various PBS Vendors and have embraced, at every feasible turn, all opportunities to explore reasonable resolutions of the Disputes. The PBS Vendors, in turn, have been similarly diligent about seeking to protect their interests while simultaneously pursuing potential resolutions that acknowledge and prioritize the critical PBS relationship on a go-forward basis. As a result of the converging interest in maintaining an active commercial relationship, a substantial number of the PBS Vendors and the Debtors initiated and have continued to engage in good-faith negotiations regarding a global resolution of the Dispute. The Vendor Settlement is the product of extensive negotiations with the PBS Vendors.

33. The Settlement Agreement provides a workable resolution between the Debtors and the Consenting Vendors as the Disputes related to the Prepetition PBS Goods, whereby the Debtors and the Consenting Vendors will share in a 60/40 split of the Vendor Allocation of the proceeds from the applicable Prepetition PBS Goods sold on and after the Petition Date. Based on the anticipated postpetition sales of these goods, the Debtors expect to retain millions in proceeds from the Vendor Allocation that were not otherwise contemplated by the DIP financing budget.

34. The Settlement Agreement provides a commitment by each applicable Consenting Vendor to ship PBS Inventory on or after the period (the "Postpetition PBS Goods") under the existing terms of the applicable PBS Agreement. In turn, the Debtors will remit to the PBS Vendors the Vendor Proceeds based on the sale of the Postpetition PBS Goods, pursuant to the payment terms and the full Vendor Allocation set forth in the applicable PBS Agreements. The settlement provides a commitment by the Consenting Vendors to ship goods post-petition under the existing PBS Agreements.

35. Ultimately, the Debtors have determined that the Settlement Agreement and the Vendor Agreements appropriately resolve the Disputes, and will stem the further incurrence of extensive fees that would otherwise arise in protracted litigation.

36. For the reasons set forth below, the Debtors submit that the Settlement Agreement should be approved because, among other things, it will (i) permit the Debtors to continue to sell the Prepetition PBS Goods and thereby generate tens of millions in additional sale proceeds for the benefit of Debtors' estates, (ii) facilitate the delivery of the much-needed Postpetition PBS Goods and thereby enable the Debtors to replenish their inventory and generate additional proceeds from the sale of such goods, (iii) preserve the going concern value of the Debtors' business and therefore facilitate the Debtors' efforts to maximize value for the benefit of their estates and all stakeholders, and (iv) resolve the Disputes in an expeditious manner without further burdening the Debtors' estates with administrative costs that would otherwise be incurred in connection with the Disputes.

37. Importantly, the Vendor Settlement will also provide the Debtors and the Consenting Vendors a certainty about the treatment of the applicable Prepetition PBS Goods and the necessary assurances needed on both side as related to the deliveries of the applicable Postpetition PBS Goods. This certainty and the ability for the Debtors to resume their ordinary course transactions with the Consenting Vendors will also remove an overwhelming distraction that has occupied the attention of the Debtors' management since the Petition Date, allowing the Debtors to focus their efforts on rightsizing their business.

RELIEF REQUESTED

38. By this Motion, the Debtors request entry of the 9019 Order, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, (a) approving and authorizing the Debtors to enter into and consummate the Settlement Agreement with the Consenting Vendors

and any Subsequent Consenting Vendors; (b) approving the Settlement Agreement in its entirety; (c) authorizing and directing the Debtors to remit the Vendor Settlement Proceeds on account of any Prepetition PBS Goods sold on or after the Petition Date in accordance with the payment terms set forth in the applicable PBS Agreements; (d) granting automatic perfected first-priority security interests in any Postpetition PBS Goods and the Vendor Allocation of the proceeds therefrom (the “Vendor Proceeds”) in favor of the PBS Vendor that delivers such Postpetition PBS Goods, which are senior to any rights, claims or interests asserted by or granted to the Debtors’ existing or future secured creditors or any other creditors, without the need for such PBS Vendor to file any UCC financing statements or serve any purchase money security interest notices to the Debtors’ secured lenders; (e) providing that the Debtors and their estates may not seek to prime or surcharge the PBS Vendor’s secured interests in the Postpetition PBS Goods; (f) authorizing and directing the Debtors to remit the Vendor Proceeds on account of Postpetition PBS Goods that are sold, pursuant to the payment terms in the applicable PBS Agreements; (g) to the extent that the Debtors remit the Vendor Settlement Proceeds to a Consenting Vendor, such Vendor Settlement Proceeds will not be subject to any claw back or right of return arising from any dispute or proceeding relating to title, ownership, nature of the consignment relationship, or security interests in the Prepetition PBS Goods, or otherwise (except to the extent that the Debtors later discover an error in calculating the amount of the Vendor Settlement Proceeds); (h) each Consenting Vendor shall be granted, to the extent that the Debtors or their estates do not remit Vendor Settlement Proceeds on account of Prepetition PBS Goods shipped or delivered by the respective Consenting Vendor and sold at the Debtors’ Stores on or after the Petition Date in accordance with the Settlement Agreement and the payment terms set forth in the applicable PBS Agreements, an allowed administrative expense priority claim in an amount

