

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

In re:) Chapter 11
) Case No. 04 B 02221
WICKES INC.,) (Jointly Administered)
a Delaware Corporation, and)
GLC DIVISION, INC.,) Honorable Bruce W. Black
a Delaware Corporation,)
Debtors.) Hearing: Thursday,
July 22, 2004 at 1:15 p.m.

**ORDER: (I) APPROVING ASSET PURCHASE
AGREEMENT; (II) AUTHORIZING SALE OF CERTAIN OF
DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND INTERESTS TO HOPE LUMBER & SUPPLY
COMPANY, L.P.; AND (III) AUTHORIZING ASSUMPTION AND ASSIGNMENT
OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

This matter having come before the Court on the motion (the "Sale Motion") of Wickes Inc. and GLC Division, Inc. (collectively, the "Debtor"), for entry of an Order: (A) Authorizing Debtor to Conduct a Sale of Substantially all of its Assets; (B) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (C) Setting Dates for Sale and Hearing on Sale; (D) Approving Form of Notice; and (E) Authorizing Debtor to Enter into "Stalking Horse" Agreements for the Sale of Certain Assets; it appearing that on June 24, 2004, the Debtor filed the Sale Motion; it further appearing that on June 28, 2004, this Court entered an Order (i) granting the Sale Motion, (ii) authorizing the Debtor to conduct a sale (the "Sale") of substantially all of its assets free and clear of Liens,¹ and (iii) setting the Sale for July 20, 2004 at

¹ Except as otherwise noted, capitalized terms used in this Order shall have the meanings ascribed to such terms in the Asset Purchase Agreement dated as of June 24, 2004 (the "Purchase Agreement"). The Purchase Agreement is annexed to this Order as Exhibit A. As used herein, "Liens" shall mean all encumbrances, obligations, liabilities, contractual commitments, claims, including, without limitation, any theory of successor liability, de facto merger, or substantial continuity, whether based in law or equity, employee benefit obligations, and all other claims or liabilities, under the Employee Retirement Income Security Act, the Comprehensive Child Support Enforcement Act, the Comprehensive Domestic Violence Act, the Comprehensive

This is to certify that the within and attached document is a true, true and correct copy of the original as the same appears on file in the office of the Clerk of the United States Bankruptcy Court for the Northern District of Illinois.

KENNETH S. GARDNER
CLERK OF COURT

Dated

Calaba Title, Inc.

10:00 a.m.; it appearing that on June 30, 2004, the approved Sale Notice was mailed to all creditors and parties in interest; it appearing that on July 9, 2004, the approved Sale Notice was published in the national edition of the Wall Street Journal; it appearing that at 10:00 a.m. on July 20, 2004 the Sale was conducted at the offices of Piper Rudnick LLP at Chicago, Illinois and Hope Lumber & Supply Company, L.P. (the "Purchaser") having been determined by the Debtor, after consultation with the Committee, the Postpetition Agent and the Ad Hoc Committee, to have submitted the highest and best bid at the Sale for the assets identified to be acquired by the Purchaser in the Purchase Agreement (the "Assets"), and those executory contracts and unexpired leases identified to be assumed by the Debtor and assigned to the Purchaser pursuant to the Purchase Agreement (the "Designated Executory Contracts"), and a hearing on the Sale Motion having been held on July 22, 2004 (the "Sale Hearing"); and all interested parties having been afforded an opportunity to be heard with respect to the Sale Motion and the Sale; and the Court having reviewed and considered (i) the results of the Sale, (ii) the Sale Motion; (iii) any objections thereto; and (iv) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that the relief requested in the Sale Motion and approval of the Sale of the Assets and assumption and assignment of the Designated Executory Contracts is in the best interests of the Debtor, its estates, its creditors, and

Act, CERCLA and all other environmental laws (the "Environmental Laws")), any security interest, mortgage, lien, charge against or interest in property, adverse claim, claim of possession, right of way, license, easement or restriction of any kind, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership or any option to purchase, option, charge, retention agreement which is intended as security or other matters (but such term to be deemed to exclude any and all Liens permitted by the terms of the Purchase Agreement) of any person or entity that encumber or relate to or purport to encumber or relate to the Purchased Assets. Notwithstanding anything contained in this Order to the contrary, real estate tax liens shall be excepted from the foregoing definition of "Liens" with respect to any parcel of real estate for which the Purchaser has been given a proration credit at Closing. Accordingly, the Purchaser shall take title to the Assets subject to any and all such real estate tax liens.

other parties in interest, and upon the record of the Sale Hearing; and after due deliberation thereon; and good cause appearing therefor, it is hereby

FOUND AND DETERMINED AS FOLLOWS:²

A. This Court has jurisdiction over the Sale Motion and the transactions contemplated by the Purchase Agreement pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(M) and (N). Venue of these cases and the Sale Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The statutory predicates for the relief sought in the Sale Motion are sections 105, 363, 365 and 1146(c) of 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code") and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure.

C. As evidenced by the affidavit of service previously filed with the Court, and based on the representations of counsel at the Sale Hearing, (i) proper, timely, adequate and sufficient notice of the Sale Motion, the Sale, the Sale Hearing and the assumption and assignment to the Purchaser of the Designated Executory Contracts through the Notices of Assumption and Assignment of Certain Contracts and Unexpired Leases has been provided in accordance with sections 102(l), 363, and 365 of the Bankruptcy Code and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure; (ii) notice of the Sale having been published in the national edition of the Wall Street Journal on Friday, July 9, 2004; (iii) such notice was reasonable, sufficient, and appropriate under the circumstances; and (iv) no other or further

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

notice of the Sale Motion, the Sale, the Sale Hearing, the Sale of the Assets or the assumption and assignment of the Designated Executory Contracts is or shall be required.

D. A reasonable opportunity to object or be heard with respect to the Sale Motion, the Sale, the assumption and assignment of the Designated Executory Contracts and the relief requested in the Sale Motion has been afforded to all interested persons and entities, including: (i) the Office of the United States Trustee; (ii) counsel for the Purchaser; (iii) counsel for the Postpetition Agent; (iv) counsel for the Committee; (v) counsel for the Ad Hoc Committee; (vi) all entities known to have expressed an interest in a transaction with respect to the Assets; (vii) all entities known to have any Lien on or with respect to the Assets; (viii) all federal, state, and local regulatory or taxing authorities or recording offices which have a known interest in the relief requested by the Sale Motion; (ix) all state Attorneys' General which have a known interest in the relief requested by the Sale Motion; (x) all non-Debtor parties to Designated Executory Contracts; (xi) the creditors identified on the Debtor's list of creditors holding the twenty largest unsecured claims; (xii) the Office of the United States Attorney General; (xiii) the Internal Revenue Service; and (xiv) all other entities that have filed requests for notices pursuant to Bankruptcy Rule 2002.

E. As demonstrated by (i) the testimony and/or other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, (a) the Debtor has adequately marketed the Assets and Designated Executory Contracts, (b) the Debtor properly conducted the sale process, and (c) the Sale was duly noticed and conducted in a non-collusive, fair and good faith manner.

F. The Debtor (i) has full corporate power and authority to execute the Purchase Agreement and any and all other documents contemplated thereby, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement, and (iii) has taken all corporate action necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby.

G. The Debtor has demonstrated sound business justifications for the Sale pursuant to section 363(b) of the Bankruptcy Code prior to confirmation of a plan of reorganization. The Sale is in contemplation of and necessary to a plan of reorganization in this case.

H. The Purchase Agreement was negotiated, proposed and entered into by the Debtor and the Purchaser as parties thereto without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtor nor the Purchaser has engaged in any conduct that would cause or permit the Purchase Agreement to be avoided under section 363(n) 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.

I. The consideration provided by the Purchaser for the Assets pursuant to the Purchase Agreement (i) is fair and reasonable, (ii) is the highest or otherwise best offer for the Assets, (iii) will provide a greater recovery for the Debtor's creditors and other interested parties than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

J. The transfer of the Assets to be acquired by the Purchaser under the Purchase Agreement will be a legal, valid, and effective transfer of such Assets, and will vest in the Purchaser all right, title and interest of the Debtor in the Assets to be acquired by it under the Purchase Agreement free and clear of all Liens, with such Liens attaching to the proceeds of the Sale of the Assets to the same extent, priority and validity as such Liens existed in the Assets immediately prior to the closing (the "Closing") on the Assets.

K. The Purchaser would not have entered into the Purchase Agreement and will not consummate the transactions contemplated thereby (thus adversely affecting the Debtor, its estates and its creditors) if the Sale of the Assets to the Purchaser was not free and clear of all Liens (except to the extent said Liens are being assumed in accordance with the Purchase Agreement), or if the Purchasers would be, or in the future could be, liable for any such Liens or the obligations secured by the Liens and if the assignment of the Designated Executory Contracts could not be made under section 365 of the Bankruptcy Code.

L. The Debtors may sell the Assets free and clear of all Liens because, in each case, one or more of the standards set forth in section 363(f) of the Bankruptcy Code has been satisfied. Those (i) holders of Liens and (ii) non-Debtor parties to Designated Executory Contracts who did not object, or who withdrew their objections, to the Sale, the Sale of the Assets or the Sale Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of Liens and (ii) non-Debtor parties to Designated Executory Contracts who did object fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Liens, if any, attach to the proceeds of the Sale ultimately attributable to the property against or in which they claim or may claim a Lien.

To the extent permitted by law,
M. The Purchaser is not a successor to the Debtor; thus, the Purchaser is not subject to successor liability claims based upon any theory of liability of any kind whatsoever.

N. No common identity of incorporators, directors or stockholders exists between the Purchaser and the Debtor.

O. The Purchase Agreement is not being entered into fraudulently.

P. The consummation of the Purchase Agreement does not amount to a consolidation, merger or de facto merger of the Purchaser and the Debtor or its estate.

Q. Purchaser is not a mere continuation of the Debtor or its estate, there is not substantial continuity between the Purchaser and the Debtor or its estate, and there is no continuity of enterprise between the Debtor and the Purchaser.

R. There has been no adjudication, finding, conclusion or determination as to whether the Purchase Agreement or any of its terms, including without limitation Section 2.1.10 of the Purchase Agreement ("Insurance Benefits"), effectively operates to: (i) assign rights to, create rights in, or bestow rights on, the Purchaser under any insurance policy; or (ii) create obligations, or impose obligations on, any insurer under any insurance policy.

S. Certain insurers (the "Insurers")³ have informed the Debtor that they object to any terms in the Purchase Agreement that, in the Insurers' view, may be interpreted to amend, modify or alter the terms of any of the Insurers' insurance policies, or to make an assignment of any such insurance policy to the Purchaser. The Debtor has agreed that such objection need not and

³ The insurers referred to in paragraph S to this Order consist of Continental Insurance Company, Transcontinental Insurance Company, Argonaut Insurance Company, Century Indemnity Company, Nationwide Indemnity Company as authorized agent for and on behalf of Employers Mutual Liability Insurance Company of Wisconsin, St. Paul Surplus Lines Insurance Company, The Travelers Indemnity Company, Travelers Casualty & Surety Company, American Home Assurance Company, National Union Fire Insurance Company of Pittsburgh, PA, and the respective subsidiaries or affiliates of each of the foregoing.

should not be presented or adjudicated in this proceeding, and that such objection is fully preserved. Consistent with the foregoing, no insurer has: (i) waived any objection to, or otherwise approved, acquiesced in, or consented to the Purchase Agreement, including without limitation Section 2.1.10 of the Purchase Agreement or any other terms in the Purchase Agreement relating to, or purporting to assign, transfer, create or bestow rights on the Purchaser under any insurance policy; or (ii) consented to the assignment of any insurance policy, or any rights under any insurance policy, to the Purchaser.

T. There has been no adjudication, finding, conclusion or determination as to whether any insurance policy provides coverage for any obligation undertaken by the Debtor under the Purchase Agreement.

