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 EXHIBIT 99.3  
  
  
 AGENCY AGREEMENT  
  
 This Agency Agreement is made as of this 12th day of August, 1998, by  
and between a joint venture composed of Schottenstein Xxxxxxxxx Capital Group,  
LLC, Xxxxxx Xxxxxxxx Retail Partners, LLC and the OZER Group, LLC (the "Agent")  
and Crown Books Corporation (the "Merchant").  
  
 RECITALS  
  
 WHEREAS, Merchant is a debtor and debtor in possession under chapter 11  
of the United States Bankruptcy Code, in Chapter 11 case no. 98-1575 (RRM) in  
the United States Bankruptcy Court for the District of Delaware (the "Court"),  
and  
  
 WHEREAS, Merchant desires that Agent act as Merchant's exclusive agent  
for the limited purpose of selling all of the Merchandise (as hereinafter  
defined) located in Merchant's retail store location(s) set forth on Exhibit A  
attached hereto (the "Stores") by means of a Court authorized store closing or  
going-out-of-business sale at the Stores (as further described below, the  
"Sale").  
  
 NOW THEREFORE, in consideration of the mutual covenants and agreements  
set forth herein, and for other good and valuable consideration, the receipt and  
sufficiency of which is hereby acknowledged, Agent and Merchant hereby agree as  
follows:  
  
 Section 1. Defined Terms. The terms set forth below are defined in the  
 Sections referenced of this Agreement:  
  
  
  
 Defined Term Section Reference  
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 Agency Accounts Section 7.2  
 Agency Documents Section 11. 1 (b)  
 Agent Preamble  
 Agent Claim Section 12.5  
 Agent Indemnified Parties Section 13.1  
 Bankruptcy Code Recitals  
 Base Retail Price Section 5.3  
 Central Service Expenses Section 4.1  
 Court Recitals  
 Defective Merchandise Section 5.2(b)  
 Excluded Benefits Section 4.1  
 FF&E Section 5.2(a)  
 Guaranteed Amount Section 3. 1 (a)  
 Gross Rings Section 6.3  
 Inventory Date Section 5.1  
 Inventory Taking Section 5.1  
 Letter of Credit Section 3.5  
 Merchandise Section 5.2(a)  
  
  
  
  
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 Merchandise Threshold Section 3.1 (b)  
 Merchant Preamble  
 Occupancy Expenses Section 4.1  
 Order Section 10(a)  
 Out of Season Merchandise Section 5.2(b)  
 Proceeds Section 7.1  
 Retail Price Section 5.3  
 Retained Employee Section 9.1  
 Retention Bonus Section 9.4  
 Return Credit Section 5.5  
 Return Goods Section 5.5  
 Returned Merchandise Section 8.5  
 Sale Recitals  
 Sale Expenses Section 4.1  
 Sale Commencement Date Section 6.1  
 Sale Term Section 6.1  
 Sale Termination Date Section 6.1  
 Sales Taxes Section 8.3  
 Store(s) Recitals  
 Value Added Merchandise Section 5.2(b)  
 Warehouse Recitals  
 WARN Act Section 9.1  
  
  
 Section 2. Appointment of Agent. Merchant hereby irrevocably appoints  
Agent, and Agent hereby agrees to serve, as Merchant's exclusive agent for the  
limited purpose of conducting the Sale in accordance with the terms and  
conditions of this Agreement.  
  
 Section 3. Payments to Merchant and Agent.  
  
 3.1 Payments to Merchant  
  
 (a) As a guaranty of Agent's performance hereunder, Merchant  
shall receive from Agent the sum of 45.15% of the aggregate Retail Price of the  
Merchandise less the Return Credit (the "Guaranteed Amount").  
  
 (b) The Guaranteed Amount has been calculated and agreed upon  
based upon Merchant's representation that the aggregate Retail Price of the  
Merchandise as of the Sale Commencement Date will not be less than $25 million  
(the "Merchandise Threshold"), that all such Merchandise will conform to  
Merchant's representations and warranties contained herein, and that no  
representations, warranties or covenants of Merchant hereunder have been  
breached. Merchant and Agent agree that in the event that the final report of  
the inventory taking service indicates that the Retail Price of Merchandise is  
less than the Merchandise Threshold, then the percentage on which the Guaranteed  
Amount is based shall be reduced by .25 for each $500,000 shortfall below the  
Merchandise Threshold (prorated for each partial $500,000 increment); provided,  
  
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however, under no circumstances will the aggregate Retail Price of the  
Merchandise be less than $22 million.  
  
 Compensation to Agent. Agent shall receive as its  
compensation for services rendered to Merchant the sum of $80,000 plus all  
remaining Proceeds after payment of Sale Expenses, the Guaranteed Amount and all  
other amounts payable to Merchant from Proceeds hereunder.  
  
 3.2 [Intentionally Omitted]  
  
 3.3 Time of Payments  
  
 (a) Agent shall pay to Merchant 54% of the estimated  
Guaranteed Amount attributable to Merchandise in the Stores as of the Sale  
Commencement Date within one business day after issuance of the Approval Order,  
which amount shall be calculated based upon the net book value of such  
Merchandise as of such date as set forth in Merchant's books and records.  
  
 (b) Following reconciliation by Merchant and Agent of the  
final inventory report by the inventory taking service, Merchant and Agent shall  
cooperate in good faith to calculate the maximum Return Credit which could be  
due to Agent pursuant to Section 5.5 below (the "Maximum Return Credit").  
Thereafter, within two (2) business days following the parties' agreement upon  
the Maximum Return Credit, the Agent shall pay to Merchant, by wire transfer of  
immediately available funds, an amount equal to the remaining Guaranteed Amount,  
less the agreed upon Maximum Return Credit. In the event that the initial  
payment on account of the Guaranteed Amount is greater than the Guaranteed  
Amount less the Maximum Return Credit, Merchant shall immediately repay such  
amount to Agent or Agent shall be entitled to offset such amount from amounts  
otherwise due to Merchant hereunder.  
  
 (c) If at any point during the Sale the Agent has sold  
through so much of the Merchandise that the Maximum Return Credit calculated  
pursuant to this Section 3.3 may no longer be realized pursuant to Section 5.5  
below, the Agent shall commence to pay to Merchant, on a weekly basis, the  
portion of the Guaranteed Amount attributable to such Merchandise sold during  
the previous week and for which a Return Credit may not and cannot be realized  
(without duplication for any amounts paid on amount of the initial installment  
of the Guaranteed Amount)  
  
 (d) Subject to Agent's exercise of its rights under Section  
5.5 below to return certain Merchandise to Merchant, Agent shall pay to Merchant  
the unpaid balance of the Guaranteed Amount on or before the end of the Sale  
Term.  
  
 3.4 Security. To secure payment of the portion of the   
Guaranteed Amount which may become payable under Section 3.3(c), Agent shall  
deliver to Merchant an irrevocable standby letter of credit in original face  
amount equal to the sum of the Maximum Return Credit calculated pursuant to  
Section 5.5 below, which shall name Merchant as beneficiary (the "Letter of  
Credit"). The Letter of Credit shall be  
  
  
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delivered concurrently with payment of the second installment of the Guaranteed  
Amount pursuant to Section 3.3(b) above, shall be issued by a bank selected by  
Agent and reasonably acceptable to Merchant, and shall contain terms, provisions  
and conditions mutually acceptable to Agent and Merchant. In the event that  
Agent shall fail to pay Merchant any portion of the Guaranteed Amount payable  
under Section 3.3(c) and (d), Merchant shall be entitled to draw on the Letter  
of Credit to fund such amount following five (5) days written notice to Agent of  
Merchant's intention to do so, provided that no material default has then  
occurred on the part of the Merchant hereunder. The Letter of Credit shall  
expire on January 15, 1999 provided that in the event that Agent shall have paid  
the Guaranteed Amount in full prior to such date, Merchant agrees to surrender  
the original Letter of Credit to the issuer thereof together with written  
notification that the Letter of Credit may be terminated. Merchant and Agent  
agree that the face amount of the Letter of Credit shall be reduced an a dollar  
for dollar basis to the extent Agent makes payments to Merchant pursuant Section  
3.3(c) above.  
  