up to the Vendor Settlement Proceeds owed to the applicable Consenting Vendor on account of the sale of such Prepetition PBS Goods; (i) granting, to the extent that the Debtors or their estates do not remit the Vendor Proceeds on account of Postpetition PBS Goods in accordance with the Settlement Agreement and the applicable PBS Agreements, allowed administrative expense priority claims to the PBS Vendors in an amount up to the Vendor Allocation of the proceeds from the applicable Postpetition PBS Goods; (j) authorizing and directing the Debtors to segregate (A) the Vendor Settlement Proceeds on account of the sale of Prepetition PBS Goods and (B) the Vendor Proceeds on account of the sale Postpetition PBS Goods, in each case to ensure payment to the applicable PBS Vendor of the Vendor Settlement Proceeds and/or the Vendor Proceeds, respectively; (k) providing that the Debtors shall dismiss the applicable Complaints against the Consenting Vendors promptly following entry of a final order approving the Vendor Settlements; (l) providing that the Debtors shall not propose or support any chapter 11 plan that rejects, violates, or otherwise conflicts with this Motion and/or the 9019 Order; (m) providing that the 9019 Order and the Settlement Agreement shall govern the resolution of the Disputes referred to the Settlement Agreement and summarized in this Motion, and shall not be impaired, modified or superseded by any subsequent or other Order of this Court, including any order in connection with any sale of all or substantially all of the assets of the Debtors or any order confirming a plan; (n) providing a stay of all dates and deadlines in the pending Adversary Proceedings are stay to May 12, 2016; (o) in the event that any of the Debtors enters into an agreement with any other PBS Vendor that is approved by this Court and that contains material terms involving matters that are the subject of the Settlement Agreement more favorable to such PBS Vendor than the terms of the Settlement Agreement with a Consenting Vendor, the Settlement Agreement will be deemed to be amended to incorporate such more favorable terms

to the Consenting Vendor, and the Debtors shall enter into an agreement with the applicable Consenting Vendor amending the Settlement Agreement to memorialize such incorporated terms; (p) providing that the Postpetition PBS Goods and the Vendor Allocation related thereto shall not be subject to surcharge under section 506(c) of the Bankruptcy Code or under the “equities of the case” under section 552 of the Bankruptcy Code; (q) providing that the Debtors will consider, and agree to negotiate for, a cost effective method for returning to a Consenting Vendor any applicable PBS Inventory that remain in the estates following a sale of all or substantially all of their assets in a sale pursuant to section 363 of the Bankruptcy Code; (r) to allow the Debtors and other PBS Vendors to enter into a Settlement Agreement for the benefit of all parties in interest; (s) waiving the stay under Bankruptcy Rule 6004(h) with respect to the 9019 Order; and (t) any related and other relief that the Court deems just and proper.

BASIS FOR RELIEF REQUESTED

39. Bankruptcy Rule 9019(a) provides that “on motion by the trustee and after a hearing, the Court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). The settlement of time-consuming and burdensome litigation, especially in the bankruptcy context, is encouraged. *See In re Penn Central Transp. Co.*, 596 F.2d 1102 (3d Cir. 1979) (“The Court has recognized that ‘(i)n administering reorganization proceedings in an economical and practical manner it will often be wise to arrange the settlement of claims as to which there are substantial and reasonable doubts.’”) (quoting *In re Protective Comm. for Indep. Stockholders of TMT Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968)). In determining the fairness and equity of a compromise in bankruptcy, the Third Circuit Court of Appeals has stated that it is important that the bankruptcy court “apprise[] itself of all facts necessary to form an intelligent and objective opinion of the probabilities of ultimate success should the claims be litigated . . . and estimate the

complexity, expense and likely duration of such litigation, and other factors relevant to a full and fair assessment of the [claims].” *Id.* at 1153.

40. The Third Circuit has enumerated the following four-factor test to be used in deciding whether a settlement should be approved: (1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of creditors. *Will v. Northwestern Univ. (In re Nutraquest, Inc.)*, 434 F.3d 639, 644 (3d Cir. 2006).

41. Approval of a proposed settlement is within the “sound discretion” of the bankruptcy court. *See In re Neshaminy Office Bldg. Assocs.*, 62 B.R. 798, 803 (E.D. Pa. 1986). The bankruptcy court should not substitute its judgment for that of the debtor. *Id.* The court is not to decide numerous questions of law or fact raised by litigation, but, rather, should canvass the issues to see whether the settlement falls below the lowest point in the range of reasonableness. *See In re W.T. Grant & Co.*, 699 F.2d 599, 608 (2d Cir. 1983), *cert. denied*, 464 U.S. 22 (1983); *see also Official Comm. of Unsecured Creditors v. CIT Grp./Bus. Credit Inc. (In re Jevic Holding Corp.)*, 787 F.3d 173, 180 (3d Cir. 2015); *Mangano v. Warriner (In re ID Liquidation One, LLC)*, 555 Fed. App’x 202, 205-206 (3d Cir. 2014); *In re Sea Containers Ltd.*, 2008 WL 4296562, at *5 (Bankr. D. Del. Sept. 19, 2008).

42. The Settlement Agreements and the Vendor Settlement meet each of the factors in the four-factor test set forth above. First, the probability of success in litigation is uncertain. As noted above, the Debtors and the PBS Vendors have each supported their respective and mutually exclusive positions with citations to statutes and case law, and a survey of the legal authority illustrates a diversity of opinions on the issues underlying the Disputes. Although the Debtors believe that they have the right to sell the Prepetition PBS Goods, the record before the

Court demonstrates that this issue is highly contested and subject to strenuous dispute. Thus, the Debtors face significant and potential crippling uncertainty with respect to the ultimate recoveries and outcomes that they might expect and realize in connection with the adjudication of the Disputes.

43. Second, in the event that the Debtors are successful in their litigation, it will be difficult to collect against up to 160 separate defendants. Moreover, that collection will not likely occur for more than two years (following trial and appeals), and the Debtors cannot represent the credit quality and ability to pay of many of the defendants.