U. The Debtor has demonstrated that it is an exercise of its sound business judgment to assume and assign the Designated Executory Contracts to the Purchaser pursuant to the Purchase Agreement in connection with the consummation of the Sale of the Assets, and the assumption and assignment of the Designated Executory Contracts pursuant to the Purchase Agreement is in the best interests of the Debtor, its estate, and its creditors. The Designated Executory Contracts being assigned to the Purchaser in accordance with the terms of the Purchase Agreement are an integral part of the Assets being purchased by the Purchaser and, accordingly, such assumption and assignment of Designated Executory Contracts is reasonable and enhances the value of the Debtor's estate.

V. The Debtor and the Purchaser, in respect of the Designated Executory Contracts being assigned to the Purchaser: (i) have provided adequate assurance of the Purchaser's future performance of and under such Designated Executory Contracts within the meaning of sections

365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code; (ii) will cure, or have provided adequate assurance of cure, of any default existing prior to the date hereof under any of such Designated Executory Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (iii) will provide compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the Closing Date under any such Designated Executory Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code.

W. Approval of the Purchase Agreement and assumption and assignment of the Designated Executory Contracts and consummation of the Sale of the Assets at this time are in the best interests of the Debtor, its creditors, its estates and other parties in interest.

**NOW THEREFORE, BASED UPON THE FOREGOING FINDINGS OF FACT,
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Sale Motion is granted, as designated herein.
2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits.
3. Subject to the provisions of this Order, the Purchase Agreement in the form attached hereto as Exhibit A (and all of the terms and conditions thereof) is hereby approved.
4. Pursuant to section 363(b) of the Bankruptcy Code, the Debtor is authorized and directed to consummate the Sale of the Assets, pursuant to and in accordance with the terms and conditions of the Purchase Agreement.

5. The Debtor is authorized and directed to execute and deliver, and is empowered to perform under, consummate and implement, the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement, and to take all further actions as may be requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser or reducing to possession, the Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

6. At the Closing on the Sale of the Assets, the Purchaser shall tender the purchase price set forth in the Purchase Agreement (net of applicable title charges, which may be paid directly to the title companies) to the Debtor and the proceeds of the Sale of the Assets shall be paid to the Postpetition Agent, in an amount sufficient to pay the Postpetition Debt in full, for provisional application in accordance with, and subject to, the Final Order Authorizing Debtor to: (A) Incur Postpetition Debt; (B) Grant Liens and Provide Security, Adequate Protection and Other Relief to Merrill Lynch Capital, a Division of Merrill Lynch Business Financial Services, Inc. ("Merrill Lynch"), as Agent; and (C) Provide Adequate Protection to the Bank of New York as Indenture Trustee ("BNY"), which this Court entered on March 25, 2004 (as amended, modified or supplemented from time to time, the "Financing Order"). As of the date of the Closing on the Sale of the Assets, Postpetition Agent's obligations to the Debtor under the Financing Order and "Postpetition Documents" (as defined in the Financing Order) shall be terminated; provided, however, Postpetition Agent shall be deemed entitled to assert any claims and/or liens with respect to the proceeds of the Sale not paid to it at the Closing on account of any accrued or accruing amounts owed to it under the Financing Order or Postpetition

Documents. Upon the Closing of the Sale of the Assets, and subject to application of Sale proceeds in accordance with the Financing Order, the amount sufficient to pay the 2005 bondholders in full (subject to a final determination as to all accrued interest and expenses), shall be set aside in a segregated account (the "2005 Account"), which shall not be used by the Debtor for any purpose and shall only be distributed pursuant to (a) further order of this Court, or (b) a confirmed plan of reorganization or liquidation; provided, however, BNY shall be entitled to assert any claims and/or liens with respect to proceeds of the Sale not deposited into the 2005 Account on account of any accrued or accruing amounts owed to it under the Financing Order or applicable loan documents. Nothing in this Order is intended to be an admission of the allowance and/or treatment of BNY's asserted claims or liens or of any defenses or counterclaims to such asserted claims or liens. All parties reserve any and all rights and defenses they may have with respect to all such matters and, except as expressly set forth herein, the Financing Order and Postpetition Documents remain in full force and effect.

7. Except as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Assets to be transferred pursuant to the Purchase Agreement shall be transferred to the Purchaser pursuant to the Purchase Agreement, and, as of the Closing Date under such Purchase Agreement, shall be free and clear of all Liens, with all such Liens (subject to the applicable provisions of the Purchase Agreement) of any kind or nature whatsoever to attach to the net proceeds of the Sale of the Assets in the order of their priority, with the same validity, force and effect which they now have as against the Assets, subject to any claims and defenses of the Debtor, the Committee, the Ad Hoc Committee and the Postpetition Agent.

To the extent permitted by law,

8. The Purchaser is not a successor to the Debtor and the Purchaser shall not be subject to successor liability claims based upon any theory of liability of any kind whatsoever.

9. Nothing in this Order shall: (a) operate as, or shall be deemed to operate as, an assignment, amendment, modification or alteration of any insurance policy; (b) constitute, or be deemed to constitute, an adjudication establishing the rights or obligations of the Debtor, the Purchaser, any insurer, or any other person or entity under any insurance policy, or a construction or interpretation of any insurance policy; (c) constitute, or be deemed to constitute, a finding, conclusion or determination as to whether the Purchase Agreement or any of its terms, including without limitation Section 2.1.10 of the Purchase Agreement ("Insurance Benefits"), effectively operates to (i) assign to, create in, or bestow rights on, the Purchaser under any insurance policy or (ii) create obligations, or to impose obligations on, any insurer under any insurance policy; or (d) constitute, or be deemed to constitute, a finding, conclusion or determination as to whether any insurance policy provides coverage for any obligation undertaken by the Debtor under the Purchase Agreement.

10. Except as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and other regulatory authorities, lenders, trade and other creditors holding Liens (including but not limited to any claims under any applicable revenue, pension, ERISA, tax, labor, environmental or natural resource law, rule or regulation, or any products liability law) of any kind or nature whatsoever against or in the Debtor or the Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated), arising under or

out of, in connection with, or in any way relating to, the Debtor, the Assets, the operation of the Debtor's business prior to the Closing Date of the Sale of such Assets, or the transfer of such Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns (to the extent allowed by law), its property, its officers, directors and shareholders or the Assets, the Liens of such persons or entities.

11. The transfer of the Assets to the Purchaser pursuant to the Purchase Agreement shall constitute a legal, valid and effective transfer of the Assets, and shall vest in the Purchaser all right, title and interest of the Debtor in and to the Assets to be acquired by the Purchaser free and clear of all Liens (subject to the terms of the Purchase Agreement).

12. On the Closing Date of the Sale of any Assets and subject to the terms and conditions of the Purchase Agreement, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Liens in such Assets, if any, as such Liens may have been recorded or may otherwise exist, including the taking of all other actions as may be necessary to evidence the release of its Liens in such Assets.

13. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing Liens in the Debtor or any Assets shall not have delivered to the Debtor prior to the Closing Date under the Purchase Agreement transferring such Assets, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Liens which the person or entity has with respect to the Debtor or such Assets or otherwise, then (a) the Debtor is hereby authorized and directed to execute and file such statements, instruments, releases and other

documents on behalf of the person or entity with respect to such Assets and (b) the Purchaser is hereby 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 in the Assets of any kind or nature whatsoever.

14. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing of the Sale of the Assets to be transferred pursuant to the Purchase Agreement, the Debtor's assumption and assignment to the Purchaser pursuant to such Purchase Agreement, of the Designated Executory Contracts to be transferred to it is hereby approved, and the requirements of sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

15. The Debtors are hereby authorized and directed, in accordance with sections 105(a) and 365 of the Bankruptcy Code, to (a) assume and assign to the Purchaser, effective upon the Closing of the Sale of the Assets, the Designated Executory Contracts to be transferred to such Purchaser free and clear of all Liens of any kind or nature whatsoever and (b) subject to the terms and conditions of the Purchase Agreement, execute and deliver to such Purchaser such documents or other instruments as may be necessary to assign and transfer such Designated Executory Contracts to the Purchaser.

16. The Designated Executory Contracts shall be transferred free and clear of all Liens of any kind or nature whatsoever to, and shall remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Designated Executory Contracts (including those of the type described in sections 365(b)(2) and (f)(1) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or

transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Debtor and its estate shall be relieved from any liability for any breach of any such Designated Executory Contracts which occurs or arises after such assignment to and assumption by the Purchaser on the Closing Date under the Purchase Agreement transferring such Designated Executory Contracts.

17. Notwithstanding anything to the contrary in this Sale Order, under section 365 of the Bankruptcy Code, the Purchaser is only assuming those liabilities arising post Closing under the Designated Executory Contracts to be transferred to it pursuant to the Purchase Agreement.

18. Pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code, all non-Debtor parties to the Designated Executory Contracts are forever barred and enjoined from raising or asserting against the Purchaser any assignment fee, default, breach or claim or pecuniary loss, or condition to assignment, arising under or related to the Designated Executory Contracts existing as of the Closing on the Sale of the Assets or arising by reason of the Closing on the Sale of the Assets. All non-Debtor parties to the Designated Executory Contracts are deemed to have consented to the assumption and assignment of the Designated Executory Contracts for purposes of Section 365(e)(2)(A)(ii) of the Bankruptcy Code and any objections to such assumption and assignment of the Designated Executory Contracts are hereby overruled.

19. The Designated Executory Contracts will be selected by the Purchaser, prior to the Closing on the Sale of the Assets, from those contracts listed in Exhibit B to this Sale Order. The documents which comprise all of the Designated Executory Contracts are listed in Exhibit B to this Sale Order and no other document, writing, instrument, correspondence or written or oral communication of any kind shall be deemed to be a part of the Designated Executory Contracts. All non-Debtor parties to the Designated Executory Contracts shall only be entitled to receive the

Cure Amount on or before the fifteenth (15) day following the date of the Closing on the Sale of the Assets, if any, listed in Exhibit B hereto, in connection with the assumption and assignment of the Designated Executory Contracts. With the exception of the Debtor's failure to pay the Cure Amounts set forth in Exhibit B hereto, all non-Debtor counter-parties to the Designated Executory Contracts shall be forever barred from asserting against the Debtor, its estate or the Purchaser, any default, any actual pecuniary loss resulting from such default, or any other claim under the Designated Executory Contracts, and the Debtor shall be released and forever discharged of and from any and all obligations and claims under the Designated Executory Contracts without any further action by this Court.

20. The consideration provided by the Purchaser for the Assets under the Purchase Agreement shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia.

21. To the extent that the parties identified in this paragraph have received actual notice, this Sale Order (a) shall be effective as a determination that, on the Closing Date under the Purchase Agreement, all Liens of any kind or nature whatsoever existing prior to such Closing as to the Debtor or the Assets transferred pursuant to the Purchase Agreement (including but not limited to any claims under any applicable revenue, pension, ERISA, tax, labor, environmental or natural resource law, rule or regulation, or any products liability law) have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall 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 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 Assets.

22. To the extent that the parties identified in this paragraph have received actual notice, 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 Purchase Agreement.

23. Except as provided herein, all entities who are presently, or on the Closing Date may be, in possession of some or all of the Assets to be transferred under the Purchase Agreement are hereby directed to surrender possession of such Assets to the Purchaser on the Closing Date under the Purchase Agreement without further order of this Court.

24. Except as expressly permitted or otherwise specifically provided for in this Sale Order in respect of the Purchase Agreement or the Assets to be transferred pursuant to the Purchase Agreement, ^{and to the extent permitted by law,} the Purchaser shall have no liability or responsibility for any liability or other obligation of the Debtor arising under or related to such Assets. Without limiting the generality of the foregoing, the Purchaser (and its officers, directors and shareholders) shall not be liable for (a) any claims against the Debtor or any of its predecessors or affiliates, or (b) successor or vicarious liability claims of any kind or character whether known or unknown as of the Closing Date under the Purchase Agreement, now existing or hereafter arising, whether fixed or contingent, each with respect to any obligations of the Debtor arising prior to the Closing Date

under the Purchase Agreement, including, but not limited to, any liabilities under any revenue, pension, ERISA, tax, employment, labor, environmental or natural resource law, rule or regulation, any federal or state employment and anti-discrimination laws and regulations, any successor liability law, any products liability law, arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtor's business prior to the Closing Date under the Purchase Agreement.

