

Debtors' Motion Pursuant to 11 U.S.C. §365(d)(4) for an Order Extending the Time Period Within Which the Debtors May Assume or Reject Unexpired Leases of Nonresidential Real Property (the "Extension Motion")

By the Extension Motion, the Debtors seek entry of an order granting a 90-day extension (the "Extension") of the 120-day period (the "Initial Statutory Period") in which the Debtors may assume or reject certain unexpired leases (the "Unexpired Leases") of non-residential real property. The Initial Statutory Period expires on December 2, 2008 and the Extension would provide the Debtors with additional time to assume or reject Unexpired Leases, through and including March 2, 2009.

In the ordinary course of their business operations, the Debtors are party to approximately 28 Unexpired Leases.¹ The terms of a number of the Unexpired Leases extend beyond the Initial Statutory Period. The Unexpired Leases include properties that serve various functions in the Debtors' day-to-day operations, including as corporate and sales offices, design centers, model homes, submerged property, and a ground lease for a sewage and treatment plant. The Debtors submit that they are still in the process of determining what role, if any, each of the Unexpired Leases will play in the Debtors' reorganization. Specifically, among other things, the Debtors must review their performance in particular locations and analyze the location and purpose of each of the leased premises. The Debtors assert that the Extension will not cause any undue hardship on non-Debtor parties to the Unexpired Leases. Moreover, the Debtors maintain that wherever possible, they have already identified those executory contracts and Unexpired Leases which do not provide a benefit to the Debtors' estates, which are subject to separate motions to reject certain executory contracts and Unexpired Leases.

¹ The Extension Motion does not apply to the nonresidential real property leases for which the Debtors have already obtained orders authorizing rejection, including (i) the nonresidential real property leases included in the Debtors' first and fourth omnibus rejection motions and (ii) the Columbia Town Center lease.