 Section 4. Expenses of the Sale.  
  
 4.1 Sale Expenses. Agent shall be responsible for the payment or  
reimbursement of all Sale Expenses incurred in conducting the Sale. As used  
herein, "Sale Expenses" shall mean Store-level operating expenses of the Sale  
which arise during the Sale Term at the Stores, limited to the following: (a)  
base payroll for Retained Employees for actual days/hours worked in the conduct  
of the Sale; (b) amounts actually payable in respect of payroll taxes, FICA,  
unemployment taxes, health care insurance benefits, worker's compensation and  
benefits of Retained Employees (other than Excluded Benefits), with such amounts  
being limited to no more than 14% of base payroll for each Retained Employee;  
(c) 50% of the fees and costs of the inventory taking service to conduct the  
Inventory Taking; (d) on-site supervision including Agent's Sale supervisors'  
fees, bonuses and travel expenses; (e) advertising and signage (at Merchant's  
contract rates, if available); (f) telephone charges incurred in the conduct of  
the Sale; (g) credit card and bank card fees, chargebacks and discounts; (h)  
costs of outside security personnel and armored car service; (i) Retention  
Bonuses as described in Section 9.4 below; (j) check verification fees and bad  
check charges if Agent elects to accept checks during the Sale; (k) Agent's  
actual cost of capital, (1) costs of transfers of Merchandise during the Sale  
Term, including, without limitation costs of transfer of Return Goods in  
connection with Agent's exercise of its rights under section 5.5 hereof; (m)  
Occupancy Expenses, on a per diem, per Store basis, limited to the amounts set  
forth on Exhibit 4.1 hereto; (n) Agent's travel expenses; and (o) the actual  
costs and expenses of providing such additional services which Agent in its  
reasonable discretion deems appropriate.  
  
 "Sale Expenses" shall not include: (i) Excluded Benefits; (ii) any  
expenses relating to the occupancy of the Stores other than the Occupancy  
Expenses (iii) Central Service Expenses; and (iii) any other costs, expenses or  
liabilities payable by Merchant, all of which shall be paid by Merchant promptly  
when due for and during the Sale Term.  
  
 As used herein, the following terms have the following respective  
meanings:  
  
  
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 "Occupancy Expenses" means base rent, percentage rent,, building  
insurance relating to the Stores, utilities, HVAC usage, CAM, real estate and  
use taxes and Merchant's association dues.  
  
 "Central Service Expenses" means costs and expenses for Merchant's  
central administrative services necessary for the Sale, including, but not  
limited to, POS administration, MIS services, corporate communication to and  
from the Stores, sales audit, cash reconciliation, ADP and payroll processing,  
inventory processing and handling and data processing and reporting all of which  
Merchant shall continue to provide to the Stores throughout the Safe Term.  
  
 "Excluded Benefits" means vacation days or vacation pay, holiday pay,  
sick days or sick leave, maternity leave or other leaves of absence, WARN Act,  
termination or severance pay, pension benefits, ERISA coverage and similar  
contributions, and payroll taxes, worker's compensation and benefits in excess  
of the percentage limitation provided in Section 4.1 (b) above.  
  
 4.2 Payment of Sale Expenses. All Sale Expenses shall be paid by   
Agent to or on behalf of Merchant by each Wednesday for the prior week's (i.e.  
Sunday through Saturday) Sale Expenses or when such Sale Expenses become due in  
the ordinary course of business.  
   
 Section 5. Inventory Valuation; Merchandise.  
  
 5.1 Inventory Taking, Merchant and Agent shall cause to be taken a  
Retail Price and SKU physical inventory of the Merchandise (the "Inventory  
Taking") at the Stores on a date mutually agreed upon by Agent and Merchant, but  
no later than August 28, 1998 (the date of the Inventory Taking at each Store  
being the "Inventory Date" for such Store). Merchant and Agent shall jointly  
employ Washington inventory Service or another mutually acceptable inventory  
taking service to conduct the Inventory Taking. Agent shall be responsible for  
50% of the costs and fees of the inventory taking service as a Sale Expense  
hereunder, and the balance of such fees and expenses shall be paid by Merchant.  
Except as provided in the immediately preceding sentence, Merchant and Agent  
shall each bear their respective costs and expenses relative to the Inventory  
Taking, Merchant and Agent shall each have representatives present during the  
Inventory Taking, and shall each have the right to review and verify the listing  
and tabulation of the inventory taking service. Merchant agrees that during the  
conduct of the Inventory Taking at each Store such Store shall be closed to the  
public and no sales or other transactions shall be conducted. Prior to the  
Inventory Taking, Merchant and Agent shall agree upon mutually acceptable  
inventory taking procedures. In order to facilitate the Inventory Taking,  
Merchant agrees to make its SKU data files and related computer hardware and  
software available to Agent and the inventory taking service prior to the  
Inventory Date.  
  
 5.2 Merchandise Subject to this Agreement  
  
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 (a) For purposes of this Agreement, "Merchandise" shall mean:  
(i) all first quality finished goods inventory that is owned by Merchant and  
located at the Stores as of the Sale Commencement Date including: (A) Defective  
Merchandise for which Merchant and Agent agree on a Retail Price; (B)  
Merchandise subject to Gross Rings; and (C) Out of Season Merchandise.  
Notwithstanding the foregoing, "Merchandise" shall not include: (1) goods which  
belong to sublesees, licensees or concessionaires of Merchant; (2) goods held by  
Merchant on memo, on consignment, or as bailee; (3) Defective Merchandise for  
which Merchant and Agent cannot agree upon a Retail Price; (4) Value Added  
Merchandise and (5) equipment, furnishings, trade fixtures and improvements to  
real property which are located in the Stores or the Warehouses (collectively,  
"FF&E").  
  
 (b) As used in this Agreement, the following terms have the  
respective meanings set forth below:  
  
 "Defective Merchandise" means Merchandise that is damaged, dated, near  
date, defective or otherwise not salable in the ordinary course because it or  
its packaging is dented, worn, scratched, broken, faded, torn, or affected with  
defects rendering it not first quality and thus not saleable in the ordinary  
course.  
  
 "Value Added Merchandise" means items of Merchandise which (i) must be  
processed with specialized machinery or equipment or (ii) require the  
application of labor in order to make the item salable in the ordinary course.  
  
 "Out of Season Merchandise" means Merchandise relating to holidays or  
seasons falling outside of the Sale Term.  
  
 5.3 Valuation. For purposes of this Agreement, "Retail Price" shall  
mean for each item of Merchandise the lowest price offered to the public by  
Merchant at the Stores by any and all means as of the Sale Commencement Date  
(the "Base Retail Price") except for:   
  
 (i) Defective Merchandise and Out of Season Merchandise, where  
"Retail Price" shall mean such value as to which Agent and Merchant shall  
mutually agree or such Defective Merchandise or Out of Season Merchandise shall  
be excluded from the Sale; and  
  
 (ii) greeting cards, where "Retail Price" shall mean the lower of  
(a) 50% off the original retail price, or (b) the Base Retail Price.  
  