25. No insurer has, or shall be deemed to have: (a) waived any objection to, or otherwise approved, acquiesced in, or consented to the Purchase Agreement, including without limitation Section 2.1.10 of the Purchase Agreement or any other terms in the Purchase Agreement relating to, or purporting to assign, transfer, create or bestow rights on the Purchaser under any insurance policy; or (b) consented to the assignment of any insurance policy, or any rights under any insurance policy, to the Purchaser. The Debtor, the Purchaser and all insurers reserve all rights with respect to any and all disputes between or among them, or anyone claiming through or under them, with respect to all insurance policies.

26. This Court retains jurisdiction to enforce and implement the terms and provisions of the Purchase Agreement, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Assets to the Purchaser, (b) compel delivery of the purchase price or performance of other obligations owed to the Debtor, (c) resolve any disputes arising under or related to the Purchase Agreement, and (d) interpret, implement, and enforce the provisions of this Sale Order; provided, however, that nothing contained in this Order or the Purchase Agreement shall create, expand, contract or eliminate any jurisdiction this Court might otherwise have over insurance issues. Except as otherwise set forth herein with respect to insurance issues, if any proceeding

before the Court pursuant to this paragraph is not a core proceeding, any non-Debtor party who has received notice of the Sale Hearing shall be deemed to have consented to the Court (a) hearing and determining such proceeding, and (b) entering appropriate orders and judgments, subject to review under 28 U.S.C. § 158.

27. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale of the Assets shall not affect the validity of the Sale of such Assets to the Purchaser, unless such authorization is duly stayed pending such appeal prior to the Closing with respect to such Assets. The Purchaser is a purchaser in good faith of the Assets, and the Purchaser is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

28. The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, (a) the Debtor, its estate, and its creditors, (b) the Purchaser, and its respective affiliates, successors and assigns and (c) any affected third parties including, but not limited to, all persons asserting Liens in the Assets to be sold to the Purchaser pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding. Notwithstanding the foregoing in this paragraph 28, any allocation of the purchase price for the Sale Assets made by and between the Debtor and the Purchaser shall not be binding upon any other party in interest in these proceedings.

29. The failure specifically to include any particular provisions of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety.

~~30. The Sale of the Assets pursuant to the Purchase Agreement is a transfer pursuant to Section 1146(c) of the Bankruptcy Code, and accordingly shall not be taxed under any law imposing a stamp tax or a sale, transfer or any other similar tax. Each and every federal, state and local government agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transfer of any of the Assets, all without imposition or payment of any stamp tax, transfer tax or similar tax. With respect to only those of the Debtor's Locations located in the State of Florida, any transfer taxes shall be held in escrow (the "Transfer Funds") pending confirmation of a plan of reorganization or liquidation, after which time the Transfer Funds shall be returned to the Debtor's estate.~~

31. The transactions under the Purchase Agreement may be consummated without any liability under or violation of any bulk transfer or permit restrictions under applicable state law, including, without limitation, any state laws requiring notification and the escrow of sales proceeds for the benefit of state revenue departments collecting any types of tax or other required contributions or payments.

32. No current or former employee of the Debtor shall be deemed to be an employee of the Purchaser by virtue of the Purchase Agreement or the performance thereof, and the assumption and assignment of any Designated Executory Contracts shall not constitute an express or implied employment or assumption of collective bargaining obligations of the Debtor.

33. The Purchaser shall not be deemed to be a joint employer, single employer, co-employer or successor employer with the Debtor for any purpose and the Purchaser shall not have any obligation to pay any past wages, benefits or severance pay to any of Debtor's employees, including any of Debtor's employees who may subsequently become employed by the Purchaser.

34. All of the Debtor's interests in the Assets to be acquired by the Purchaser under the Purchase Agreement shall be, as of the Closing Date under the Purchase Agreement, transferred to and vested in the Purchaser. Upon the Closing Date, this Order shall be considered and constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Assets acquired by the Purchaser under the Purchase Agreement and/or a bill of sale transferring good and marketable, indefeasible title and interest in the Assets to the Purchaser.

35. As of the Closing Date, the Purchaser, subject to the terms and conditions of the Purchase Agreement, shall be hereby granted immediate and unfettered access to the Assets acquired by the Purchaser.

36. Nothing in this Order or the Purchase Agreement releases or relieves any entity of any requirement under applicable environmental laws or regulations to obtain authorization from a governmental entity for the transfer of any license, permit or certificate of authority held by the Debtor.

37. Nothing in this Order or the Purchase Agreement shall be construed to release or nullify any liability to any governmental entity under police and regulatory requirements that any entity would be subject to as the owner or operator of property after the date of entry of this Sale


Order; provided however that nothing contained in this Sale Order generally or this paragraph specifically should be construed as an admission by the Purchaser of any liability to any governmental entity.

38. In the event that there is a conflict between the terms of this Order and the Purchase Agreement, the terms of this Order shall control.

39. As provided by Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure, this Sale Order shall be effective and enforceable immediately upon entry hereof and shall not be stayed for 10 days after the entry of this Sale Order.

Dated: Chicago, Illinois

July 22, 2004


Honorable Bruce W. Black
United States Bankruptcy Judge

ORDER PREPARED BY:

David N. Missner (ARDC No. 01928988)
Marc I. Fenton (ARDC No. 06180633)
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EXHIBIT A

ASSET PURCHASE AND SALE AGREEMENT

between

HOPE LUMBER & SUPPLY COMPANY, L.P.

as Purchaser

and

WICKES INC.

as Seller

Dated: June 24, 2004

ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of June 24, 2004, is entered into by and between **WICKES INC.**, a Delaware corporation ("Wickes" or "Seller"), and **HOPE LUMBER & SUPPLY COMPANY, L.P.**, an Oklahoma limited partnership ("Purchaser").

RECITALS

A. Seller operates a lumber, hardware, wood products, building materials, component sales and manufacturing business known as Wickes, Wickes Lumber or Wickes Components, and which has facilities throughout the United States. Such operations include each such facility described on Schedule A, and such operations as they relate to each such facility is referred to in this Agreement as a "Location." Each Location is referred to collectively as the "Locations".

B. On January 20, 2004 (the "Petition Date"), Wickes filed a voluntary petition (the "Bankruptcy Case") for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court") and continues to manage its properties as debtor and debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. The parties intend that Seller sell to Purchaser and Purchaser acquire from Seller substantially all of the assets of Seller related to each Location other than the "Excluded Assets" (as herein defined).

AGREEMENT

1. DEFINITIONS.

In addition to the terms defined elsewhere in this Agreement, the following terms, when used in this Agreement (including the Schedules and Exhibits attached hereto), shall have the following meanings:

"Accounts Receivable" means all of the rights of Seller to payments due and to become due for Inventory or finished products sold and/or delivered and/or services performed prior to the Closing Date from each Location other than credit card receipts.

"Actual Assumed Accounts Receivable Value" has the meaning set forth in Section 2.6.2.

"Actual Inventory Value" has the meaning set forth in Section 2.6.1.

"Appraised Value" refers to the fair market value of each parcel of Owned Real Property stated in an appraisal prepared by Cushman & Wakefield dated in September, 2003 and among the records of Seller.

"Approval Order" has the meaning set forth in Section 4.6.2.

"Assets" means the assets related to each Location, including Inventory, Owned Equipment, Accounts Receivable, Seller's right, title and interest in the Designated Executory Contracts, Intangibles, Owned Real Property, and copies of Books and Records to be transferred under this Agreement, described in particularity in Section 2 of this Agreement.

"Assumed Accounts Receivable" means all Accounts Receivable other than Excluded Accounts Receivable.

"Assumed Customer Orders" means with respect to each Location, orders entered into in the ordinary course of business with customers not yet delivered as of the Closing Date.

"Assumed Purchase Orders" means orders for Inventory that are in process on the day of Closing that have been placed in the ordinary course of business of each Location by Seller.

"Assumed Liabilities" has the meaning set forth in Section 2.3.

"Bid Deposit" has the meaning set forth in Section 2.10.

"Books and Records" means all books and records of Seller that pertain exclusively to the conduct of each Location, the ownership, use, and operation of the Assets, or the payment or performance of the Assumed Liabilities, including any such records maintained on computer.

"Closing" means the closing of the purchase of the Assets as described in Section 2.13.

"Closing Date" means the date upon which the Closing occurs hereunder.

"Designated Executory Contracts" means only those unexpired leases and executory contracts, agreements for Leased Equipment, licenses, software agreements, Assumed Purchase Orders, Assumed Customer Orders and other agreements to the extent assignment is permitted by law, as set forth for each Location on the attached Schedule 1(a) and Real Property Leases set forth on the attached Schedule 1(b).

"Employee Benefit Plan" means an employee benefit plan, within the meaning of Section 3(3) of ERISA, established and maintained by Seller.

"Encumbrance" has the meaning set forth in Section 3.1.4.2.

"Equipment" means the Owned Equipment and the Leased Equipment.

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

"Estimated Assumed Accounts Receivable Value" means Seller's good faith estimate of Actual Assumed Accounts Receivable Value based upon the amounts reflected in Seller's accounts receivable trial balance records for each Location, maintained in a manner consistent with Seller's internal historic operating procedures, dated as of the close of business on May 29, 2004, and which is set forth for each Location on Schedule A to this Agreement.

"Estimated Inventory Value" means Seller's good faith estimate of Actual Inventory Value (prior to adjustment pursuant to Section 2.6.1) based upon the Seller's net average cost and quantities reflected in the Stock Ledger of Seller, plus the amount of Prepaid Purchase Orders reflected in the Books and Records, all as maintained in a manner consistent with Seller's internal operating procedures, dated as of the close of business on the Saturday immediately prior to the Closing Date, and which is set forth for each Location on Schedule A to this Agreement.

"Excluded Accounts Receivable" means those Accounts Receivable as of the Closing Date which Seller has written off and which are no longer shown on its receivables ledger as current or reserved.

"Excluded Assets" has the meaning set forth in Section 2.2.

"Hazardous Substance" means (i) all materials, substances, elements or compounds that are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency or under any Environmental Laws; and (ii) any hazardous waste, hazardous substance, hazardous materials (including, but not limited to, asbestos (whether or not friable), radioactive materials, petroleum and petroleum-related products, material, and substances), toxic substance, regulated substance, pollutant or contaminant as defined under any Environmental Laws or any other substance or material which is otherwise identified as "toxic" or "hazardous" under any Environmental Laws.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976 or any successor law, and regulations and rules issued pursuant to that Act or any successor law.

"Immediately Available Funds" means electronic wire transfer to an account or accounts designated by the payee.

"Intangibles" has the meaning set forth in Section 2.1.4.

"Inventory" has the meaning set forth in Section 2.1.1.

"IP Assets" means:

The trade names "Wickes" and "Wickes Lumber" and all related brand names, trademarks (whether currently or formerly used, whether federally registered or used at common law), copyrights, packaging designs, service marks, assumed names, trade dress, applications and registrations (whether United States, foreign, state or other) for and with respect to any of the foregoing, renewals, reissues, divisions and continuations of any of the foregoing, together with all goodwill associated with any of the foregoing, together with all rights to damages, claims and payments now or hereafter receivable with respect to any of the foregoing, including all rights to sue;

Seller's computer software and other intellectual property (including, but not limited to, software manuals) related to the Seller's "In-Store" System software, Builders Central

2000 Software, the Seller's owned and leased or licensed computer programs developed exclusively by and for the Locations.

Seller's right, title and interest in its national marketing programs.