44. Third, the complexity of the litigation involved and the expense, inconvenience and delay has already been demonstrated by the multiple hearings that have taken place, the dozens of pleadings that have been filed, and the long list of legal issues – both bankruptcy law and commercial law – that are implicated in the Disputes. Moreover, in the absence of the Vendor Settlement, the Debtors risk significant delays in the adjudication of the Disputes, and such delays are likely to cause the Debtors irreparable harm in the Chapter 11 Cases, including but not limited to the significant costs and expenses the Debtors would incur while litigating the Disputes, including on appeal, with no assurances of success.

45. Finally, the paramount interest of creditors is for the Debtors to reorganize or sell substantially all of their assets in a going concern sale. Absent the Vendor Settlement and the shipment of new product, the Debtors will not be able to maximize the value of their business for all stakeholders.

46. As noted above, the Settlement Agreement is the result of extensive arm's length negotiations, analysis and review by and between the Parties and their respective advisors. The Debtors further believe that, in the absence of the Settlement Agreement, the inevitable delays in

the resolution regarding the Prepetition PBS Goods and the inability to obtain the Postpetition PBS Goods in the interim, both of which are associated with the continued litigation in connection with the Disputes, would cause the Debtors irreparable harm, undermine the Debtors' reorganization and sale efforts, while significantly draining the Debtors' limited resources.

47. Accordingly, the Debtors submit that approval of and entry into the Settlement Agreement is in the best interest of the Debtors and their estates, is the most efficient and prudent action at this time, falls well within the range of reasonableness given the uncertain legal issues in dispute, and should therefore be approved.

REQUEST FOR WAIVER OF STAY

48. To implement the Vendor Settlement, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any "order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Debtors submit that the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein.

49. The Debtors submit that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h). Time is of the essence and the Debtors seek a final order granting this Motion and the relief requested herein and the immediate approval of the Vendor Settlement with the Consenting Vendors so that the Consenting Vendors will finally ship the Debtors Postpetition Goods. Unless and until the order approving the Vendor Settlement is finally, the Debtors will continue to be stuck in limbo without the ability to receive new inventory that is necessary to preserve and maintain the Debtors' business.

50. Accordingly, the Debtors respectfully request a waiver of the notice requirements of Bankruptcy Rule 6004(h) to the extent that they are deemed applicable.

NOTICE

51. The Debtors have provided notice of this Motion, via overnight mail and email, to: (a) the Office of the United States Trustee for the District of Delaware; (b) Pachulski Stang Ziehl & Jones LLP (attn.: Bradford J. Sandler, Esq.) as proposed counsel for the Committee; (c) Riemer & Braunstein LLP (attn: Donald Rothman) as counsel for (i) Bank of America, N.A., in its capacity as Administrative Agent and Collateral Agent under the Second Amended and Restated Credit Agreement, dated as of May 17, 2012, and (ii) certain DIP Lenders under the Debtors' proposed postpetition financing facility (the "ABL DIP Lenders"); (d) Brown Rudnick LLP (attn: Robert Stark and Bennett Silverberg) as counsel for (i) Wilmington Savings Fund Society, FSB as Administrative Agent and Collateral Agent under the Amended and Restated Credit Agreement, dated as of May 3, 2006 and amended and restated as of November 16, 2010 and (ii) certain Term Lenders under the Amended and Restated Credit Agreement, dated as of May 3, 2006 and amended and restated as of November 16, 2010 (the "Term Lenders"); (e) Choate, Hall & Stewart LLP (attn: Kevin Simard) as counsel for (i) Wells Fargo Bank, National Association, in its capacity as FILO Agent under the Second Amendment to Second Amended and Restated Credit Agreement, dated as of November 3, 2015, and (ii) certain DIP Lenders under the Debtors' proposed postpetition financing facility (the "FILO DIP Lenders"); (f) O'Melveny & Meyers LLP (attn: John Rapisardi) as counsel for certain holders of 11.5% Senior Subordinated Notes Due February 19, 2018 under the Securities Purchase Agreement, dated as of May 3, 2006; (g) all holders of 11.5% Senior Subordinated Notes Due February 19, 2018 under the Securities Purchase Agreement, dated as of May 3, 2006; (h) the PBS Vendors; and (i) all parties that have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter the 9019 Order granting the relief requested herein and such further relief as it deems just and proper.

Dated: April 1, 2016
Wilmington, Delaware

/s/ Andrew L. Magaziner
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Kenneth J. Enos (No. 4544)
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-and-

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Counsel to the Debtors and Debtors in Possession

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

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10527 (MFW)

Jointly Administered

Proposed Hearing Date:
April 5, 2016 at 1:00 p.m. (ET)