 The Retail Price of any item of Merchandise shall exclude all Sales  
Taxes, and Merchant represents that the ticketed prices of items of Merchandise  
at the Stores do not and shall not include any Sales Taxes. If an item of  
Merchandise has more than one Base Retail Price, or if multiple items of the  
same SKU are marked at different prices, the lowest Base Retail Price on any  
such item shall prevail for such item or for all such items within the same SKU,  
as the case may be, unless it is clear that the Base Retail Price was mismarked  
and infrequent.  
  
  
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 5.4 Excluded Goods. Merchant shall retain all responsibility for   
any goods not included as "Merchandise" hereunder.  
  
 5.5 Return Credit. At any time after forty-five (45) days from the   
Sale Commencement Date and prior to the date seven (7) days after the end of  
the Sale Term, Agent shall have the right, in its sole discretion, to return to  
Merchant Merchandise constituting books having an aggregate Retail Price of up  
to 35% of the aggregate Retail Price of all of the Merchandise on the Sale  
Commencement Date ("Return Goods"); provided, however, that in the event the  
Agent terminates the Sale at any Store prior to the 45th day from the Sale  
Commencement Date, the Agent may exercise its right to return the Return Goods  
at such Store. Agent shall deliver all such Return Goods to Merchant within ten  
(10) days after making an election under this Section 5.5, to such location as  
Merchant shall reasonably direct, at Agent's sole expense (including, without  
limitation, costs of labor, supplies, and freight and insurance). Merchant and  
Agent shall define mutually agreeable procedures to determine the Retail Price  
of all Return Goods (which procedures may include the taking of a physical  
inventory by a professional inventory taking service). Upon determination of the  
Retail Price of all Return Goods and completion of delivery to Merchant, Agent  
shall be entitled to a cash credit against the unpaid portion of the Guaranteed  
Amount in an amount equal to 53% of the Retail Price of the Return Goods (such  
amount being the "Return Credit" and such amount being based upon Merchant's  
representations that this translates into approximately 77% of cost for the  
Return Goods).  
  
 Section 6. Sale Term.  
  
 6.1 Term. Subject to satisfaction of the conditions precedent set   
forth in Section 10 hereof, the Sale shall commence at each Store no later than  
August 21, 1998 ("Sale Commencement Date"). Agent shall complete the Sale on or  
before November 22, 1998, unless the Sale is extended by mutual written  
agreement of Agent and Merchant (the "Sale Termination Date"; the period from  
the Sale Commencement Date to the Sale Termination Date as to each Store being  
the "Sale Term"). Agent may, in its discretion, terminate the Sale at any Store  
at any time within the Sale Term (i) upon the occurrence of an Event of Default  
by Merchant, which Merchant fails to timely cure or (ii) upon not less than five  
(5) business days' prior written notice to Merchant. In the event that Agent is  
unable to operate the Sale in Stores 996 and 725 beyond August 31, 1998, Agent  
may, at its option, substitute Store 799 for Stores 996 and 725 prior to the  
Sale Commencement Date.  
  
 6.2 Vacating the Stores. Agent shall vacate the Stores on or before   
the Sale Termination Date, at which time Agent shall surrender and deliver the  
Store premises and Store keys to Merchant. Agent agrees to leave the Stores in  
"broom clean" condition, ordinary wear and tear excepted. All assets of Merchant  
used by Agent in the conduct of the Sale (e.g. FF&E, supplies, etc.) shall be  
returned by Agent to Merchant at the end of the Sale Term to the extent the same  
have not been used in the conduct of the Sale or have not been otherwise  
disposed of hereunder or through no fault of Agent.  
  
  
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 6.3 Gross Rings. In the event that the Sale commences at any Store   
prior to the completion of the Inventory Taking at such Store, then for the  
period from the Sale Commencement Date until the Inventory Date for such Store,  
Agent and Merchant shall jointly keep (i) a strict count of gross register  
receipts less applicable Sales Taxes ("Gross Rings"), and (ii) cash reports of  
sales within such Store. Register receipts shall show for each item sold the  
Retail Price for such item and the markdown or discount, if any, specifically  
granted by Agent in connection with such Sale. All such records and reports  
shall be made available to Agent and Merchant during regular business hours upon  
reasonable notice.  
  
 Section 7. Sale Proceeds.  
  
 7.1 Proceeds. For purposes of this Agreement, "Proceeds" shall mean   
the aggregate of (a) the total amount of all sales of Merchandise made under  
this Agreement, exclusive of Sales Taxes, and (b) all proceeds of Merchant's  
insurance for loss or damage to Merchandise or loss of cash which would  
otherwise constitute Proceeds as defined under this Agreement, arising from  
events occurring during the Sale Term.  
  
 7.2 Deposit of Proceeds. All cash Proceeds shall be deposited by   
Agent in Agency Accounts established by Agent ("Agency Accounts"). Agent may in  
its discretion designate new or existing accounts of Agent or Merchant as the  
Agency Accounts, provided that such accounts are dedicated solely to the deposit  
of Proceeds and the disbursement of Sale Expenses and amounts payable to  
Merchant pursuant to Section 3 hereof and shall be subject to the lien in favor  
of Agent granted pursuant to Section 15 below. Agent shall exercise sole  
signatory authority and control with respect to the Agency Accounts. Merchant  
shall promptly upon Agent's request execute and deliver all necessary documents  
to open and maintain the Agency Accounts.  
  
 7.3 Credit Card Proceeds. Agent shall have the right (but not the  
obligation) to use Merchant's credit card facilities (including Merchant's  
credit card terminals and processor(s), credit card processor coding, merchant  
identification numbers and existing bank accounts) for credit card Proceeds. In  
the event that Agent elects so to use Merchant's credit card facilities,  
Merchant shall process credit card transactions on behalf of Agent, applying  
customary practices and procedures. Without limiting the foregoing, Merchant  
shall cooperate with Agent to down-load data from all credit card terminals  
each day during the Sale Term and to effect settlement with Merchant's credit  
card processor(s), and shall take such other actions necessary to process  
credit card transactions under Merchant's merchant identification numbers. All  
credit card Proceeds will constitute the property of Agent and shall be held by  
Merchant, In Trust. for Agent, free and clear of all liens, claims or  
encumbrances of Merchant or its creditors. Merchant shall deposit all credit  
card Proceeds into a segregated designated account and shall transfer such  
Proceeds to Agent daily (on the date received by Merchant if received prior to  
12:00 noon, or otherwise within one (1) business day) by wire transfer of  
immediately available funds. At Agent's request, Merchant shall cooperate with  
Agent to establish merchant identification numbers under Agent's name and to  
process all credit card   
  
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Proceeds for Agent's account- Merchant shall not be responsible for and  
Agent shall pay as an Expense hereunder, all credit card fees, charges, and  
chargebacks related to the Sale, whether received during or after the Sale Term.  
  
 Section 8. Conduct of the Sale.  
  