"Leased Equipment" means the machinery, manufacturing equipment, tools, supplies, vehicles, forklifts, and other rolling stock, furniture, appliances, fixtures (including store displays, whether or not attached to the walls, floors, ceilings or any framework), and all other items of personal property which are not owned by Seller, but are used in each Location.

"Leased Real Property" means those certain parcels of land which are subject to the Real Property Leases described by Location on the attached Schedule 1(b), together with all rights and interests appurtenant thereto and the buildings and improvements thereon.

"Location" has the meaning set forth in Recital A.

"Loss" has the meaning set forth in Section 5.1.4.

"Owned Equipment" means the machinery, manufacturing equipment, tools, supplies, vehicles, forklifts, and other rolling stock, furniture, appliances, fixtures (including store displays, whether or not attached to the walls, floors, ceilings or any framework), and all other items of personal property, excluding Inventory, which are owned by Seller and used at each Location, including those described for each Location on the attached Schedule 1(c).

"Owned Real Property" means those certain parcels of land legally described for each Location on the attached Schedule 1(d), together with all rights and interests appurtenant thereto and the buildings and improvements thereon.

"Person" means an individual, corporation, partnership, limited liability company, limited liability partnership, unincorporated association, trust, joint venture or other organization or entity, including a governmental entity or any department, agency or political subdivision of such entities.

"Permitted Liens" has the meaning set forth in Section 4.5.1.

"Petition Date" has the meaning set forth in Recital B.

"Preliminary Estimated Inventory Value" means Seller's good faith estimate of Actual Inventory Value based upon the prices and quantities reflected in the Stock Ledger of Seller, plus the amount of Prepaid Purchase Orders reflected in the Books and Records, all as maintained in a manner consistent with Seller's internal operating procedures, dated as May 29, 2004, and which is set forth for each Location on Schedule A to this Agreement.

"Prepaid Purchase Orders" are Assumed Purchase Orders that have been prepaid by Seller.

"Purchaser's Damages" has the meaning set forth in Section 6.7.

"Real Property" means the Owned Real Property and the Leased Real Property.

"Real Property Leases" means the lease agreements for the Leased Real Property set forth on Schedule 1(b).

"RE Tax Returns" has the meaning set forth in Section 4.5.5.

"Rejected Executory Contracts" means all of the executory contracts and unexpired leases relating to each Location except for the Designated Executory Contracts.

"Seller's Damages" has the meaning set forth in Section 2.2.10.

"Stock Ledger" means the perpetual inventory records at each Location which includes each Location's in-store or Woodware perpetual inventory systems and used for the purpose of determining Preliminary Estimated Inventory Value, Estimated Inventory Value and Actual Inventory Value.

"Title Commitment" has the meaning set forth in Section 4.5.1.

"Title Company" has the meaning set forth in Sections 2.10 and 4.5.1.

"Title Policy" has the meaning set forth in Section 4.5.1.

2. PURCHASE AND SALE OF ASSETS.

2.1 Purchase and Sale of Assets. On and subject to the terms and conditions set forth in this Agreement, and except as provided in Section 2.2 as to Excluded Assets, at Closing, Seller shall sell, assign, transfer, convey, set over and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from Seller all of the Assets, which are more fully described as follows:

2.1.1 Inventory. All inventory belonging or assigned to or otherwise located at each Location on hand as of the Closing Date (excluding inventory consigned to Seller and located at a Location but not owned by Seller), including raw materials, work-in-progress, tool rental inventory and finished goods ("Inventory").

2.1.2 Real Property Interests. Seller's fee interests in the Owned Real Property and Seller's interest in the Real Property Leases that are Designated Executory Contracts.

2.1.3 Equipment. All of the Owned Equipment.

2.1.4 Intangibles. Except for the IP Assets, all intangible assets, rights and claims of Seller of every kind and nature relating to the Locations including licenses, customer lists, telephone numbers, advertising and marketing programs and plans, referral relationships, business information and software currently used by Seller in connection with the operation of the Location, and associated corporate goodwill (the "Intangibles") (provided that to the extent such Intangibles are used and after the Closing will continue to be used in that portion

of Seller's operations not conveyed to Purchaser under this Agreement, such assignment shall not be on an exclusive basis).

2.1.5 Designated Executory Contracts and Certain Rejected Executory Contracts. All of Seller's rights under the Designated Executory Contracts. Purchaser shall be entitled at any time prior to Closing to elect not to assume any Designated Executory Contract, in which case such contract will not be a "Designated Executory Contract" and will be excluded from the sale hereunder. Seller shall pay any and all cure costs relating to the assumption and assignment of the Designated Executory Contracts in such amounts as are determined by agreement between Seller and the lessor or contract counterparty thereof, or by order the Bankruptcy Court. If Purchaser determines that it desires to have continued use for more than 30 days after Closing (as provided in Section 2.2.10) of any assets which are subject to Rejected Executory Contracts, then Purchaser shall give Seller notice thereof and Seller shall cooperate with Purchaser and use Seller's commercially reasonable efforts to assist Purchaser to negotiate for extended use of such assets subject to such Rejected Executory Contracts beyond such 30 day period; provided that Purchaser shall pay all costs relating thereto.

2.1.6 Books and Records. Copies of all relevant books, papers and records relating to the Assets and the operation of the Location (the "Books and Records").

2.1.7 Accounts Receivable. All of Seller's right, title and interest in the Assumed Accounts Receivable arising from or related to sales from the Location.

2.1.8 [Intentionally omitted].

2.1.9 Cash on Hand. Unapplied cash on hand in the form of coin, currency, checks and drafts at each Location as of the close of business on the last business day preceding the Closing Date. To the extent (if any) that any such cash on hand has been applied by Seller as payments received on customer accounts receivable, but has not been physically removed from the Locations as of the Closing, such cash shall be excluded from the sale hereunder.

2.1.10 Insurance Benefits. The benefits of any insurance that would cover any of Purchaser's Damages to which Purchaser is entitled to indemnity from Seller under Section 6.7. At Closing Purchaser shall be deemed to be made an additional insured on all of Seller's policies of liability insurance that provide coverage to any person or organization to whom Seller is contractually obligated to provide such insurance.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 2.1, the following properties, assets and rights used in, or related to the Location (the "Excluded Assets") are excluded from the Assets and shall not be purchased by Purchaser:

2.2.1 Accounts and Notes. Bank accounts, cash equivalents (other than the cash on hand referred to in Section 2.1.9 to the extent set forth therein), notes receivable, credit card receipts and employee advances in existence on the Closing Date;

2.2.2 Prepaids. Prepaid taxes, expenses, advances and any tax refunds arising from taxes that accrued during any period prior to Closing;

2.2.3 Insurance. Except as set forth in Section 2.1.10 or otherwise provided in this Agreement, insurance policies, including any premium refunds in respect of such policies and claims covered by such policies arising prior to Closing;

2.2.4 Excluded Accounts Receivable. All of Seller's right, title and interest in the Excluded Accounts Receivable;

2.2.5 Books and Records. The originals of Books and Records relating to each Location for periods prior to the Closing Date (except to the extent needed by Purchaser to collect the Assumed Accounts Receivable or as otherwise agreed between Purchaser and Seller);

2.2.6 Personal Property. Those items of personal property listed and described for each Location on the attached Schedule 2.2.6;

2.2.7 Capital Leases. Any asset determined to be governed by a capitalized lease or similar other title retention agreement intended as security under generally accepted accounting principles. Provided, Purchaser shall be entitled to review any and all capital leases prior to Closing and to acquire and assume any such lease at Closing in exchange for paying any and all curative costs with respect to the lease and by assuming the obligations, and succeeding to the rights, of Seller.

2.2.8 Deposits. Deposits on account with vendors of each Location that are not applied to Prepaid Purchase Orders.

2.2.9 IP Assets. All of Seller's right, title and interest in the IP Assets, but subject to the License as set forth in Section 4.4.

2.2.10 Rejected Executory Contracts. All of Seller's rights under the "Rejected Executory Contracts", provided that notwithstanding the forgoing, the effective date of rejection for each Rejected Executory Contract shall be not less than 30 days subsequent to the Closing Date, and, to the extent requested by Purchaser, Seller shall afford to Purchaser the use and benefit of assets or Seller's rights that are governed by Rejected Executory Contracts until the effective date of such rejection. Such use and benefit shall be afforded to Purchaser by Seller under the conditions that, with respect to the Rejected Executory Contracts that provide such use and benefit, Seller shall be responsible for the regular payment of rent, fees or similar charges for the period subsequent to Closing and prior to the effective date of rejection (subject to a proration credit at Closing from Purchaser to Seller as provided in Section 2.12.6), and Purchaser shall be responsible for performance, insurance, licensing, risk of injury and risk of loss associated with such Rejected Executory Contracts subsequent to the Closing Date. Purchaser shall be responsible to Seller for, and shall defend, indemnify and hold Seller harmless from and against loss, damage, liability, cost or expense (including reasonable attorneys' fees and legal expense), or diminution of value, whether or not involving a third-party claim, that shall be suffered or incurred by Seller (collectively, "Seller's Damages"), resulting or relating to claims or demands made any party or parties arising as a result of Purchaser's use, control or conduct of any assets subject to the Rejected Executory Contracts after the Closing Date, including any liability for personal injury, property damage or other harm relating to assets

subject to the Rejected Executory Contracts. Purchaser covenants and agrees to deliver any assets subject to Rejected Executory Contracts to the respective lessor or owner thereof at the direction of Seller on the effective date of rejection of each such Rejected Executory Contract. Seller shall be responsible for the regular payment of rents, fees, similar charges, and other costs and expenses with respect to all rejected Executory Contracts covering assets as to which the Purchaser has not requested the use and benefit; and

2.2.11 Claims. All preference or avoidance claims and actions of Seller, including any such claims or actions arising under Sections 544, 547, 548, 549 and 550 of the Bankruptcy Code, insurance proceeds, claims and causes of action with respect to or arising in connection with any Excluded Assets.

2.3 Assumption of Liabilities. Contemporaneously with the purchase of the Assets, Purchaser shall assume and become obligated to perform the following liabilities and obligations of Seller:

2.3.1 current liabilities and obligations identified on the attached Schedule 2.3 and/or pursuant to Section 2.9 in the amount set forth therein;

2.3.2 Assumed Purchase Orders (except to the extent they are Prepaid Purchase Orders);

2.3.3 Assumed Customer Orders; and

2.3.4 obligations under the Designated Executory Contracts that accrue after the Closing.

The foregoing are collectively referred to as the "Assumed Liabilities". Except for (i) the Assumed Liabilities, (ii) as provided for in Section 2.1.5. with respect to Rejected Executory Contracts subsequent to the Closing and prior the effective date of rejection, and (iii) as otherwise specifically set forth in this Agreement, Purchaser shall not have any obligation for or with respect to any liability or obligation of Seller (such liabilities not assumed by Purchaser being hereinafter referred to as the "Excluded Liabilities"). Without limiting the foregoing, Purchaser shall not assume nor bear any responsibility of any kind whatsoever with respect to, and specifically disclaims any liability for, and Seller hereby releases and discharges Purchaser, its directors, shareholders, officers, employees, representatives, agents, attorneys and assigns from and against any and all of the following claims which any entity had, has, or at any time may have against Seller, and the Assumed Liabilities shall not include: (a) All environmental claims related to, associated with or arising out of the ownership, operation, use or control of the Assets at any Location, or environmental conditions existing at any Location, or as a result of the operations of, the Assets at any Location, before or as of the Closing Date, whether arising under environmental laws, or in any way arising in connection with the presence, release or threatened release of Hazardous Substances at, on, to or from (i) the Assets, including, but not limited to, surface water, air, soil or groundwater thereon, thereunder or adjacent thereto or (ii) any real property at which Hazardous Substances generated by operations of the Assets were sent prior to the Closing Date; (b) all warranty or product liability claims related to, associated with or arising out of the ownership, operation, use or control of the Assets existing on, or as a result of the

operations of, the Assets, before the Closing Date; and (c) operation of Seller's business prior to the Closing Date.