Proposed Objection Deadline:
At the Hearing

NOTICE OF MOTION

TO: (A) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE; (B) PACHULSKI STANG ZIEHL & JONES LLP (ATTN.: BRADFORD J. SANDLER, ESQ.) AS PROPOSED COUNSEL FOR THE COMMITTEE; (C) RIEMER & BRAUNSTEIN LLP (ATTN: DONALD ROTHMAN) AS COUNSEL FOR (I) BANK OF AMERICA, N.A., IN ITS CAPACITY AS ADMINISTRATIVE AGENT AND COLLATERAL AGENT UNDER THE SECOND AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MAY 17, 2012, AND (II) CERTAIN DIP LENDERS UNDER THE DEBTORS' PROPOSED POSTPETITION FINANCING FACILITY (THE "ABL DIP LENDERS"); (D) BROWN RUDNICK LLP (ATTN: ROBERT STARK AND BENNETT SILVERBERG) AS COUNSEL FOR (I) WILMINGTON SAVINGS FUND SOCIETY, FSB AS ADMINISTRATIVE AGENT AND COLLATERAL AGENT UNDER THE AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MAY 3, 2006 AND AMENDED AND RESTATED AS OF NOVEMBER 16, 2010 AND (II) CERTAIN TERM LENDERS UNDER THE AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MAY 3, 2006 AND AMENDED AND RESTATED AS OF NOVEMBER 16, 2010 (THE "TERM LENDERS"); (E) CHOATE, HALL & STEWART LLP (ATTN: KEVIN SIMARD) AS COUNSEL FOR (I) WELLS FARGO BANK, NATIONAL ASSOCIATION, IN ITS CAPACITY AS FILO AGENT UNDER THE SECOND AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF NOVEMBER 3, 2015, AND (II) CERTAIN DIP LENDERS UNDER THE DEBTORS' PROPOSED POSTPETITION FINANCING FACILITY (THE "FILO DIP LENDERS"); (F) O'MELVENY & MEYERS LLP (ATTN: JOHN RAPISARDI) AS COUNSEL FOR CERTAIN HOLDERS OF 11.5% SENIOR SUBORDINATED

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

NOTES DUE FEBRUARY 19, 2018 UNDER THE SECURITIES PURCHASE AGREEMENT, DATED AS OF MAY 3, 2006; (G) ALL HOLDERS OF 11.5% SENIOR SUBORDINATED NOTES DUE FEBRUARY 19, 2018 UNDER THE SECURITIES PURCHASE AGREEMENT, DATED AS OF MAY 3, 2006; (H) THE PBS VENDORS; AND (I) ALL PARTIES THAT HAVE FILED A NOTICE OF APPEARANCE AND REQUEST FOR SERVICE OF PAPERS PURSUANT TO BANKRUPTCY RULE 2002.

PLEASE TAKE NOTICE that Sports Authority Holdings, Inc. and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) have filed the attached **Debtors’ Motion for an Order, Pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing the Settlement Agreement Between the Debtors and Certain Consignment Vendors Party Thereto** (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that, contemporaneously with the filing of the Motion, the Debtors have filed a motion (the “Motion to Shorten”) requesting that a hearing to consider the Motion be held on **April 5, 2016 at 1:00 p.m. (ET)** (the “Hearing”) before The Honorable Mary F. Walrath, in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 5th Floor, Courtroom #4, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that pursuant to the Motion to Shorten, the Debtors have requested that any objections to the Motion may be presented **at the Hearing**.

[Signature Page Follows]

Dated: April 1, 2016
Wilmington, Delaware

/s/ Andrew L. Magaziner
Michael R. Nestor (No. 3526)
Kenneth J. Enos (No. 4544)
Andrew L. Magaziner (No. 5426)
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*Counsel to the Debtors and
Debtors in Possession*

SCHEDULE A
CONSENTING VENDORS

INITIAL CONSENTING VENDORS:

1. Agron, Inc.
2. Easton Baseball / Softball Inc.
3. Rip Curl, Inc.
4. Implus Footcare LLC
5. Filmar USA Inc.¹
6. Shock Doctor Inc.

ADDITIONAL CONSENTING VENDORS:

- 1.
- 2.

¹ Counsel to Filmar USA Inc. has assured the Debtors that their client will deliver an executed agreement by Monday, April 4, 2016.

EXHIBIT A

PROPOSED 9019 ORDER

(attached)

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

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10527 (MFW)

Jointly Administered

Docket Ref. No. _____

**ORDER, PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE
AND BANKRUPTCY RULE 9019, APPROVING THE SETTLEMENT
AGREEMENT BETWEEN THE DEBTORS AND
CERTAIN CONSIGNMENT VENDORS PARTY THERETO**

Upon the *Debtors' Motion for an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving the Settlement Agreement Between the Debtors and Certain Consignment Vendors Party Thereto* (the "Motion") filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, 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 the Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and a hearing

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before the Court; and the Court having found that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and the Court having found that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.²
2. The form of Settlement Agreement attached hereto as Exhibit 1 is approved in its entirety, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019. The recitation of some but not all of the provisions of the Settlement Agreement in this Order does not detract from the enforceability of any of the other provisions of the Settlement Agreement.
3. The Debtors are authorized to enter into and consummate the Settlement Agreement with each of the Consenting Vendors listed on Schedule A attached hereto. The Settlement Agreement shall be binding on the Debtors and each of the Consenting Vendors.
4. The Debtors are authorized to enter into and consummate the Settlement Agreement with any Subsequent Consenting Vendor that delivers an executed Settlement Agreement to the Debtors no later than fourteen (14) days following the entry of this Order, unless such deadline is waived by the Debtors in the Debtors' sole discretion. For the avoidance of doubt, any Settlement Agreement with a Subsequent Consenting Vendor shall also be subject to this Order, and such Subsequent Consenting Vendor shall be treated as a Consenting Vendor for the purposes of this Order.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

5. The Debtors shall remit the Vendor Settlement Proceeds to each Consenting Vendor on account of any Prepetition PBS Goods shipped or delivered by the respective Consenting Vendor and sold at the Debtors' Stores on or after the Petition Date in accordance with the Settlement Agreement and the payment terms set forth in the applicable PBS Agreements.

6. Upon delivery of any Postpetition Consigned Goods, the applicable Consenting Vendor shall be automatically granted a first-priority, perfected and enforceable purchase money security interest in such Postpetition Consigned Goods and the applicable Vendor Allocation on account of the sale of such Postpetition Consigned Goods (the "Purchase Money Security Interest"), without the need of such Consenting Vendor to file any UCC-1 financing statements or send any notices of such Purchase Money Security Interest to any of the Debtors' secured lenders, and such security interests shall be deemed to be senior to any rights, claims or interests asserted by or granted to the Debtors' existing or future secured creditors or any other creditors.