 8.1 Rights of Agent. Agent shall be permitted to, in its sole  
discretion, conduct the Sale as a "store closing" sale in markets in which  
Merchant shall continue to operate stores and a "going-out-of-business" sale in  
markets in which Merchant is vacating entirely throughout the Sale Term, The  
Sale shall be considered implemented by Merchant pursuant to section 363 of the  
Bankruptcy Code, with all of the protections afforded by section 363(m) of the  
Bankruptcy Code. Agent shall conduct the Sale in the name of and on behalf of  
Merchant in a commercially reasonable manner and in compliance with the terms of  
this Agreement. In addition to any other rights granted to Agent hereunder, in  
conducting the Sale Agent, in the exercise of its sole discretion, shall have  
the right:  
  
 (a) to establish and implement advertising and promotion  
programs consistent with a "going-out-of-business,' or "store closing" theme  
sale (including, without limitation, by means of media advertising, exterior  
banners, A-frame, and similar interior and exterior signs),  
  
 (b) to establish Sale prices and Store hours which are  
consistent with the terms of applicable leases,  
  
 (c) to use without charge during the Sale Term and in  
conjunction with Agent's exercise of its rights under section 5.5, all FF&E,  
motor vehicles, advertising materials, bank accounts, Store-level customer lists  
and mailing lists, computer hardware and software, existing supplies located at  
the Stores, intangible assets (including Merchant's name, logo and tax  
identification numbers), Store keys, case keys, security codes, and safe and  
lock combinations required to gain access to and operate the Stores, and any  
other assets of Merchant located at the Stores or used in the ordinary course of  
business at the Stores (whether owned, leased, or licensed),  
  
 (d) to transfer Merchandise between Stores, and  
  
 (e) to use without charge during the Sale Term (i)  
Merchant's central office facilities, central administrative services and  
personnel to process payroll, perform MIS and provide other central office  
services necessary for the Sale, and (ii) one (1) office located at Merchant's  
central office facility.  
  
 8.2 Terms of Sales to Customers. All sales of Merchandise will   
be "final sales" and "as is," and all advertisements and sales receipts will  
reflect the same. Agent shall not warrant the Merchandise in any manner, but  
will, to the extent legally permissible, pass on all manufacturer's warranties  
to customers. All sales will be made only for cash and by nationally recognized  
bank credit cards. Agent will not accept  
  
  
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Merchant's gift certificates, Store credits, due bills and rain checks issued by  
Merchant prior to the Sale Commencement Date, unless otherwise directed by  
Merchant. To the extent Merchant directs Agent to accept Merchant's gift  
certificates, Store credits, due bills and rain checks, Merchant shall reimburse  
Agent in cash on a weekly basis for any such amounts or Agent shall setoff such  
amounts against other amounts due Merchant hereunder.  
  
 8.3 Sales Taxes. During the Sale Term, all sales, excise, gross   
receipts and other taxes attributable to sales of merchandise (other than taxes  
on income) payable to any taxing authority having jurisdiction (collectively,  
"Sales Taxes") shall be added to the sales price of Merchandise and collected by  
Agent at the time of sale. Agent shall collect Sales Taxes based on amount  
computed by Merchant's POS system. Agent shall deliver collected sales taxes to  
Merchant, In Trust, on a timely basis for payment by Merchant of Sales Taxes at  
least five days prior to the date such Sales Taxes are due. Merchant shall  
promptly pay all Sales Taxes and file all applicable reports and documents  
required by the applicable taxing authorities and Agent shall have no liability  
for such taxes, to the extent of the Sales Taxes collected by Agent and  
delivered to Merchant. Merchant will be given access to the computation of gross  
receipts for verification of all such tax collections.  
  
 8.4 Supplies. Agent shall have the right to use all existing   
supplies (e.g, boxes, bags, twine) located at the Stores at no charge to Agent.  
In the event that additional supplies are required in any of the Stores during  
the Sale, Merchant agrees to promptly provide the same to Agent, if available,  
for which Agent shall reimburse Merchant at Merchant's cost therefor. Supplies  
have not been since April 1, 1998, and shall not be prior to the Sale  
Commencement Date, transferred by Merchant between or from the Stores, so as to  
alter the mix or quantity of supplies at the Stores from that existing on such  
date, other than in the ordinary course of business.  
  
 8.5 Returns Of Merchandise. During the Sale Term Agent shall not   
accept returns of merchandise sold by Merchant from the Stores prior to the Sale  
Commencement Date, unless otherwise directed by Merchant. To the extent Merchant  
directs Agent to accept returns of merchandise, then any such returned  
merchandise that is saleable as first-quality merchandise shall be included in  
Merchandise, returned to the sales floor, and valued at the Retail Price  
applicable to such item multiplied by the complement of the prevailing Sale  
discount at the time of the return. If such returned Merchandise constitutes  
Defective Merchandise, it shall be included in Merchandise and assigned a Retail  
Price in accordance with the applicable provisions of Section 5.3 above. The  
aggregate Retail Price of the Merchandise shall be increased by the Retail Price  
of any returned Merchandise included in Merchandise (determined in accordance  
with this Section 8.5), and the Guaranteed Amount shall be adjusted accordingly,  
To the extent that Agent is required to issue refunds to customers in respect of  
any returned Merchandise, Merchant shall reimburse Agent in cash for any such  
amounts or Agent shall setoff such amounts against other amounts due Merchant  
hereunder. Any returned Merchandise not included in Merchandise shall be  
disposed of by Agent in accordance with instructions received from Merchant or,  
in the absence of such instructions, returned to Merchant at the end of the Sale  
Term. Any increases in the Guaranteed Amount in connection with   
  
  
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returned Merchandise shall be accounted for and paid by Agent on a weekly basis.  
  
 8.6 Sale Reconciliation. On each Wednesday during the Sale Term   
(for the previous week ending Saturday), commencing on the second Wednesday  
after the Sale Commencement Date, Agent and Merchant shall cooperate to  
reconcile Sale Expenses, Gross Rings, if still applicable, and such other Sale  
related items as either party shall reasonably request, in each case for the  
prior week or partial week (i.e. Sunday through Saturday), all pursuant to  
procedures agreed upon by Merchant and Agent. Within thirty (30) days after the  
end of the Sale Term, Agent and Merchant shall complete a final reconciliation  
of the Sale Expenses, the written results of which shall be certified by  
representations of each of Merchant and Agent as a final settlement of accounts  
between Merchant and Agent.  
  
 8.7 Force Majeure. If any casualty or act of God prevents or  
substantially inhibits the conduct of business in the ordinary course at any  
Store, such Store and the Merchandise located at such Store shall be eliminated  
from the Sale and considered to be deleted from this Agreement as of the date of  
such event, and Agent and Merchant shall have no further rights or obligations  
hereunder with respect thereto; provided, however, that (i) the proceeds of any  
insurance attributable to such Merchandise or business interruption shall  
constitute Proceeds hereunder, and (ii) the Guaranteed Amount shall be reduced  
to account for any Merchandise eliminated from the Sale which is not the subject  
of insurance proceeds, and Merchant shall reimburse Agent for the amount the  
Guaranteed Amount is so reduced prior to the end of the Sale Term.  
  
 8.8 Xxxxx Cash, Etc. All xxxxx cash funds, register funds,   
unprocessed checks and credit card media (including proceeds of sales of goods)  
relating to periods prior to the Sale Commencement Date shall constitute  
property of the Merchant, and Agent shall have no rights or claims with respect  
thereto. Agent shall purchase from Merchant, on a dollar for dollar basis, all  
xxxxx cash funds and register funds in the Stores as of the Sale Commencement  
Date.  
  
 Section 9. Employee Matters.  
  