2.4 Purchase Price. The purchase price (the "Purchase Price") shall be determined as follows:

2.4.1 Twenty Eight Million Six Hundred Fifty Thousand and no/100 Dollars (\$28,650,000.00) for the Assets at all the Locations (which Assets are described in Section 2.1 hereof and set forth by Location on Schedule A attached hereto) (based upon the Estimated Assumed Accounts Receivable Value and the Preliminary Estimated Inventory Value), plus

2.4.2 an amount equal to cash on hand at each Location as of the close of business on the last business day preceding the Closing Date to the extent provided in Section 2.1.9; minus

2.4.3 the amount of deposits paid to Seller prior to Closing by customers for items of Inventory which are the subject of Assumed Customer Orders.

2.4.4 The Purchase Price paid at Closing shall be adjusted for the difference between the Preliminary Estimated Inventory Value and the Estimated Inventory Value as follows:

2.4.4.1 If the Preliminary Estimated Inventory Value is greater than the Estimated Inventory Value, the difference shall be subtracted from the Purchase Price paid at Closing; or

2.4.4.2 If the Preliminary Estimated Inventory Value is less than the Estimated Inventory Value, the difference shall be added to the Purchase Price paid at Closing.

2.4.5 A positive or negative adjustment shall be made to the Purchase Price (i) at Closing for the differences between the Estimated Assumed Accounts Receivable and the Actual Assumed Accounts Receivable as provided in Section 2.6.2. Adjustments attributable to differences in the Estimated Assumed Accounts Receivable and the Actual Assumed Accounts Receivable shall be made in accordance with the following categories and percentages, which categories reflect the aging of Accounts Receivable from their original due date:

<u>Category</u>	<u>Percentage</u>
Reserved	50 %
Extended Payment	100 %
First Current	100%
1-30	100%

31-60	100%
61-90	100%
Over 90	50%

Increases or decreases in the dollar amount of each aging category shall result in adjustments to the Purchase Price equal to the gross dollar increase or decrease in such category multiplied by the percentage set forth above with respect to such category.

2.4.6 The Purchase Price shall be reduced by 88.98% of the Appraised Value of the Owned Real Property at any Location which Purchaser rejects pursuant to the provisions of Section 2.6, 3.1.4.7, or 4.5.3.1 and by 88.98% of the book value of those other Assets (excluding Excluded Assets) which are attributable to such Location (including all Inventory, Owned Equipment, Assumed Accounts Receivable of such Location), determined as of May 29, 2004.

2.5 Payment of Purchase Price. At Closing, Purchaser shall pay an amount equal to the Purchase Price less the amount of the Bid Deposit which has been previously paid and the amount of the Escrow described in Section 2.14. The Closing payment shall be made in Immediately Available Funds. The Purchase Price shall be adjusted after the Closing to reflect any difference between the Estimated Inventory Value and the Actual Inventory Value, as provided in Section 2.6.1, and payment of any adjustment made in accordance with Section 2.8, 2.4.5, or 2.4.6.

2.6 Purchase Price Adjustment.

2.6.1 Actual Inventory Value. On the day(s) immediately preceding the Closing Date, or such other time mutually agreed upon by Purchaser and Seller, Purchaser and Seller shall take a physical inventory of each Location in accordance with the inventory procedures set forth in the attached Schedule 2.6.1. The Actual Inventory Value shall be calculated as follows:

2.6.1.1 the parties shall subtract from the Estimated Inventory Value at the price at which it was reflected on the Estimated Inventory Value

(i) the value of each item of inventory reflected on the Stock Ledger at Seller's average cost which was sold prior to Closing; for this purpose, Seller represents and warrants to Purchaser that no "cost adders" have been included in determining the cost or average cost paid for inventory;

(ii) the amount of the Estimated Inventory Value that consisted of Prepaid Purchase Orders; and

(iii) Inventory reflected on the Stock Ledger that is not present when the physical inventory is taken;

2.6.1.2 the parties shall add to the Estimated Inventory Value

(i) an amount equal to Seller's cost for each item of inventory purchased subsequent to the date of the Stock Ledger and present at the Location when the physical inventory is taken,

(ii) an amount equal to Seller's cost for each item of Inventory in transit subject to a Prepaid Purchase Order on the date when the physical inventory is taken; and

(iii) an amount equal to Seller's average cost reflected on the Stock Ledger for each item of Inventory that is present (and not already accounted for pursuant to Section 2.6.1.2(i)) at the time of the physical inventory that is in excess of what was shown on such Stock Ledger,

2.6.1.3 the parties shall add to and include in the Actual Inventory Value the value of work-in-process and finished goods Inventory determined by Seller's cost of the raw materials reflected in the physical inventory plus the cost of labor allocated to such items based upon percentage of completion as mutually agreed upon by Seller and Purchaser at the time of the physical inventory.

The physical inventory shall not be used to attribute any discount to Actual Inventory Value for qualitative matters, including but not limited to broken, damaged, defective, discontinued or obsolete items.

2.6.2 Actual Assumed Accounts Receivable Value. Actual Assumed Accounts Receivable Value shall be determined on the Closing Date based upon the Accounts Receivable reflected in Seller's accounts receivable trial balance records on the Closing Date for each Location, maintained in a manner consistent with Seller's internal historic operating procedures.

2.6.3 Locations for Catastrophic Losses. Purchaser shall have the right to reject and decline to purchase or assume all Assets, and not less than all Assets, associated with any Location experiencing a "Catastrophic Loss," as such quoted term is hereinafter defined. For this purpose, a "Catastrophic Loss" shall consist of a loss occasioned by flood, fire, earthquake, force majeure, act of God, sabotage, act of war, or any other event beyond the reasonable control of Purchaser resulting in an aggregate loss having a value of not less than forty percent (40%) of (a) in the case of Owned Real Property, 88.98% of the Appraised Value of the Owned Real Property, and (b) in the case of Leased Real Property, the value assigned to such Location on the attached Schedule 2.4.6.

2.7 Disputes. If the parties are unable to agree upon the calculation of the Actual Inventory Value or the Actual Assumed Accounts Receivable Value, then the parties shall negotiate in good faith in an effort to resolve such objections. If the parties are unable to resolve any such objections within ten (10) business days after the physical inventory, then undisputed amounts shall be paid in accordance with the procedures set forth in Section 2.8 and the issues in dispute shall be submitted to the Bankruptcy Court for resolution.

2.8 Post Closing Payment of Difference Between Estimated Inventory Value and Actual Inventory Value. Not later than the twentieth (20th) day following the

physical inventory, except to the extent that the parties are unable to resolve their differences with respect to the calculation of the Actual Inventory Value, Seller and Purchaser shall make the following adjustments to Purchase Price:

2.8.1 Payment to Seller. In the event that the Actual Inventory Value, as determined in accordance with Section 2.6, is greater than the Estimated Inventory Value, then Purchaser shall pay directly to Seller, in Immediately Available Funds, an amount equal to the difference

2.8.2 Payment to Purchaser. If the Estimated Inventory Value is greater than the Actual Inventory Value, then Purchaser and Seller shall jointly instruct the Title Company to release to Purchaser, in Immediately Available Funds, an amount equal to the difference. If the amount of Bid Deposit is insufficient to satisfy the difference, then Seller shall pay directly to Purchaser in Immediately Available Funds on the same date as the Bid Deposit is released to Purchaser pursuant to this Section, the unpaid remaining difference to Seller.

2.9 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets by Purchaser and Seller within ninety (90) calendar days following the Closing Date, or such later date as the Purchase Price, as adjusted, is determined in accordance with Section 2.4, subject to the following: (i) such allocation shall be reflected in the Tax returns (including, but not limited to, Internal Revenue Service Form 8594) that are filed by Purchaser and the Seller in accordance with Section 1060 of the Code (and any similar provision of state or local law, as appropriate), with such adjustments as may be necessary pursuant to Section 2.6 hereof; and (ii) Purchaser and Seller agree to treat and report in filings under the Code (and any state or local law, as appropriate) (and, if necessary, to cause each of their respective Affiliates to so treat and report) the transactions contemplated by this Agreement in a manner consistent with one another.

2.10 Bid Deposit. On the date of this Agreement, Purchaser shall pay Two Million Eight Hundred Sixty Five Thousand and no/100 Dollars (\$2,865,000.00) (such initial deposit together with any interest earned thereon is referred to herein as the "Bid Deposit") directly to First American Title Insurance Company, as escrow agent (the "Title Company") pursuant to an escrow agreement among Seller, Purchaser and the Title Company in the form attached to this Agreement as Exhibit 2.10 (the "Deposit Agreement"). The Bid Deposit shall be applied and transferred to the parties only for the purposes set forth in this Section 2.10.

2.10.1 The Bid Deposit shall be transferred to Purchaser upon the rightful termination of this Agreement by Purchaser under Section 6.6.2;

2.10.2 The Bid Deposit shall be transferred to Seller upon rightful termination of this Agreement by Seller under Section 6.6.3.2;

2.10.3 [Intentionally omitted];

2.10.4 The Bid Deposit shall be held by the Title Company until final determination of the difference between Estimated Inventory Value and Actual Inventory Value in accordance with Sections 2.6 and 2.7 and, upon such final determination, paid to Purchaser to the extent that payment is due to Purchaser under Section 2.8.2;

2.10.5 Any portion of the Bid Deposit remaining after application in accordance with Section 2.10.4 shall be used, at the parties' joint direction to satisfy the prorations, if any, not capable of being made at Closing, on or before the forty-fifth (45) day following the Closing; and

2.10.6 Any portion of the Bid Deposit remaining after application in accordance with Sections 2.10.4 and 2.10.5, shall be wire transferred to Seller on the forty fifth (45) day following the Closing unless a dispute under Section 2.7 remains unresolved, in which event the remaining Bid Deposit shall continue to be held in escrow until further order of the Bankruptcy Court.

2.11 Employee Matters.

2.11.1 **Employee Matters.** Subsequent to the execution of this Agreement, Purchaser shall have the right to interview Seller's employees who are employed in connection with each Location. Seller shall bear full responsibility for providing any notice that may be required under the Worker Adjustment and Retraining Notification Act of 1987 as amended (the "WARN Act"). Seller shall bear any liability obligation which may accrue to its employees, any unit of local government or otherwise under the WARN Act or any similar law as the result of improper or untimely notice required to or on the Closing, and Seller shall indemnify and hold Purchaser harmless from and against any and all losses associated with or related to Seller's failure to comply with the WARN Act or similar laws with regards to its employees. Nothing in this Agreement is intended to confer upon any employee of Seller or his legal representatives any rights or remedies of any nature whatsoever under or by reason of this Agreement including, without limitation, any rights of employment for any specified period of time.

2.11.2 **Certain Responsibilities.** Immediately prior to Closing, Seller shall terminate the employment of all employees at each Location who have accepted Purchaser's offer of employment, and all obligations in connection with such employees arising prior to the Closing and compliance with all employment laws applicable prior to the Closing shall be the responsibility of Seller (all of which are Excluded Liabilities), including paying all compensation, commissions, payroll taxes and accrued vacation time and accrued sick leave due and payable through the Closing Date. Purchaser shall have no liability with respect to claims of Seller's employees arising from Seller's conduct prior to the Closing. Seller may issue final pay checks to business employees at each Location in the ordinary course of business in arrears.

2.12 Prorations and Other Payment Obligations.

2.12.1 **Ad Valorem Taxes.** Ad valorem taxes on the Real Property and personal property Assets being sold hereunder shall be prorated between the Seller and Purchaser as of the Closing Date. All obligations due in respect of periods prior to the Closing Date shall be the obligations of Seller and all obligations due in respect of periods after the Closing Date shall be the obligation of Purchaser. If in favor of Purchaser, the net proration credit shall be a credit against the Purchase Price due at Closing. If in favor of Seller, the net proration credits shall be added to the Purchase Price due at Closing. If Seller is obligated under any Real Property Lease to pay ad valorem taxes on the applicable Leased Real Property, such ad valorem

taxes shall be paid and prorated on the basis and in the manner set forth above, provided, however, if Seller has deposited payments of accrued ad valorem taxes with the landlord pursuant to any Real Property Lease, then Seller shall receive a proration credit in that amount. If the tax rate for the current year is not established by the Closing Date, the proration of taxes shall be upon the most recent tax bill. In the event any penalties or interest on account of unpaid taxes cannot be determined as of the Closing Date, the parties shall reprorate for such penalties or interest on the eleventh day following the Closing Date. Except for the reproration set forth in the immediately preceding sentence, all such prorations shall be final as of Closing.