7. The Debtors shall remit the Vendor Proceeds to each Consenting Vendor on account of Postpetition PBS Goods shipped or delivered by the respective Consenting Vendor and sold, pursuant to the payment terms in the applicable PBS Agreements.

8. To the extent the Debtors remit the Vendor Settlement Proceeds to a Consenting Vendor, such Vendor Settlement Proceeds will not be subject to any claw back or right of return arising from any dispute or proceeding relating to title, ownership, nature of the consignment relationship, or security interests in the Prepetition PBS Goods, or otherwise (except to the extent that the Debtors later discover an error in calculating the amount of the Vendor Settlement Proceeds).

9. Each Consenting Vendor shall be granted, to the extent that the Debtors or their estates do not remit Vendor Settlement Proceeds on account of Prepetition PBS Goods shipped or delivered by the respective Consenting Vendor and sold at the Debtors' Stores on or after the Petition Date in accordance with the Settlement Agreement and the payment terms set forth in the applicable PBS Agreements, an allowed administrative expense priority claim in an amount up to the Vendor Settlement Proceeds owed to the applicable Consenting Vendor on account of the sale of Prepetition PBS Goods.

10. Each Consenting Vendor shall be granted, to the extent that the Debtors or their estates do not remit the Vendor Proceeds on account of Postpetition PBS Goods pursuant to the payment terms in the applicable PBS Agreements and in accordance with the Settlement Agreement, an allowed administrative expense priority claim in an amount up to the Vendor Allocation of the proceeds from the applicable Postpetition PBS Goods.

11. The Debtors shall segregate (a) the Vendor Settlement Proceeds on account of the sale of Prepetition PBS Goods shipped or delivered by a Consenting Vendor and (b) the Vendor Proceeds on account of the sale Postpetition PBS Goods shipped or delivered by the respective Consenting Vendor, in order to ensure payment due to the applicable Consenting Vendor.

12. The Debtors shall dismiss with prejudice the applicable Complaints against the Consenting Vendors promptly following entry of this final Order.

13. The Debtors shall not propose or support any chapter 11 plan that rejects, violates, or otherwise conflicts with the Motion and this Order.

14. This Order and the Settlement Agreement shall govern the resolution of the Disputes referred to the Settlement Agreement and summarized in the Motion, and shall not be impaired, modified or superseded by any subsequent or other Order of this Court, including any

order in connection with any sale of all or substantially all of the assets of the Debtors or any order confirming a plan.

15. This Order and the Settlement Agreement shall be binding upon the Parties and all other creditors and parties in interest in the Chapter 11 Cases (including, without limitation, the Official Committee of Unsecured Creditors, any trustee or examiner appointed in the Chapter 11 Cases or any chapter 7 trustee, or any other person, party or entity to, in any jurisdiction anywhere in the world, directly or indirectly).

16. All relevant dates and deadlines in the Adversary Proceedings are stayed to May 12, 2016.

17. In the event that any of the Debtors enters into an agreement with any other PBS Vendor that is approved by the Bankruptcy Court and that contains material terms involving matters that are the subject of the Settlement Agreement more favorable to such PBS Vendor than the terms of the Settlement Agreement with a Consenting Vendor, the Settlement Agreement will be deemed to be amended to incorporate such more favorable terms to the Consenting Vendor. Further, without the need for further notice or approval of the Bankruptcy Court, the Debtors shall enter into an agreement with the applicable Consenting Vendor amending the Settlement Agreement to memorialize such incorporated terms.

18. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon its entry; (b) the Debtors are not subject to any stay in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Debtors are authorized and empowered to, and may in their discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

19. The Postpetition PBS Goods and Vendor Allocation related thereto shall not be subject to surcharge under section 506(c) of the Bankruptcy Code or under the “equities of the case” under section 552 of the Bankruptcy Code.

20. The Debtors will consider, and agree to negotiate for, a cost effective method for returning to a Consenting Vendor any applicable PBS Inventory that remain in the estates following a sale of all or substantially all of their assets in a sale pursuant to section 363 of the Bankruptcy Code.

21. The automatic stay in the Chapter 11 Cases is hereby modified to the extent necessary to permit the implementation of the terms of the Settlement Agreement.

22. The Parties are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

23. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion, the Settlement Agreement or the implementation of this Order.

Dated: _____, 2016
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

SCHEDULE A

CONSENTING VENDORS

INITIAL CONSENTING VENDORS:

1. Agron, Inc.
2. Easton Baseball / Softball Inc.
3. Rip Curl, Inc.
4. Implus Footcare LLC
5. Filmar USA Inc.
6. Shock Doctor Inc.

ADDITIONAL CONSENTING VENDORS:

- 1.
- 2.