 9.1 Merchant's Employees. Merchant shall permit all of its employees   
at the Stores to be available to Agent for the Sale. Agent may use Merchant's  
employees in the conduct of the Sale to the extent Agent in its sole discretion  
deems expedient, and Agent may select and schedule the number and type of  
Merchant's employees required for the Sale Agent shall identify any such  
employees to be used in connection with the Sale (each such employee, a  
"Retained Employee") and shall notify Merchant of the identity of all Retained  
Employees prior to the Sale Commencement Date. Retained Employees shall at all  
times remain employees of Merchant, and shall not be considered or deemed to be  
employees of Agent. Merchant and Agent agree that, except to the extent that  
wages and benefits of Retained Employees constitute Sale Expenses hereunder,  
nothing contained in this Agreement and none of Agent's actions taken in respect  
of the Sale shall be deemed to constitute an assumption by Agent of any of  
Merchant's obligations relating to any of Merchant's employees including,  
without limitation, Excluded Benefits, Worker  
  
  
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Adjustment Retraining Notification Act ("WARN Act") claims and other termination  
type claims and obligations, or any other amounts required to be paid by statute  
or law; nor shall Agent become liable under any collective bargaining or  
employment agreement or be deemed a joint or successor employer with respect to  
such employees. Merchant shall not, without Agent's prior written consent, raise  
the salary or wages or increase the benefits for, or pay any bonuses or make any  
other extraordinary payments to, any of its employees in anticipation of the  
Sale or prior to the Sale Termination Date. Merchant has not terminated and  
shall not during the Sale Term terminate any employee benefits or benefit  
programs.  
  
 9.2 Termination of Employees. Agent may in its discretion stop using   
any Retained Employee at any time during the Sale. Agent shall so notify a  
representative designated by Merchant at least five business (5) days prior  
thereto, except "for cause" (such as dishonesty, fraud or breach of employee  
duties), in which event Agent may stop using such employee immediately. Upon the  
expiration of the applicable notice period, all costs associated with the  
employee shall not be considered a Sale Expense and Agent shall have no further  
responsibility or liability for such employees whatsoever. Merchant shall not  
transfer or dismiss employees of the Stores without Agent's prior consent, which  
shall not be unreasonably withheld, conditioned or delayed, but shall retain the  
right to dismiss the employee "for cause".  
  
 9.3 Payroll Matters. During the Sale Term Merchant shall process the  
base payroll for all Retained Employees. Each Wednesday during the Sale Term  
Agent shall transfer from the Agency Accounts to Merchant's payroll accounts an  
amount equal to the base payroll for Retained Employees plus related payroll  
taxes, worker's compensation and benefits for such week which constitute Sale  
Expenses hereunder.  
  
 9.4 Employee Retention Bonuses. In Agent's reasonable discretion  
Proceeds may be used to pay, as a Sale Expense, retention bonuses ("Retention  
Bonuses") (which bonuses shall be inclusive of payroll taxes and workers'  
compensation taxes to the extent assessable but as to which no benefits shall be  
payable) to Retained Employees who do not voluntarily leave employment and are  
not terminated "for cause" provided that if any Retained Employee in any  
particular Store is given a Retention Bonus, the Human Resource Representative  
in that Store will also be provided a commensurate Retention Bonus. Such  
Retention Bonuses shall be payable within thirty (30) days after the Sale  
Termination Date, and shall be processed through Merchant's payroll system.  
  
 Section 10 Conditions Precedent. The willingness of Agent and Merchant  
to enter into the transactions contemplated under this Agreement are directly  
conditioned upon the satisfaction of the following conditions at the time or  
during the time periods indicated, unless specifically waived in writing by the  
applicable party:  
  
 (a) The Court shall have entered an Order (which shall not have  
been stayed) satisfactory to Agent in form and substance (the "Order"), on or  
before August 14, 1998, approving this Agreement in its entirety and authorizing  
the Sale pursuant to the terms of this Agreement (i) notwithstanding any state  
or local laws or regulations   
  
  
  
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otherwise governing or purporting to govern the licensing and conduct of the  
Sale, (ii) notwithstanding provisions in leases, reciprocal easement agreements  
or other contracts that purport to limit, govern or restrict the Sale, or (iii)  
without the necessity of obtaining any third party consents and (iv) granting  
Agent a valid perfected and first priority security interest in and lien upon  
the Merchandise and the proceeds thereof, as described herein, upon payment of  
the initial payment on account of the Guaranteed Amount; provided, however, that  
with respect to Store Nos. 169, 171, 431, 430, 463, 574 and 799, the Order shall  
be entered on or before August 20, 1998.  
  
 (b) All representations and warranties of Merchant and Agent  
hereunder shall be true and correct in all material respects and no Event of  
Default shall have occurred as of the date hereof and as of the Sale  
Commencement Date.  
  
 (c) Merchant shall have provided Agent reasonable access to all  
pricing and cost files, computer hardware, software and data filed, inter-Store  
transfer logs, markdown schedules, invoices, style runs and all other documents  
relative to the price, mix and quantities of inventory located at the Stores.  
  
 (d) Agent shall have had the opportunity to inspect the Stores  
and the inventory on the date immediately preceding the Inventory Date.  
  
 Section 11. Representations, Warranties and Covenants.  
  
 11.1 Merchant's Representations, Warranties and Covenants. Merchant  
hereby represents, warrants and covenants in favor of Agent as follows:  
  
 (a) Merchant: (i) is a corporation duly organized, validly  
existing and in good standing under the laws of the state of Delaware; (ii) has  
all requisite corporate power and authority to own, lease and operate its assets  
and properties and to carry on its business as presently conducted; and (iii) is  
and during the Sale Term will continue to be duly authorized and qualified as a  
foreign corporation to do business and in good standing in each jurisdiction  
where the nature of its business or properties requires such qualification,  
including all jurisdictions in which the Stores are located.  
  
 (b) Subject to the issuance of the Order, Merchant has the   
right, power and authority to execute and deliver this Agreement and each other  
document and agreement contemplated hereby (collectively, together with this  
Agreement, the "Agency Documents") and to perform fully its obligations  
thereunder. Merchant has taken all necessary actions required to authorize the  
execution, delivery and performance of the Agency Documents, and no further  
consent or approval is required for Merchant to enter into and deliver the  
Agency Documents, to perform its obligations thereunder, and to consummate the  
Sale, except for the Court. Subject to the issuance of the Order, each of the  
Agency Documents has been duly executed and delivered by Merchant and  
constitutes the legal, valid and binding obligation of Merchant enforceable in  
accordance with its terms. No court order or decree of any federal, state or  
local governmental authority or regulatory body is in effect that would prevent  
or impair, or is required for Merchant's   
  
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consummation of, the transactions contemplated by this Agreement, and no consent  
of any third party which has not been obtained is required therefor, except for  
the consent of the Court. After giving effect to the Order, no contract or other  
agreement to which Merchant is a party or by which the Merchant is otherwise  
bound will prevent or impair the consummation of the Sale and the other  
transactions contemplated by this Agreement.  
  
 (c) Since June 1, 1998, Merchant has operated the Stores, and  
shall continue to operate the Stores, in the ordinary course of business.  
Merchant has and shall take, prior to the date of the taking of the inventory,  
all appropriate retail price markdowns as is consistent with its ordinary course  
pricing practices and has not since June 1, 1998 raised and shall not raise the  
retail prices of any of such Merchandise outside the ordinary course of  
business. Merchant has not and shall not purchase or transfer to or from the  
Stores any Merchandise or supplies outside of the ordinary course of business or  
remove any indication of clearance merchandise or point of sale promotions in  
anticipation of the taking of the inventory.  
  