2.12.2 Utilities. Final readings for all utilities, including water and sewer charges, as well as propane gas, electric and telephone charges, utilized in relation to the Assets subsequent to the Petition Date shall be made on or before the Closing Date, and Seller shall arrange and obtain final billings of such utilities to close of business on the Closing Date. If, for reasons beyond Seller's reasonable control, it is not possible to obtain final utility readings prior to the Closing Date, utilities shall be prorated as of the close of business on the Closing Date based upon the most recently available bills. Cash deposits with utilities shall be the property of Seller and refundable to Seller unless the parties agree in their mutual discretion in any instance that Seller shall assign to Purchaser any such deposit at Closing, in which event Seller shall receive a proration credit in such sum. All such prorations shall be final as of Closing.

2.12.3 Closing Costs. At or prior to Closing, Seller shall pay the costs of the title insurance policies in Section 4.5 and Seller and Purchaser shall each pay at Closing one-half of any escrow or agency fees incurred with the Title Company.

2.12.4 State and Local Transfer Taxes. In accordance with Section 1146(c) of the Bankruptcy Code, the making or delivery of any instrument to evidence, effectuate, or perfect the rights, transfers, and conveyances contemplated by this Agreement shall be in contemplation of a plan or plans of reorganization to be confirmed in the Bankruptcy Case and, as such, shall be free and clear of any and all Taxes and any such instrument may, at the request of Purchaser, contain an endorsement to that effect. In the event that, notwithstanding the foregoing, any state or local transfer taxes are assessed on the transfer of the Assets to Purchaser, such Taxes shall be paid by Purchaser, and Purchaser shall complete and file all returns associated therewith. Such obligations shall survive the Closing.

2.12.5 Rents. All rents and other tenant charges and credits accruing under the Real Property Leases shall be prorated as of the Closing Date based on the monthly period for which the lease payments with respect thereto are or have been paid.

2.12.6 Rejected Executory Contracts. Rent, fees or similar charges incurred by Seller pursuant to Section 2.2.10 for the period subsequent to the Closing Date and prior to the effective date of rejection for Rejected Executory Contracts to the extent reasonably determinable prior to Closing shall be prorated as of the Closing Date and credited to Seller, and shall in any event be prorated and credited to Seller no later than the date provided in Section 2.10.5.

2.13 The Closing.

2.13.1 Closing. The Closing of the purchase and sale of the Locations shall take place on Monday after the later of:

2.13.1.1 The date on which all conditions to the Closing set forth in Section 5 have been satisfied or waived (other than (i) those conditions that are waived at Closing, and (ii) the entry of the Approval Order); and

2.13.1.2 The date of the entry of the Approval Order (or the earliest other date as may be permitted by the Approval Order and agreed upon by the parties);

2.13.2 Location of Closing. The Closing shall take place at the offices of Schwartz, Cooper, Greenberger & Krauss, Chtd., in Chicago, Illinois.

2.13.3 Closing Deliveries by Seller. At the Closing, Seller shall deliver or cause to be delivered to Purchaser:

2.13.3.1 A Bill of Sale in substantially the form attached to this Agreement as Exhibit 2.13.3.1, executed by Seller, conveying the Assets (other than the Designated Executory Contracts, Owned Real Property and titled vehicles);

2.13.3.2 A Quitclaim Deed for each parcel of the Owned Real Property in substantially the form attached to this Agreement as Exhibit 2.13.3.2 conveying each parcel of the Owned Real Property to Purchaser;

2.13.3.3 An Assignment of Leases in substantially the form attached to this Agreement as Exhibit 2.13.3.3 assigning each of the Real Property Leases that are Designated Executory Contracts to Purchaser;

2.13.3.4 An Assignment and Assumption Agreement in substantially the form attached to this Agreement as Exhibit 2.13.3.4 for the Assumed Liabilities, including without limitation, the Designated Executory Contracts, executed by Seller;

2.13.3.5 Seller shall execute and deliver such other documents and instruments as may be reasonably required by the Title Company to Close this transaction;

2.13.3.6 If available to Seller at Closing, all titles to all titled vehicles owned by Seller and comprising part of the Assets, executed or endorsed by Seller (and if not available at Closing, Seller shall deliver such titles to Purchaser no later than the eleventh business day following the Closing);

2.13.3.7 Each Title Policy (or signed "mark-up") issued pursuant to each Title Commitment described in Section 4.5.1;

2.13.3.8 All documents required to be delivered at Closing by Seller, as the case may be, pursuant to Section 5.1.

2.13.4 Closing Deliveries by Purchaser. At the Closing, Purchaser shall deliver or cause to be delivered to Seller:

2.13.4.1 The payments of Immediately Available Funds described in Section 2.5;

2.13.4.2 An Assignment of Leases in substantially the form attached to this Agreement as Exhibit 2.13.3.3 for each of the Real Property Leases that are Designated Executory Contracts, executed by Purchaser;

2.13.4.3 An Assignment and Assumption Agreement in substantially the form attached to this Agreement as Exhibit 2.13.3.4 for the Assumed Liabilities, including without limitation, the Designated Executory Contracts, executed by Purchaser;

2.13.4.4 Purchaser's payment for its share of the obligations described in Section 2.12 to the extent payable at Closing; and

2.13.4.5 All documents required to be delivered at Closing by Purchaser pursuant to Section 5.2.

2.14 Credit Memoranda. Certain Responsibilities. For a period of forty-five (45) days after the Closing (the "Escrow Period"), Seller shall be responsible for credits and returns on sale transactions completed prior to the Closing that are attributable to mathematical, computer, and keypunch errors, as well as any misquoted prices or shipping disputes ("Credit Memoranda"). Purchaser shall withhold at Closing Two Hundred Fifty Thousand Dollars (\$250,000) from the payment of the Purchase Price (the "Escrow") as security for Seller's compliance with its responsibilities under this Section 2.14. At the end of the Escrow Period, Purchaser shall notify Seller of any amounts that it intends to offset against the Escrow pursuant to this Section 2.14. If Seller does not object to such offsets within five business days of such notice, Seller shall be deemed to have approved of such offsets and Purchaser shall offset such amounts and pay any and all remaining amounts within the Escrow to Seller. If Seller notifies Purchaser that it disputes any of such offsets, then (i) the undisputed amounts shall be paid to Seller and (ii) unless the parties agree on the disputed offsets within five (5) days thereafter, the matter shall be submitted to the Bankruptcy Court for resolution.

2.15 Tax Deferred Exchange; Assignment. Seller agrees to cooperate with Purchaser to allow Purchaser to effect a tax deferred exchange under Section 1031 of the Internal Revenue Code of 1986, as amended, in connection with the acquisition of any Owned Real Property so long as (a) Purchaser bears all costs and expenses associated with such transaction(s), and (b) the Closing is not extended or delayed. Further, Purchaser shall have the right to partially assign this Agreement to any person or entity in connection with effectuating such a tax deferred exchange provided such party gives Seller written notice of such assignment and such assignment shall not relieve Purchaser from its obligations under this Agreement.

3. REPRESENTATIONS AND WARRANTIES.

3.1 Representations and Warranties of Seller. Seller represents and warrants to Purchaser that the following statements are true and correct on the date of this Agreement:

3.1.1 Corporate Organization and Standing of Seller. Other than as a result of Wickes' filing the Petition, each Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

3.1.2 Corporate Authorization. Subject to the Bankruptcy Court's entry of the Approval Order with respect to Wickes, all corporate action on the part of each Seller and its directors and shareholders necessary for the authorization, execution, delivery and performance by each Seller of this Agreement and the consummation of the transactions contemplated by this Agreement has been taken. This Agreement has been duly executed and delivered by each Seller and is a valid and binding obligation of each Seller, enforceable in accordance with its terms, subject to entry of the Approval Order with respect to Wickes.

3.1.3 No Conflict. Subject to the Bankruptcy Court's entry of the Approval Order or otherwise provided in applicable bankruptcy law with respect to Wickes, neither the execution and delivery of this Agreement by each Seller nor the consummation of the transactions contemplated by this Agreement will (a) conflict with or result in a breach of any provision of any Seller's articles of incorporation or bylaws, (b) conflict with any existing provision of applicable law or any existing order, rule, regulation, judgment or decree of any court, arbitrator or agency of government, other than, if applicable, compliance with the notification and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the regulations thereunder (c) violate, be in conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under (or give rise to any right of termination, cancellation or acceleration) any of the terms, conditions or provisions of any agreement, instrument or writing to which Seller is a party, or by which any Seller or any of the Assets may be bound, except for such default (or right of termination, cancellation or acceleration) which will be cured by satisfaction of the underlying obligations on or before the Closing Date or will be waived on or before the Closing Date, or (d) violate any order, writ, injunction, decree, statute, rule or regulation applicable to any Seller or any of the Assets or the Location upon entry of the Approval Order.

3.1.4 Title to and Condition of Assets.

3.1.4.1 [Intentionally omitted].

3.1.4.2 Title to the Assets except for the Owned Real Property shall be transferred to Purchaser free and clear of all Encumbrances other than the Assumed Liabilities. "Encumbrance" shall mean any claim, judgment, license, lease, sublease, lien, pledge, option, charge, easement, security interest, deed of trust, mortgage, right of way, encroachment, building or use restriction, conditional sales agreement, title retention agreements which are intended as security, capitalized leases under generally accepted accounting principles, encumbrances or other rights of third parties, whether voluntarily incurred or arising by operation of law, and includes, without limitation, any agreement to give any of the foregoing in the future, any contingent sale or other title retention agreement or lease in the nature thereof, and any "claim", "lien", or "security interest" as those terms are defined in the Bankruptcy Code.

3.1.4.3 Title to the Owned Real Property shall be sold free and clear of all Encumbrances except for zoning, building and use restrictions and Permitted Liens.

3.1.4.4 Seller is not a "Foreign Person" within the meaning of Section 1445 of the Code disposing of a United States real property interest within the meaning of Section 897(c) of the Code.

3.1.4.5 [Intentionally omitted].