EXHIBIT 1

FORM OF SETTLEMENT AGREEMENT

SETTLEMENT RE PAY-BY-SCAN VENDORS

DATED AS OF 3/30/16

CONFIDENTIAL SETTLEMENT COMMUNICATIONS/FRE 408

SUBJECT TO APPROVAL OF THE BANKRUPTCY COURT

1. GOODS RECEIVED BY TSA PRE-BANKRUPTCY (E.G., ON OR BEFORE MARCH 1, 2016) AND SOLD DURING BANKRUPTCY CASE
 - a. Commercial relationship is governed by, and Vendor and TSA Stores, Inc. (“TSA”) will continue to abide by the terms of, the existing pay-by-scan agreement (the “PBS Agreement”) (e.g., payment terms and timing, payment method, return policy, Vendor Relationship Guide (“VRG”) terms) except as provided in this settlement agreement (the “Settlement Agreement”).
 - b. TSA will continue to sell such Prepetition PBS Goods and Vendor will receive 60% (the “Vendor Settlement Proceeds”) of the vendor portion specified in the PBS Agreement (the “Vendor Allocation”). TSA will retain the remainder of all proceeds of the Prepetition PBS Goods. The Vendor Settlement Proceeds will not be subject to any claw back or right of return arising from any dispute or proceeding relating to title, ownership, nature of the consignment relationship, or security interests in the Prepetition PBS Goods, or otherwise.
 - c. Nothing in the Settlement Agreement constitutes an assumption or rejection of any executory contract among Vendor and TSA, and all parties’ rights are reserved with respect to whether the PBS Agreement constitutes an executory contract. Vendor agrees that it will not move to compel TSA to assume or reject the PBS Agreement earlier than is required under the applicable provisions of the Bankruptcy Code.
2. GOODS RECEIVED BY TSA POST-PETITION (E.G., ON OR AFTER MARCH 2, 2016)
 - a. Vendor agrees to continue to ship goods to TSA in the ordinary course of business. TSA will pay for such Postpetition PBS Goods pursuant to the terms of the PBS Agreement.
 - b. Vendor will receive 100% of the Vendor Allocation specified in the PBS Agreement and Vendor will have a first priority, perfected security interest in Postpetition PBS Goods delivered post-petition and the Vendor Allocation of the proceeds therefrom that is senior to any rights asserted by TSA’s existing and future secured lenders; provided, however, that such security interest shall not entitle Vendor to any adequate protection claim or other administrative expense claim (pursuant to 11 U.S.C. § 506(a) or otherwise). Vendor will not have to file any UCC-1 financing statements or send any notices to TSA’s secured lenders to assert and perfect these rights; this

priority will be created and preserved pursuant to an order of the U.S. Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) approving the Settlement Agreement. TSA shall not seek to prime Vendor’s security interest in the Postpetition PBS Goods.

- c. TSA will retain its portion of the proceeds and Vendor will receive the Vendor Allocation of the proceeds of Postpetition PBS Goods, as specified in the PBS Agreement.

3. OTHER TERMS

- a. Vendor and TSA agree that the PBS Agreement attached to the Settlement Agreement will be the agreement that applies to the terms above. Any and all termination notices with respect to the PBS Agreements will be deemed withdrawn. Any order of the Bankruptcy Court with respect to assumption, rejection or other treatment of the PBS Agreement will include all of the terms set forth herein.
- b. The Settlement Agreement does not impact any other pre-bankruptcy claims that either party has or may assert, except as set forth in Paragraph 3(c) below.
- c. TSA will seek Bankruptcy Court approval of the Settlement Agreement as promptly as possible. Following such final approval, TSA will dismiss its pending complaint (the “Complaint”) against Vendor with prejudice. All rights to assert any of the claims and/or causes of action raised in such complaint by TSA and its affiliates, and any party in interest with standing to assert such claims on behalf of TSA and its affiliates, shall be discharged and extinguished pursuant to the Bankruptcy Court’s order approving the Settlement Agreement; provided, however, that all parties’ rights are reserved with respect to (a) any claims and/or causes of action (i) not specified in the complaint, (ii) pursuant to 11 U.S.C. § 547, and (iii) relating to Vendor’s obligations under the PBS Agreement and VRG (including, without limitation, warranty and indemnification obligations), and (b) all parties’ rights and obligations in the Settlement Agreement.
- d. With respect to all Prepetition PBS Goods and all Postpetition PBS Goods (collectively, “PBS Goods”) transferred prior to the date of the Settlement Agreement to certain stores that TSA has designated as “closing stores” (the “Closing Stores”), TSA may continue to sell such PBS Goods at the Closing Stores and TSA shall use reasonable efforts to conduct closing sales (collectively, the “Closing Sales”) at the Closing Stores with reasonable diligence.
- e. On or before 120 days from the date that is the earlier of (i) the effective date of the Debtors’ (as defined below) chapter 11 plan (the “Chapter 11 Plan”) as confirmed by the Bankruptcy Court and (ii) the effective date of a sale of all or substantially all of the Debtors’ assets (a “Sale”), the Debtors may decide to close additional stores (in addition to the Closing Stores referenced in Paragraph 3(d) above, and such stores will thereafter also be referred to herein as the Closing Stores) as part of the Chapter 11 Plan and/or the Sale. PBS Goods may be transferred both in and out of the

Closing Stores, and the Closing Sales will continue to be conducted in a manner consistent with the Debtors' conduct with respect to the transfer of such PBS Goods and the Closing Sales prior to the Petition Date.