 (d) Subject to the entry of the Order, Merchant owns and will   
own at all times during the Sale Term, good and marketable title to all of the  
Merchandise free and clear of all liens, claims and encumbrances of any nature  
and is not aware of any Merchandise not being in compliance with all applicable  
consumer product safety rules or other applicable federal, state, or local  
product safety standards or rules. Merchant shall not create, incur, assume or  
suffer to exist any security interest, lien or other charge or encumbrance upon  
or with respect to any of the Merchandise or the Proceeds, except for the lien  
in favor of the Agent granted pursuant to Section 15 below, and except for  
presently existing liens which, in accordance with the Order, shall attach only  
to the Guaranteed Amount.  
  
 (e) Merchant has maintained its pricing files in the ordinary  
course of business, and prices charged to the public for goods (whether  
in-Store, by advertisement or otherwise) are the same in all material respects  
as set forth in such pricing files for the periods indicated therein. All  
pricing files and records relative to the Merchandise have been made available  
to Agent. All such pricing files and records are true and accurate in all  
material respects as to the actual cost to Merchant for purchasing the goods  
referred to therein and as to the selling price to the public for such goods as  
of the dates and for the periods indicated therein.  
  
 (f) As of the Inventory Date, the levels of goods (as to  
quantity) and the mix of goods (as to type, category, style, brand and  
description) at the Stores are as heretofore disclosed to Agent.  
  
 (g) As of the Inventory Date, all normal course permanent  
markdowns on goods located at the Stores will have been taken on a basis  
consistent with Merchant's historical practices and policies.  
  
 (h) Merchant has not since April 1, 1998, and shall not up to   
the Sale Commencement Date, marked up or raised the price of any items of  
Merchandise, or  
  
  
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removed or altered any tickets or any indicia of clearance merchandise, except  
in the ordinary course of business or as previously disclosed to Agent.  
  
 (i) Merchant shall ticket or xxxx all items of inventory   
received at the Stores prior to the Sale Commencement Date, including, in a  
manner consistent with similar inventory located at the Stores and in accordance  
with Merchant's historic practices and policies relative to pricing and marking  
inventory.  
  
 (j) Merchant has not and shall not purchase or transfer to or  
from the Stores any inventory outside the ordinary course in anticipation of the  
Sale.  
  
 (k) As of the Sale Commencement Date, inventory constituting  
Merchandise located at the Stores shall be no less than $22 million at the  
Retail Price.  
  
 (1) No action, arbitration, suit, notice, or legal,  
administrative or other proceeding before any court or governmental body has  
been instituted by or against Merchant, or has been settled or resolved, or to  
Merchant's knowledge, is threatened against or affects Merchant, relative to  
Merchant's business or properties, or which questions the validity of this  
Agreement, or that if adversely determined, would adversely affect the conduct  
of the Sale.  
  
 (m) Merchant covenants to continue to operate the Stores in the  
ordinary course of business from the date of this Agreement to the Sale  
Commencement Date, which includes, (i) selling inventory during such period at  
customary prices, (ii) not promoting or advertising any sales or in-Store  
promotions (including POS promotions) other than as set forth in Section 11.1  
(m), (iii) not returning inventory to vendors other than defective inventory,  
and (iv) not making any Store level management personnel moves or changes at the  
Stores without Agent's prior written consent. Without limiting the foregoing,  
Merchant shall not conduct or advertise "going out of business", "store  
closing", or "liquidation" sales at any of its stores located within the market  
area of any Store at any time during the Sale Term.  
  
 (n) To the best of Merchant's knowledge, all Merchandise is in  
compliance with all applicable federal, state, or local product safety laws,  
rules and standards.  
  
 (o) Throughout the Sale Term, Agent shall have the right to the  
uninterrupted use and occupancy of, and peaceful and quiet possession of, each  
of the Stores, the assets currently located at the Stores, and the services  
provided at the Stores.  
  
 (p) Merchant has paid and will continue to pay throughout the  
Sale Term, (i) all self-insured or Merchant funded employee benefit programs for  
employees, including health and medical benefits and insurance and all proper  
claims made or to be made in accordance with such programs, (ii) all casualty,  
liability, workers' compensation and other similar insurance premiums, and (iii)  
all applicable taxes.  
  
 (q) Merchant has not and shall not throughout the Sale Term take  
any   
  
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actions the result of which is to increase the cost of operating the Sale,  
including, without limitation, increasing salaries or other amounts payable to  
employees.  
  
 (r) Merchant is not a party to any collective bargaining  
agreements with its employees at the Stores and, to the best of Merchant's  
knowledge, no labor unions represent Merchant's employees at the Stores.  
  
 (s) To the best of Merchant's knowledge, information and belief,  
after due inquiry, all information provided by Merchant to Agent in the course  
of Agent's due diligence and preparation and negotiation of this Agreement  
(including information as to the Store inventories and operating expenses) is as  
of the date hereof true and accurate in all material respects.  
  
 (t) Merchant covenants to maintain in good working order, at its  
sole expense, the cash registers, heating system, air conditioning system,  
elevators, escalators, alarm system, and all other mechanical devises and other  
Store fixtures and equipment used in the ordinary course of operations of each  
Store without interruption up through and including the Sale Termination Date  
with respect to such Store, except to the extent any interruption arises from  
the negligent acts of Agent, or its supervisors or employees located at the  
Stores.  
  
 (u) As of the date of this Agreement, Merchant is current in the  
payment of all post-petition telephone, utilities, taxes, insurance and  
advertising liabilities. Merchant agrees that in the event that Agent receives  
notice that any such post-petition liability is overdue or unpaid, or Agent is  
unable to advertise the Sale with any newspapers, magazines, radio or television  
stations or other media providers which target or serve the market areas of the  
Stores or is unable to obtain Merchant's contract rate with any such provider as  
a result of the Merchant's failure to pay its outstanding post-petition balances  
with such providers, Merchant shall immediately pay such applicable balances in  
full.  
  
 11.2 Agent's Representations and Covenants. Each of the members of   
the Agent jointly and severally, hereby represent, warrant and covenant in favor  
of Merchant as follows:  
  
 (a) Each of the members of the Agent (i) is a corporation   
validly existing and in good standing in its respective State of incorporation;  
(ii) has all requisite power and authority to consummate the transactions  
contemplated hereby; and (iii) is and during the Sale Term will continue to be,  
duly authorized and qualified to do business and in good standing in each  
jurisdiction where the nature of its business or properties requires such  
qualification.  
  
 (b) Agent has the right, power and authority to execute and  
deliver each of the Agency Documents to which it is a party and to perform fully  
its obligations thereunder. Agent has taken all necessary actions required to  
authorize the execution, delivery, and performance of the Agency Documents, and  
no further consent or approval   
  
  
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is required on the part of Agent for Agent to enter into and deliver the Agency  
Documents and to perform its obligations thereunder. Each of the Agency  
Documents has been duly executed and delivered by the Agent and, subject to the  
issuance of the Order, constitutes the legal, valid and binding obligation of  
Agent enforceable in accordance with its terms. No court order or decree of any  
federal, state or local governmental authority or regulatory body is in effect  
that would prevent or impair or is required for Agent's consummation of the  
transactions contemplated by this Agreement, and no consent of any third party  
which has not been obtained is required therefor, except for the Court. No  
contract or other agreement to which Agent is a party or by which Agent is  
otherwise bound will prevent or impair the consummation of the transactions  
contemplated by this Agreement.  
  