3.1.4.6 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, EXCEPT AS PROVIDED IN SECTION 3 HEREOF, IT IS UNDERSTOOD AND AGREED THAT SELLER AND ITS REPRESENTATIVES AND/OR AGENTS HAVE NOT MADE AND ARE NOT NOW MAKING, AND THEY SPECIFICALLY DISCLAIM, ALL WARRANTIES, REPRESENTATIONS OR GUARANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, WITH RESPECT TO THE REAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES, REPRESENTATIONS OR GUARANTIES AS TO (i) MATTERS OF TITLE (OTHER THAN SELLER'S LIMITED WARRANTY OF TITLE SET FORTH IN THE DEED AND ANCILLARY CONVEYANCE DOCUMENTS TO BE DELIVERED AT CLOSING), (ii) ENVIRONMENTAL MATTERS RELATING TO THE REAL PROPERTY OR ANY PORTION THEREOF, (iii) GEOLOGICAL CONDITIONS, INCLUDING, WITHOUT LIMITATION, SUBSIDENCE, SUBSURFACE CONDITIONS, WATER TABLE, UNDERGROUND WATER RESERVOIRS, LIMITATIONS REGARDING THE WITHDRAWAL OF WATER, AND EARTHQUAKE FAULTS AND THE RESULTING DAMAGE OF PAST AND/OR FUTURE EARTHQUAKES, (iv) WHETHER, AND THE EXTENT TO WHICH, THE REAL PROPERTY OR ANY PORTION THEREOF ARE AFFECTED BY ANY STREAM (SURFACE OR UNDERGROUND), BODY OF WATER, FLOOD PRONE AREA, FLOOD PLAIN, FLOODWAY OR SPECIAL FLOOD HAZARD, (v) DRAINAGE, (vi) SOIL CONDITIONS, INCLUDING THE EXISTENCE OF INSTABILITY, PAST SOIL REPAIRS, SOIL ADDITIONS OR CONDITIONS OF SOIL FILL, OR SUSCEPTIBILITY TO LANDSLIDES, OR THE SUFFICIENCY OF ANY UNDERSHORING, (vii) ZONING TO WHICH THE REAL PROPERTY OR ANY PORTION THEREOF MAY BE SUBJECT, (viii) THE AVAILABILITY OF ANY UTILITIES TO THE REAL PROPERTY OR ANY PORTION THEREOF INCLUDING, WITHOUT LIMITATION, WATER, SEWAGE, GAS AND ELECTRIC, (ix) USAGES OF ADJOINING PREMISES, (x) ACCESS TO THE REAL PROPERTY OR ANY PORTION THEREOF, (xi) THE VALUE, COMPLIANCE WITH THE PLANS AND SPECIFICATIONS, SIZE, LOCATION, AGE, USE, DESIGN, QUALITY, DESCRIPTION, SUITABILITY, STRUCTURAL INTEGRITY, OPERATION, TITLE TO, OR PHYSICAL OR FINANCIAL CONDITION OF THE REAL PROPERTY OR ANY PORTION THEREOF, OR ANY INCOME, EXPENSES, CHARGES, LIENS, ENCUMBRANCES, RIGHTS OR CLAIMS ON OR AFFECTING OR PERTAINING TO THE REAL PROPERTY OR ANY PORTION THEREOF, OR ANY INCOME, EXPENSES, CHARGES, LIENS, ENCUMBRANCES, RIGHTS OR CLAIMS ON OR AFFECTING OR PERTAINING TO THE REAL PROPERTY OR ANY PORTION THEREOF, (xii) THE PRESENCE OF HAZARDOUS MATERIALS IN OR ON, UNDER OR IN THE VICINITY OF THE REAL PROPERTY, (xiii) THE CONDITION OR USE OF THE REAL PROPERTY OR COMPLIANCE OF THE REAL PROPERTY WITH ANY OR ALL PAST, PRESENT OR FUTURE FEDERAL, STATE OR LOCAL ORDINANCES, CODES OR OTHER SIMILAR LAWS, (xiv) THE EXISTENCE OR NON-EXISTENCE OF UNDERGROUND STORAGE TANKS, (xv) ANY OTHER MATTER

AFFECTING THE STABILITY OR INTEGRITY OF THE REAL PROPERTY, (xvi) THE EXISTENCE OF VESTED LAND USE, ZONING OR BUILDING ENTITLEMENTS AFFECTING THE REAL PROPERTY, (xvii) THE MERCHANTABILITY OF THE REAL PROPERTY OR FITNESS OF THE REAL PROPERTY FOR ANY PARTICULAR PURPOSE (PURCHASER AFFIRMING THAT PURCHASER HAS NOT RELIED ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH THE REAL PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT SELLER MAKES NO WARRANTY THAT THE REAL PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE), OR (xviii) TAX CONSEQUENCES.

3.1.4.7 Notwithstanding the provisions of the foregoing subsection 3.1.4.6, Purchaser has been furnished reports of a Phase I Environmental Assessment and Compliance Report with respect to each of the locations (each such report being subsequently referred to as an "Environmental Report" and collectively as the "Environmental Reports"). Seller agrees to use its best efforts to obtain reliance letters from the consultant or other party issuing each of the Environmental Reports authorizing Purchaser to rely on such reports. Based on the Environmental Reports, and other associated information provided by Seller to Purchaser, Purchaser has determined that Locations Nos. 306 and 320/420 (both in Longmont, Colorado) require further environmental due diligence. If Purchaser reasonably determines that environmental remediation work will be required and will result in the expenditure by Purchaser of not less than Fifty Thousand Dollars (\$50,000) nor more than Two Hundred Fifty Thousand Dollars (\$250,000) with respect to either Location No. 306 or No. 320/420, Purchaser shall provide written notice to Seller not less than five days prior to Closing and Seller shall either agree to reduce the Purchase Price by the cost of such remediation as agreed to by Seller and Purchaser or the affected Location shall not be a part of the Assets to be acquired hereunder and the Purchase Price shall be reduced in accordance with Section 2.4.6. If Purchaser reasonably determines that environmental remediation work will be required and will result in the expenditure by Purchaser of more than Two Hundred Fifty Thousand Dollars (\$250,000) with respect to either Location No. 306 or No. 320/420, Purchaser may elect not to acquire the affected Location and shall, in such event, provide written notice to Seller of such decision not less than five days prior to Closing. In the event of the giving of such Notice, the Purchase Price shall be reduced in accordance with the provisions of Section 2.4.6. of this Agreement.

3.1.4.8 PURCHASER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER OR ITS REPRESENTATIVES OR ANY OF THEIR RESPECTIVE AGENTS, AND ACKNOWLEDGES THAT NO SUCH REPRESENTATIONS HAVE BEEN MADE, EXCEPT AS SET FORTH IN SECTION 3 HEREOF. UPON CLOSING, PURCHASER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, WHICH MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INSPECTIONS AND INVESTIGATIONS. PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE REAL PROPERTY "AS IS, WHERE IS", WITH ALL FAULTS. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT THERE ARE NO

ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE REAL PROPERTY BY SELLER, ANY AGENT OF SELLER OR ANY THIRD PARTY. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THIS SUBPARAGRAPH IS SUBJECT TO THE REPRESENTATIONS, WARRANTIES AND COVENANTS (WHICH SURVIVE CLOSING) OF SELLER CONTAINED HEREIN OR IN THE CLOSING DOCUMENTS.

3.1.4.9 UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT TITLE TO THE ASSETS OTHER THAN REAL PROPERTY AS IS, WHERE IS, WITH ALL FAULTS (EXCEPT AS OTHERWISE EXPRESSLY WARRANTED IN THIS SECTION 3), AND WITHOUT ANY WARRANTIES OF CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHATSOEVER.

3.1.5 **Contracts.** Accurate and complete copies of all Designated Executory Contracts have been delivered or made available to Purchaser. Upon request, Purchaser may review any Rejected Executory Contract at Seller's offices in Vernon Hills, Illinois.

3.1.6 **Labor Matters.** Seller has no union contracts or collective bargaining agreements with, or any other obligations to, employee organizations or groups.

3.1.7 **Notice.** Seller has or will give notice of its intent to sell the Assets to all parties entitled to such notice under Bankruptcy Rule 2002, including without limitation all parties owning, claiming or asserting an Encumbrance in or to any of the Acquired Assets.

3.1.8 **Employee Benefit Plans.** To the best of Seller's knowledge, each of Seller's Plans (defined as any "Employee Welfare Benefit Plans" as that term is defined in Section 3(1) of ERISA in which employees of Seller participate and any "Employee Pension Benefit Plans" as that term is defined in Section 3(2) of ERISA in which such employees participate) is in material compliance with the provisions of all applicable laws, rules and regulations, which shall include by example and not by limitation ERISA and the Code. None of Seller's Pension Plans have incurred any "accumulated funding deficiency" (as defined in Section 412(a) of the Code). Seller has not incurred any liability to the Pension Benefit Guaranty Corporation under Sections 4062, 4063, or 4064 of ERISA which has not been paid with respect to any of Seller's Plans. Seller is not and has not been in the past a party to any "Multiemployer Plan" as defined in Section 3(37)(D) of ERISA ("Multiemployer Plan") which would apply to any of its employees. The execution and delivery of this Agreement by the Seller and the consummation of the transactions contemplated hereunder will not result in any obligation or liability (with respect to accrued liabilities or otherwise) of Buyer to any employees of Seller, or the Pension Benefit Guaranty Corporation ("PBGC") except for obligations under the Consolidated Omnibus Budget Reconciliation Act (COBRA). No amendment to, termination of, or withdrawal from, any employee pension plan (subject to Title IV of ERISA) at any time before or after the Closing by (i) Seller or any other entity considered to be under common control with Seller (within the meaning of Section 414(b), (c), (m) or (o) of the Code) ("Controlled Group Member"), or (ii) any corporation or other entity if such Plan was

maintained, sponsored or to which contributions were made by a Controlled Group Member during any part of the 72 calendar month period ending on the Closing, has or will subject Purchaser to any liability to any plan, the PBGC or the Internal Revenue Service, to any current or former employee of Seller or a Controlled Group Member, or to any other person or party. Except as set forth on Schedule 3.1.8, during the period beginning one year before the commencement of the Seller's bankruptcy proceeding through the Closing Date, Seller has not sponsored a group medical plan that provides retiree medical coverage or otherwise provided to any former employee retiree medical coverage. To the best of Seller's knowledge, no event has occurred which would constitute a qualifying event under Section 4980B(f)(3)(F) of the Code. Set forth on Schedule 3.1.8 is information concerning qualified beneficiaries (with respect to each Location) currently receiving continuation coverage under the group medical plan sponsored by the Seller pursuant to Section 4980B of the Code and Sections 601 through 608 of ERISA. Such listing includes, to the extent available on the date hereof, the beginning and ending date of each qualified beneficiary's continuation coverage, and the aggregate amount of claims that have been submitted to the group medical plan during such continuation coverage period. Also set forth on Schedule 3.1.8 is a listing of Seller's existing employees (with respect to each Location) currently on military leave pursuant to the Uniform Services Employment and Reemployment Rights Act.

3.2 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that the following statements are true and correct on the date of this Agreement and will be true and correct on the Closing Date as though made on such date:

3.2.1 Organization and Standing. Purchaser is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Oklahoma.

3.2.2 Power and Authority. Purchaser has the partnership power and authority to enter into, execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement.

3.2.3 Corporate Authorization. All partnership action on the part of Purchaser, and its general and limited partners necessary for the authorization, execution, delivery and performance by Purchaser of this Agreement and the consummation of the transactions contemplated by this Agreement has been taken.

3.2.4 Binding and Enforceable Agreement. This Agreement has been duly executed and delivered by Purchaser and is a valid and binding agreement of Purchaser, enforceable in accordance with its terms.

3.2.5 Consents. All consents, approvals, qualifications, licenses, orders or authorizations of, or filings with, any governmental authority required in connection with Purchaser's valid execution, delivery or performance of this Agreement have been obtained, given or made other than, if applicable, compliance with the notification and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the regulations thereunder.

3.2.6 No Conflict. Neither the execution and delivery of this Agreement by Purchaser nor the consummation of the transactions contemplated by this Agreement will (a) conflict with or result in a breach of any provision of Purchaser's organizational documents or partnership agreement, (b) conflict with any existing provision of applicable law or any existing order, rule, regulation, judgment or decree of any court, arbitrator or agency of government, (c) violate, be in conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under (or give rise to any right of termination, cancellation or acceleration) any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which Purchaser is a party, or by which Purchaser may be bound, except for such default (or right of termination, cancellation or acceleration) as to which requisite waivers or consents shall either have been obtained by Purchaser prior to Closing or the obtaining of which shall have been waived by Seller, or (d) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Purchaser.

4. COVENANTS.

4.1 Preservation of Business. Seller shall, until Closing:

4.1.1 Use commercially reasonable efforts to operate each Location in the ordinary and usual course, consistent with past practices;

4.1.2 Use commercially reasonable efforts to maintain the Assets and the Real Property in their present state of repair, order and condition, reasonable wear and tear excepted; and

4.1.3 Not sell, lease, or otherwise transfer or dispose of any material Assets, or any interest therein, other than transfers and dispositions, including the sale of Inventory and manufactured products made in the ordinary course of business.