- f. Vendor understands the need for TSA to run sale promotions. All promotions with respect to all PBS Goods shall continue in accordance with the terms of the deal sheet used in connection with the PBS Agreement or as confirmed in writing as the usual course of dealing among Vendor and TSA. This provision applies to all stores, including the Closing Stores (within the meaning of Paragraphs 3(d) and 3(e) above), provided, however, that with respect to a limited number of stores in connection with a Sale, Vendor has agreed to allow for more flexibility with respect to promotions.
- g. In the event of a Sale of TSA and/or its affiliates (collectively, the "Debtors"), the Settlement Agreement shall govern the disposition of PBS Goods delivered prior to the closing of such Sale and the proceeds therefrom. Post-closing deliveries will be the subject of the existing PBS Agreement (in the event that the assumption and assignment of such PBS Agreement is approved by the Bankruptcy Court) or as otherwise agreed to (presuming there is an agreement) between the buyer in the Sale and Vendor, and will not be governed by the Settlement Agreement.
- h. In the event of the conversion or dismissal of TSA's chapter 11 case or the appointment of a chapter 11 trustee, the Settlement Agreement and its terms shall remain in full force and effect and shall be binding on any trustee or successor of TSA, except that Vendor shall not be required to make further deliveries of any goods ordered after any such event.
- i. The terms of the Settlement Agreement shall apply to the proceeds of all PBS Goods sold on or after the Petition Date (March 2, 2016).
- j. All PBS Goods shall be accounted for on the FIFO (first in, first out) method on a consolidated basis (as opposed to trying to track specific inventory on a store-by-store basis) in order to avoid inventory tracking from being even more challenging than it already is.
- k. The Settlement Agreement shall govern the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement with respect to all sales by TSA, to the extent, without limitation, that the Bankruptcy Court's interim and/or final orders and/or future orders granting TSA's motion regarding closing store procedures, any future order(s) granting the Debtors' motion for authority to sell all or substantially all assets (including any sales pursuant to section 363), interim and/or final orders approving DIP financing, or any other interim and/or final orders conflict with the terms of the Settlement Agreement with respect to the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement, the terms of the Settlement Agreement shall govern.

1. In the event that TSA (or any of its affiliates) enters into an agreement with any other pay-by-scan (“PBS”) vendor that is approved by the Bankruptcy Court containing material terms involving matters that are the subject of the Settlement Agreement more favorable to such PBS vendor than the terms of the Settlement Agreement with Vendor, the Settlement Agreement will be deemed to be amended to incorporate such more favorable terms to Vendor and, without the need for further notice or approval of the Bankruptcy Court, TSA shall enter into an agreement with Vendor amending the Settlement Agreement to memorialize such incorporated terms.

[Remainder of This Page Intentionally Left Blank]

The undersigned Vendor accepts and agrees to the terms of this Settlement Agreement set forth above and has caused this Settlement Agreement to be duly executed as of the date set forth below.

Vendor: _____

By: _____

Name: _____

Title: _____

Date: _____

AGREED AND ACCEPTED:

TSA Stores, Inc.

By: _____

Name: _____

Title: _____

[Signature Page to Settlement Re Pay-By-Scan Vendors Dated as of 3/30/16]

EXHIBIT B

FORM OF SETTLEMENT AGREEMENT

(attached)

SETTLEMENT RE PAY-BY-SCAN VENDORS

DATED AS OF 3/30/16

CONFIDENTIAL SETTLEMENT COMMUNICATIONS/FRE 408

SUBJECT TO APPROVAL OF THE BANKRUPTCY COURT

1. GOODS RECEIVED BY TSA PRE-BANKRUPTCY (E.G., ON OR BEFORE MARCH 1, 2016) AND SOLD DURING BANKRUPTCY CASE
 - a. Commercial relationship is governed by, and Vendor and TSA Stores, Inc. (“TSA”) will continue to abide by the terms of, the existing pay-by-scan agreement (the “PBS Agreement”) (e.g., payment terms and timing, payment method, return policy, Vendor Relationship Guide (“VRG”) terms) except as provided in this settlement agreement (the “Settlement Agreement”).
 - b. TSA will continue to sell such Prepetition PBS Goods and Vendor will receive 60% (the “Vendor Settlement Proceeds”) of the vendor portion specified in the PBS Agreement (the “Vendor Allocation”). TSA will retain the remainder of all proceeds of the Prepetition PBS Goods. The Vendor Settlement Proceeds will not be subject to any claw back or right of return arising from any dispute or proceeding relating to title, ownership, nature of the consignment relationship, or security interests in the Prepetition PBS Goods, or otherwise.
 - c. Nothing in the Settlement Agreement constitutes an assumption or rejection of any executory contract among Vendor and TSA, and all parties’ rights are reserved with respect to whether the PBS Agreement constitutes an executory contract. Vendor agrees that it will not move to compel TSA to assume or reject the PBS Agreement earlier than is required under the applicable provisions of the Bankruptcy Code.
2. GOODS RECEIVED BY TSA POST-PETITION (E.G., ON OR AFTER MARCH 2, 2016)
 - a. Vendor agrees to continue to ship goods to TSA in the ordinary course of business. TSA will pay for such Postpetition PBS Goods pursuant to the terms of the PBS Agreement.
 - b. Vendor will receive 100% of the Vendor Allocation specified in the PBS Agreement and Vendor will have a first priority, perfected security interest in Postpetition PBS Goods delivered post-petition and the Vendor Allocation of the proceeds therefrom that is senior to any rights asserted by TSA’s existing and future secured lenders; provided, however, that such security interest shall not entitle Vendor to any adequate protection claim or other administrative expense claim (pursuant to 11 U.S.C. § 506(a) or otherwise). Vendor will not have to file any UCC-1 financing statements or send any notices to TSA’s secured lenders to assert and perfect these rights; this

priority will be created and preserved pursuant to an order of the U.S. Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") approving the Settlement Agreement. TSA shall not seek to prime Vendor's security interest in the Postpetition PBS Goods.

- c. TSA will retain its portion of the proceeds and Vendor will receive the Vendor Allocation of the proceeds of Postpetition PBS Goods, as specified in the PBS Agreement.