 (c) No action, arbitration, suit, notice, or legal   
administrative or other proceeding before any court or governmental  
body has been instituted by or against Agent, or has been settled or resolved,  
or to Agent's knowledge, has been threatened against or affects Agent, which  
questions the validity of this Agreement or any action taken or to be taken by  
Agent in connection with this Agreement, or which if adversely determined,  
would have a material adverse effect upon Agent's ability to perform its  
obligations under this Agreement.  
  
 (d) Agent shall not add any goods other than Merchant's  
Merchandise to the Stores prior to or during the Sale Term.  
  
 Section 12. Insurance.  
  
 12.1 Merchant's Liability Insurance. Merchant shall continue at its   
cost and expense until the Sale Termination Date, in such amounts as it  
currently has in effect, all of its liability insurance policies including, but  
not limited to, products liability, comprehensive public liability, auto  
liability and umbrella liability insurance, covering injuries to persons and  
property in, or in connection with Merchant's operation of the Stores, and shall  
cause Agent to be named an additional named insured with respect to all such  
policies. Prior to the Sale Commencement Date, Merchant shall deliver to Agent  
certificates evidencing such insurance setting forth the duration thereof and  
naming Agent as an additional named insured, in form reasonably satisfactory to  
Agent. All such policies shall require at least thirty (30) days prior notice to  
Agent of cancellation, non-renewal or material change. In the event of a claim  
under any such policies Merchant shall be responsible for the payment of all  
deductibles, retention's or self-insured amounts thereunder, unless it is  
determined that liability arose by reason of the wrongful acts or omissions or  
negligence of Agent, or Agent's employees, independent contractors or agents  
(other than Merchant's employees).  
  
 12.2 Merchant's Casualty Insurance. Merchant will provide throughout   
the Sale Term, at Agent's cost as a Sale Expense, fire, flood, theft and  
extended coverage casualty insurance covering the Merchandise in a total amount  
equal to no less than the Retail Price thereof. From and after the date of this  
Agreement until the Sale Termination Date, all such policies will name Agent as  
loss payee. In the event of a loss to the Merchandise   
  
  
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on or after the date of this Agreement, the proceeds of such insurance  
attributable to the Merchandise plus any self insurance amounts and the amount  
of any deductible (which amounts shall be paid by Merchant), shall constitute  
Proceeds hereunder and shall be paid to Agent. In the event of such a loss Agent  
shall have the sole right to adjust the loss with the insurer. Prior to the Sale  
Commencement Date, Merchant shall deliver to Agent certificates evidencing such  
insurance setting forth the duration thereof and naming Agent as loss payee, in  
form and substance reasonably satisfactory to Agent. All such policies, shall  
require at least thirty (30) days prior notice to Agent of cancellation,  
non-renewal or material change. Merchant shall not make any change in the amount  
of any deductibles or self insurance amounts prior to the Sale Termination Date  
without Agent's prior written consent.  
  
 12.3 Agent's Insurance. Agent shall maintain at Agent's cost and   
expense throughout the Sale Term, in such amounts as it currently has in effect,  
comprehensive public liability and automobile liability insurance policies  
covering injuries to persons and property in or in connection with Agent's  
agency at the Stores, and shall cause Merchant to be named as an additional  
insured with respect to such policies. Prior to the Sale Commencement Date,  
Agent shall deliver to Merchant certificates evidencing such insurance policies  
setting forth the duration thereof and naming Merchant as an additional insured,  
in form and substance reasonably satisfactory to Merchant. In the event of a  
claim under any such policies Agent shall be responsible for the payment of all  
deductibles, retention's or self-insured amounts thereunder, unless it is  
determined that liability arose by reason of the wrongful acts or omissions or  
negligence of Merchant or Merchant's employees, independent contractors or  
agents (other than Agent or Agent's employees, agents or independent  
contractors).  
  
 12.4 Worker's Compensation Insurance. Merchant shall at all times   
during the Sale Term maintain in full force and effect worker's compensation  
insurance (including employer liability insurance) covering all Retained  
Employees in compliance with all statutory requirements. Prior to the Sale  
Commencement Date, Merchant shall deliver to Agent a certificate of its  
insurance broker or xxxxxx evidencing such insurance.  
  
 12.5 Risk of Loss. Without limiting any other provision of this  
Agreement, Merchant acknowledges that Agent is conducting the Sale on behalf of  
Merchant solely in the capacity of an agent, and that in such capacity (i) Agent  
shall not be deemed to be in possession or control of the Stores or the assets  
located therein or associated therewith, or of Merchant's employees located at  
the Stores, and (ii) except as expressly provided in this Agreement, Agent does  
not assume any of Merchant's obligations or liabilities with respect to any of  
the foregoing. Merchant and Agent agree that Merchant shall bear all  
responsibility for liability claims of customers, employees and other persons  
arising from events occurring at the Stores during and after the Sale Term,  
except to the extent any such claim arises from the acts or omissions of Agent,  
or its supervisors or employees located at the Stores (an "Agent Claim"). In the  
event of any such liability claim other than an Agent Claim, Merchant shall  
administer such claim and shall present such claim to Merchant's liability  
insurance carrier in accordance with Merchant's historic policies and  
procedures, and shall provide a copy of the initial documentation relating to  
such   
  
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claim to Agent. To the extent that Merchant and Agent agree that a claim  
constitutes an Agent Claim, Agent shall administer such claim and shall present  
such claim to its liability insurance carrier, and shall provide a copy of the  
initial documentation relating to such claim to Merchant. In the event that  
Merchant and Agent cannot agree whether a claim constitutes an Agent Claim,  
each party shall present the claim to its own liability insurance carrier, and  
a copy of the initial claim documentation shall be delivered to the other  
party.  
   
 Section 13. Indemnification.  
  
 13.1 Merchant Indemnification. Merchant shall indemnify and hold Agent  
and its officers, directors, employees, agents and independent contractors  
(collectively, "Agent Indemnified Parties") harmless from and against all  
claims, demands, penalties, losses, liability or damage, including, without  
limitation, reasonable attorneys' fees and expenses, directly or indirectly  
asserted against, resulting from, or related to:  
  
 (i) Merchant's material breach of or failure to comply with  
any of its agreements, covenants, representations or warranties contains in any  
Agency Document;  
  
 (ii) Subject to Agent's compliance with its obligations   
under Section 9.3 hereof, any failure of Merchant to pay to its employees any  
wages, salaries or benefits due to such employees during the Sale Term;  
  
 (iii) Subject to Agent's compliance with its obligations  
under Section 8.3 hereof, any failure by Merchant to pay any Sales Taxes to the  
proper taxing authorities or to properly file with any taxing authorities any  
reports or documents required by applicable law to be filed in respect thereof;  
  
 (iv) any consumer warranty or products liability claims   
relating to Merchandise;  
  
 (v) any liability or other claims asserted by customers,   
any of Merchant's employees, or any other person against any Agent Indemnified  
Party (including, without limitation, claims by employees arising under  
collective bargaining agreements, worker's compensation or under the WARN Act),  
except for Agent Claims; and  
  
 (vi) the gross negligence or willful misconduct of Merchant   
or any of its officers, directors, employees, agents or representatives.  
  