4.2 Retention of and Access to Books and Records.

4.2.1 Purchaser agrees to retain any Books and Records delivered to Purchaser for a period of seven (7) years after the Closing Date. Purchaser shall permit Seller (or its successors) and its Representatives to inspect and copy, at Seller's (or such successor's) sole expense, any of the Books and Records at any time during normal business hours, upon reasonable advance notice.

4.2.2 After the seven-year period referred to in Section 4.2.1, Purchaser shall provide not less than thirty (30) nor more than sixty (60) days notice to Seller (or its successors, if previously identified by notice to Purchaser) prior to any proposed destruction or disposition of any of the Books and Records. Any such notice shall identify with reasonable specificity the Books and Records to be destroyed or disposed of and the date on which such destruction or disposition will occur. If the recipient of any such notice wishes to obtain any of the Books or Records to be destroyed or disposed of, it may do so by giving notice to Purchaser at any time prior to the scheduled date for destruction or disposition. All out-of-pocket costs of delivering any such Books and Records to a requesting party shall be paid by such party.

4.3 Reasonable Access to Records and Certain Personnel. As long as the Case is pending, (i) Purchaser shall permit Seller's counsel and other professionals employed in the Case reasonable access to the Books and Records (whether in documentary or data form) for the purpose of the continuing administration of the Case (including, without limitation, the pursuit of any avoidance, preference or similar action), which access shall include (a) the right to copy, at Seller's expense, such documents and records as they may request in furtherance of the purposes described above, and (b) Purchaser's copying and delivering to Seller or its professionals such documents or records as they may request, but only to the extent Seller or its professionals furnishes Purchaser with reasonably detailed written descriptions of the materials to be so copied and Seller reimburses Purchaser for the reasonable costs and expenses thereof, and (ii) Purchaser shall provide Seller and such professionals (at no cost to Seller) with reasonable access during regular business hours to various personnel to whom Seller may need continued access post-Closing to assist Seller in the continuing administration of the Case, provided that such access does not unreasonably interfere with Purchaser's normal business operations.

4.3.1 Seller shall until 90 days after Closing give to Purchaser and to its accountants, counsel and other representatives reasonable access during normal business hours to the properties, books, records, officers, directors and employees of Seller and shall furnish promptly to Purchaser, upon written request, (a) a copy of each report, notice, return or other document filed or received by, or on behalf of, Seller relating to the Assets or the Location and, (b) all other information pertaining to the Location, the Assets, and operations and personnel of Seller related thereto as Purchaser may reasonably request.

4.3.2 Insurance. To the extent Purchaser has the right by operation of law to any insurance of Seller subsequent to Closing, Seller shall cooperate with Purchaser to provide Purchaser with the benefits of such insurance.

4.4 Transition Use and Services.

Purchaser shall have the right to use Seller's in-store software used internally by Seller to maintain operations of the Location and "Wickes" signage at each Location for a period of one hundred twenty (120) days after the Closing Date free of charge (such period of use is hereinafter referred to as the "Transition Period"). Seller shall, at no cost or expense to Purchaser, maintain software support and maintenance with respect to Seller's in-store software during the first thirty (30) days of the Transition Period so that the business of such Locations can continue to operated by Purchaser in the manner historically operated by Seller with regard to such software. At the end of the Transition Period, the Purchaser shall remove the in-store software and signage from the Location and, at the option of Seller, destroy the same or return it to Seller at Seller's cost. Seller hereby grants to Purchaser a non-exclusive, non-transferable, limited license (the "License") for the in-store software during the Transition Period. Purchaser shall not cause or permit the following: (i) the reverse engineering, disassembly or decompilation of the in-store software, or (ii) the in-store software to be used by, or disclose all or any part of the in-store software, to any other person. The copyright, patent, and all other intellectual property rights in the in-store software are and shall remain the property of Seller. Except as specifically provided herein or as may be otherwise agreed in writing by Seller and Purchaser, as of the Closing Date, all data processing, accounting, insurance, banking, legal, communications, and other services

and products provided by Seller in respect of the Location and the Assets, and any prior agreements or understandings (written or oral) with respect thereto, shall terminate and Purchaser shall not be entitled to any on-going benefit thereof.

4.5 Title Commitments and Surveys.

4.5.1 On or before July 13, 2004, Seller shall deliver to Purchaser for each parcel of Owned Real Property, a current title commitment ("Title Commitment") from First American Title Insurance Company ("Title Company") to issue an ALTA owner's title policy of title insurance insuring Purchaser's fee interest in the Owned Real Property in the amount of its Appraised Value ("Title Policy") showing only exceptions to title acceptable to Purchaser ("Permitted Liens"), copies of all documents of record referred in such Title Commitment, and an ALTA/ACSM survey in form reasonably acceptable to Purchaser.

4.5.2 Within ten (10) days of receipt by Purchaser of a Title Commitment (including exception documents) and related Survey with respect to a Location, Purchaser shall acknowledge in writing that it has received and reviewed such Title Commitment and Survey and set forth each objection to title not acceptable to Purchaser.

4.5.3 If there exists on any such Title Commitment or Survey any good faith exceptions that are not Permitted Liens that Seller does not agree to remove prior to Closing or insure against at Closing following notice of such exceptions by Purchaser to Seller, Purchaser may elect, either:

4.5.3.1 by written notice to Seller on or before Closing, to not consummate the transactions contemplated hereto with respect only to such Location at which the Owned Real Property is located which is the subject of such unresolved title objection, in which event, with respect only to such Location (i) this Agreement, as it applies to such Location, shall be terminated and of no further force and effect and the Purchase Price shall be reduced in accordance with the provisions of Section 2.4.6 and (ii) this Agreement shall continue in full force and effect with respect to any Location that is not the subject of such unresolved title objections. If Purchaser's unresolved title objections apply to each Location that is the subject of this Agreement, then the Bid Deposit and all interest accrued thereof shall be returned to Purchaser and neither of the parties hereto shall have any rights or obligations to the other hereunder except any obligations that expressly survive the termination of this agreement; or

4.5.3.2 consummate the transactions contemplated hereby subject to such additional exceptions and proceed to Closing without abatement of the Purchase Price.

4.5.4 If required by Title Company, Seller agrees to execute, acknowledge and deliver a standard and customary owner's title affidavit at Closing and such other authority documents or other customary title clearance documents as Title Company or Purchaser may reasonably request.

4.5.5 At the Closing, Seller shall deliver to the title company the returns, questionnaires, certificates, affidavits and other documents required in connection with the payment (or non-payment) of any real property transfer taxes and other similar taxes and fees imposed by the state, county or municipality in which the Owned Real Property is located in

connection with the transactions contemplated hereby (collectively, the "RE Tax Returns"). If the procedures required by the state, county, or municipality require that any RE Tax Returns be filed, reviewed or approved prior to the Closing Date, Purchaser and Seller shall complete, sign and swear to the RE Tax Returns and deliver the same to the Title Company for delivery to the appropriate authority sufficiently in advance of the Closing Date so as to permit the sale contemplated hereby to be consummated by the Closing Date.

4.5.6 Seller and Purchaser shall enter into a closing statement at closing setting forth all closing credits and prorations and Seller and Purchaser shall enter into any and all customary conveyance and closing documents as are reasonable and appropriate for the closing transactions.

4.6 Bidding Procedures and Approval Order.

4.6.1 Bidding Procedures. Promptly following execution of this Agreement, Wickes shall file with the Bankruptcy Court a motion, notices and a proposed order, attached hereto as Exhibit 4.6.1 (the "Bidding Procedures Motion"), seeking the approval of the form of this Agreement, the bidding procedures and auctioning of the Assets and authorizing the observance and performance of such terms by Wickes and Purchaser during the pendency of the Bankruptcy Case, subject to Wickes' duties to its creditors and the bankruptcy estate.

4.6.2 Approval Order. Promptly following the auction referenced in Section 4.6.1, if Purchaser is the successful bidder on the Assets, then, Wickes shall seek approval from the Bankruptcy Court of an order (the "Approval Order") which (i) approves the sale of the Assets to Purchaser on the terms and conditions set forth in this Agreement and authorizes Seller to proceed with the transactions herein contemplated, (ii) includes a specific finding that Purchaser is a good faith purchaser of the Purchased Assets and is entitled to the protection afforded by Section 363(m) of the Bankruptcy Code, (iii) states that the sale of the Assets to Purchaser shall be free and clear of all Encumbrances whatsoever (except as expressly provided in this Agreement), and (iv) approves Seller's assumption and assignment to Purchaser of the Designated Executory Contracts pursuant to Section 365 of the Bankruptcy Code, and (v) includes such other terms and provisions as may be reasonably requested by Purchaser.

4.6.3 Breakup Fee. Seller shall file pleadings with the Bankruptcy Court, in substantially the form attached hereto as Exhibit 4.6.1, requesting approval of the Court for Seller to enter into this Agreement and requesting a break-up fee, payable to Purchaser by Seller, of three percent (3%) of the unadjusted Purchase Price set forth in Section 2.4.1 (the "Break-up Fee") in the event any of the Assets are sold by Seller to anyone other than Purchaser.

5. CONDITIONS TO OBLIGATIONS OF PURCHASER AND SELLER.

5.1 Conditions to Obligations of Purchaser. Notwithstanding any other provision of this Agreement, the obligation of Purchaser to purchase the Assets is subject to the satisfaction or waiver in writing, on or before the Closing Date, except as specifically set forth hereafter, of the following conditions:

5.1.1 Representations and Warranties; Covenants. All representations and warranties of Seller contained in this Agreement and in the certificates and other instruments delivered by Seller to Purchaser in connection with this Agreement shall be true and correct in all material respects at and as of the Closing Date as though made at and as of such time, and Seller shall have performed and complied with all material covenants, obligations and conditions required by this Agreement to be performed or complied with prior to or on the Closing Date;

5.1.2 Approval Order. The Approval Order shall have been entered by the Bankruptcy Court, it shall not have been rescinded, and no stay pending appeal shall be pending.

5.1.3 Quitclaim Deeds/Assignment and Assumption Agreement. Seller shall have executed, acknowledged and delivered to Purchaser the Quitclaim Deeds for the Owned Real Property conveying the Owned Real Property to Purchaser free and clear of all Encumbrances except Permitted Liens and the Assignment and Assumption Agreement described in Section 2.12.3.4.

5.1.4 Damage to or Destruction of the Assets. In the event of any damage to or destruction of an Asset (other than normal wear and tear) (a "Loss") between the date of this Agreement and the Closing Date, (i) Purchaser shall not be entitled to terminate this transaction, and (ii) except to the extent set forth in Subsection 2.4.6 or 2.6.3, the Purchase Price shall be reduced by an amount equal to the estimated cost to repair or restore the Asset to substantially its condition immediately prior to the occurrence of such Loss (to the extent, if any, that Seller has not completed such repair or restoration). The estimated cost to repair or restore the Asset to substantially its condition immediately prior to the occurrence of such Loss shall be agreed to by Seller and Purchaser or, if they are unable to agree, shall be determined by an independent, qualified insurance adjuster selected by the parties (or, if they are unable to agree on such selection, one appointed by the Bankruptcy Court upon application by either party). Seller shall be entitled to retain any insurance proceeds paid or payable on account of such Loss.

5.1.5 Documents of Transfer. Seller shall have provided to Purchaser the Closing deliveries set forth in Section 2 and any documents necessary to transfer ownership of the Assets to Purchaser, free and clear of all Encumbrances except as provided in Section 3.1.4.

5.1.6 HSR Act Waiting Period. If applicable to the transaction set forth in this Agreement, the applicable waiting periods under the HSR Act shall have expired or been terminated.

5.1.7 [Intentionally omitted]

5.1.8 Due Dilligence. Between the date of this Agreement through Closing, (the "Inspection Period") Purchaser may conduct, at Purchaser's sole expense, any and all due diligence with regard to the Assets which Purchaser deems necessary or advisable in connection with the purchase of the Assets. Seller agrees to cooperate with Purchaser with regard to such due diligence including, without limitation, providing Purchaser or its agents with