3. OTHER TERMS

- a. Vendor and TSA agree that the PBS Agreement attached to the Settlement Agreement will be the agreement that applies to the terms above. Any and all termination notices with respect to the PBS Agreements will be deemed withdrawn. Any order of the Bankruptcy Court with respect to assumption, rejection or other treatment of the PBS Agreement will include all of the terms set forth herein.
- b. The Settlement Agreement does not impact any other pre-bankruptcy claims that either party has or may assert, except as set forth in Paragraph 3(c) below.
- c. TSA will seek Bankruptcy Court approval of the Settlement Agreement as promptly as possible. Following such final approval, TSA will dismiss its pending complaint (the "Complaint") against Vendor with prejudice. All rights to assert any of the claims and/or causes of action raised in such complaint by TSA and its affiliates, and any party in interest with standing to assert such claims on behalf of TSA and its affiliates, shall be discharged and extinguished pursuant to the Bankruptcy Court's order approving the Settlement Agreement; provided, however, that all parties' rights are reserved with respect to (a) any claims and/or causes of action (i) not specified in the complaint, (ii) pursuant to 11 U.S.C. § 547, and (iii) relating to Vendor's obligations under the PBS Agreement and VRG (including, without limitation, warranty and indemnification obligations), and (b) all parties' rights and obligations in the Settlement Agreement.
- d. With respect to all Prepetition PBS Goods and all Postpetition PBS Goods (collectively, "PBS Goods") transferred prior to the date of the Settlement Agreement to certain stores that TSA has designated as "closing stores" (the "Closing Stores"), TSA may continue to sell such PBS Goods at the Closing Stores and TSA shall use reasonable efforts to conduct closing sales (collectively, the "Closing Sales") at the Closing Stores with reasonable diligence.
- e. On or before 120 days from the date that is the earlier of (i) the effective date of the Debtors' (as defined below) chapter 11 plan (the "Chapter 11 Plan") as confirmed by the Bankruptcy Court and (ii) the effective date of a sale of all or substantially all of the Debtors' assets (a "Sale"), the Debtors may decide to close additional stores (in addition to the Closing Stores referenced in Paragraph 3(d) above, and such stores will thereafter also be referred to herein as the Closing Stores) as part of the Chapter 11 Plan and/or the Sale. PBS Goods may be transferred both in and out of the

Closing Stores, and the Closing Sales will continue to be conducted in a manner consistent with the Debtors' conduct with respect to the transfer of such PBS Goods and the Closing Sales prior to the Petition Date.

- f. Vendor understands the need for TSA to run sale promotions. All promotions with respect to all PBS Goods shall continue in accordance with the terms of the deal sheet used in connection with the PBS Agreement or as confirmed in writing as the usual course of dealing among Vendor and TSA. This provision applies to all stores, including the Closing Stores (within the meaning of Paragraphs 3(d) and 3(e) above), provided, however, that with respect to a limited number of stores in connection with a Sale, Vendor has agreed to allow for more flexibility with respect to promotions.
- g. In the event of a Sale of TSA and/or its affiliates (collectively, the "Debtors"), the Settlement Agreement shall govern the disposition of PBS Goods delivered prior to the closing of such Sale and the proceeds therefrom. Post-closing deliveries will be the subject of the existing PBS Agreement (in the event that the assumption and assignment of such PBS Agreement is approved by the Bankruptcy Court) or as otherwise agreed to (presuming there is an agreement) between the buyer in the Sale and Vendor, and will not be governed by the Settlement Agreement.
- h. In the event of the conversion or dismissal of TSA's chapter 11 case or the appointment of a chapter 11 trustee, the Settlement Agreement and its terms shall remain in full force and effect and shall be binding on any trustee or successor of TSA, except that Vendor shall not be required to make further deliveries of any goods ordered after any such event.
- i. The terms of the Settlement Agreement shall apply to the proceeds of all PBS Goods sold on or after the Petition Date (March 2, 2016).
- j. All PBS Goods shall be accounted for on the FIFO (first in, first out) method on a consolidated basis (as opposed to trying to track specific inventory on a store-by-store basis) in order to avoid inventory tracking from being even more challenging than it already is.
- k. The Settlement Agreement shall govern the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement with respect to all sales by TSA, to the extent, without limitation, that the Bankruptcy Court's interim and/or final orders and/or future orders granting TSA's motion regarding closing store procedures, any future order(s) granting the Debtors' motion for authority to sell all or substantially all assets (including any sales pursuant to section 363), interim and/or final orders approving DIP financing, or any other interim and/or final orders conflict with the terms of the Settlement Agreement with respect to the treatment of Vendor's PBS Goods and the applicable allocation to Vendor of the proceeds therefrom as set forth in the Settlement Agreement, the terms of the Settlement Agreement shall govern.

1. In the event that TSA (or any of its affiliates) enters into an agreement with any other pay-by-scan (“PBS”) vendor that is approved by the Bankruptcy Court containing material terms involving matters that are the subject of the Settlement Agreement more favorable to such PBS vendor than the terms of the Settlement Agreement with Vendor, the Settlement Agreement will be deemed to be amended to incorporate such more favorable terms to Vendor and, without the need for further notice or approval of the Bankruptcy Court, TSA shall enter into an agreement with Vendor amending the Settlement Agreement to memorialize such incorporated terms.

[Remainder of This Page Intentionally Left Blank]

The undersigned Vendor accepts and agrees to the terms of this Settlement Agreement set forth above and has caused this Settlement Agreement to be duly executed as of the date set forth below.

Vendor: _____

By: _____

Name: _____

Title: _____

Date: _____

AGREED AND ACCEPTED:

TSA Stores, Inc.

By: _____

Name: _____

Title: _____

[Signature Page to Settlement Re Pay-By-Scan Vendors Dated as of 3/30/16]