 13.2 Agent Indemnification. Agent shall indemnify and hold Merchant   
and its officers, directors, employees, agents and representatives harmless from  
and against ail claims, demands, penalties, losses, liability or damage,  
including, without limitation, reasonable attorneys' fees and expenses, directly  
or indirectly asserted against, resulting from, or related to:  
  
  
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 (i) Agent's material breach of or failure to comply with   
any of its agreements, covenants, representations or warranties contained in any  
Agency Document;  
  
 (ii) any harassment or any other unlawful, tortuous or   
otherwise actionable treatment of any employees or agents of Merchant by Agent  
or any of its representatives;  
  
 (iii) any claims by any party engaged by Agent as an employee  
or independent contractor arising out of such employment and any governmental  
claims related thereto;  
  
 (iv) any Agent Claims;  
  
 (v) the gross negligence or willful misconduct of Agent or   
any of its officer, directors, employees, agents or representatives; and  
  
 (vi) Agent's failure to pay to Merchant any Sales Taxes when  
due under Section 8.3 hereof and any payroll when due under Section 9-3 hereof.  
  
 Section 14. Defaults. The following shall constitute "Events of   
Default" hereunder:  
  
 (a) Merchant's or Agent's failure to perform any of their  
respective material obligations hereunder, which failure shall continue uncured  
seven (7) days after written notice thereof to the defaulting party; or  
  
 (b) Any representation or warranty made by Merchant or   
Agent proves untrue in any material respect as of the date made; or  
  
 (c) The Sale is terminated or materially interrupted at a   
Store as a result of an Event of Default by Merchant.  
  
 In the event of an Event of Default, any party's damages or entitlement  
to equitable relief shall be determined by the Court.  
  
 Section 15. Security Interest. Upon payment of the initial payment   
on account of the Guaranteed Amount to Merchant and in consideration of Agent's  
payment of the Guaranteed Amount and the Sale Expenses, and the provision of  
services hereunder to Merchant, Merchant hereby grants to Agent a first priority  
security interest in and lien upon the Merchandise and the Proceeds to secure  
all obligations of Merchant to Agent hereunder. Merchant shall execute all such  
documents and take all such other actions as are reasonably required to perfect  
and maintain such security interest as a valid and perfected first priority  
security interest.  
  
 Section 16. Sale of FF&E. If requested by Merchant, Agent shall  
advertise in the context of advertising for the Sale that items of FF&E at the  
Stores are for sale, and   
  
  
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shall contact and solicit known purchasers and dealers of furniture and  
fixtures, Merchant shall notify Agent if any such FF&E are to be excluded from  
sale and/or if terms and conditions of sale are to be set or restricted in any  
manner, In consideration of providing such services, Agent shall retain ten  
percent (10%) of receipts (net of Sales Taxes) from all sales or other  
dispositions of FF&E. In addition, Merchant shall reimburse Agent for Agent's  
reasonable out of pocket expenses incurred in connection with the liquidation of  
FF&E which have been previously approved by Merchant, including, without  
limitation, costs of commissions and advertising. Agent shall have no liability  
to Merchant for its failure to sell any or all of the FF&E.  
  
 Section 17. [Intentionally Omitted]  
  
 Section 18. Miscellaneous.  
  
 18.1 Notices. All notices and communications provided for pursuant to  
this Agreement shall be in writing, and sent by hand, by facsimile, or a  
recognized overnight delivery service, as follows:  
  
 If to the Agent: Xxxxx Xxxxxxxxxx & Xxx  
 000 Xxxxx Xxxxxx  
 Xxx Xxxx, XX 00000  
 Attn: Xxxx Xxxxx, Esquire  
  
 With a copy to: Schottenstein Xxxxxxxxx Capital Group, LLC  
 0000 Xxxxx Xxxxxxxxx  
 Xxxxx 000  
 Xxxxx Xxxx, XX 00000  
 Attn: Mr. Xxxxx Xxxxxxxxx  
  
 and Xxxxxx Xxxxxxxx Retail Partners, LLC  
 00 Xxxxx Xxxxxx  
 Xxxxxx, XX 00000  
 Attn: Mr. Xxxxxxx Xxxxx  
  
 and The OZER Group, LLC  
 Xxxxxxxx Xxxxxx Xxxxxxxx  
 00 Xxxxxx Xxxxxx  
 Xxxxx 000  
 Xxxxxxx, XX 00000  
 Attn: Xx. Xxxxxxx Xxxxxxxxx  
  
 If to Merchant: Crown Books Corporation  
 0000 00xx Xxxxxx  
 Xxxxxxxx, XX 00000  
 Attn: Xx. Xxxxxx Xxxx  
  
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 With a copy to: S. Xxxxx Xxxxxx, Esquire  
 Young Xxxxxxx Stargatt & Xxxxxx, LLP  
 11th Floor, Xxxxxx Square North  
 X.X. Xxx 000  
 Xxxxxxxxxx, XX 00000  
  
 18.2 Governing Law; Consent to Jurisdiction. This Agreement shall be  
governed and construed in accordance with the laws of the State of Delaware  
without regard to conflicts of laws principles thereof. The parties hereto agree  
that any legal action or proceeding arising out of or in connection with this  
Agreement shall be adjudicated by the Court, and by execution of this Agreement  
each party hereby irrevocably accepts and submits to the jurisdiction of the  
Court with respect to any such action or proceeding.  
  
 18.3 Entire Agreement. This Agreement contains the entire agreement  
between the parties hereto with respect to the transactions contemplated hereby  
and supersedes and cancels all prior agreements, including, but not limited to,  
all proposals, letters of intent or representations, written or oral, with  
respect thereto.  
  
 18.4 Amendments. This Agreement may not be modified except in a   
written instrument executed by each of the parties hereto.  
  
 18.5 No Waiver. No consent or waiver by any party, express or implied,  
to or of any breach or default by the other in the performance of its  
obligations hereunder shall be deemed or construed to be a consent or waiver to  
or of any other breach or default in the performance by such other party of the  
same or any other obligation of such party. Failure on the part of any party to  
complain of any act or failure to act by the other party or to declare the other  
party in default, irrespective of how long such failure continues, shall not  
constitute a waiver by such party of its rights hereunder.  
  
 18.6 Successors and Assigns. This Agreement shall inure to the benefit  
of and be binding upon Agent and Merchant, and their respective successors and  
assigns.  
  
 18.7 Execution in Counterparts. This Agreement may be executed in two  
(2) or more counterparts, each of which shall be deemed an original and all of  
which together shall constitute but one agreement. This Agreement may be  
executed by facsimile, and such facsimile signature shall be treated as an  
original signature hereunder.  
  
 18.8 Section Headings. The headings of sections of this Agreement are  
inserted for convenience only and shall not be considered for the purpose of  
determining the meaning or legal effect of any provisions hereof.  
  
 18.9 Survival. All representations, warranties, covenants and   
agreements made by the parties hereto shall be continuing, shall be  
considered to have been relied upon by the parties and shall survive the  
execution, delivery, performance and/or termination of this Agreement.  
  
  
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 IN WITNESS WHEREOF, Agent and Merchant hereby execute this Agreement by  
their duly authorized representatives as of the day and year first written  
above.  
  
  
 SCHOTTENSCHEIN XXXXXXXXX CAPITAL  
 GROUP, LLC, XXXXXX XXXXXXXX RETAIL  
 PARTNERS, LLC, and THE OZER GROUP, LLC  
  
  
 By: /s/ XXXXXXX XXXXXXXXX  
 ---------------------------------------------  
 By Xxxxxxx Xxxxxxxxx of The OZER Group, LLC,  
 one of the Joint Venturers  
  
  
  
  
 CROWN BOOKS CORPORATION  
  
  
 By: /s/ XXXX XXXXXXXX  
 ---------------------------------------------  
 Its: PRESIDENT