UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	
Cold Spring Acquisition, LLC,	
Debtor.[1]	Chapter 11
	Case No. 25-22002 (SHL)

INTERIM ORDER (I) AUTHORIZING DEBTOR TO (A) OBTAIN POSTPETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), AND 364(e) AND (B) USE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363, (C) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 361, 362, 363, AND 364, AND (D) SCHEDULING FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(b) AND (c)

On January 2, 2025, the Court conducted a hearing to consider the Debtor's Emergency Motion for Interim and Final Orders (I) Authorizing Postpetition Financing; (II) Using Cash Collateral, (III) Granting Adequate Protection; and (IV) Scheduling Final Hearing (the "**Motion**")[2] filed by the above-captioned debtor (the "**Debtor**"). The Court finds that: (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion, as modified herein, is necessary to prevent immediate and irreparable harm to the Debtor and its estate; (iv) proper and adequate notice of the Motion has been given and no other or further notice is necessary; and (v) upon the record herein, and based upon the representations of the Parties, and after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein.

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND

[1] The Debtor in this Chapter 11 Case, along with the last four digits of the Debtor's federal tax identification number, is: Cold Spring Acquisition, LLC (4415).
[2] Capitalized terms used but not defined shall have the meaning ascribed to them in the Motion.

CONCLUSIONS OF LAW:

A. **Petition Date**. On January 2, 2025 (the "**Petition Date**") the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the "**Court**"). The Debtor has continued in the management and operation of their business and properties as debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case.

B. **Jurisdiction and Venue**. The Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for the Case and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Committee Formation**. As of the date hereof, no official committee of unsecured creditors has been appointed in this Chapter 11 Case.

D. **Notice**. The Debtor has represented that notice of the interim hearing and the relief requested in the Motion has been provided by the Debtor, by telecopy, e-mail, overnight courier and/or hand delivery to (i) the United States Trustee; (ii) any party whose interests are directly affected by this specific pleading; (iii) those persons who have formally appeared and requested notice and service in this case pursuant to Bankruptcy Rules 2002 and 3017; (iv) counsel for the Lender; (vi) the list of 20 largest unsecured creditors of the Debtor; and (viii) all governmental agencies having a regulatory or statutory interest in these cases. Under the circumstances, such notice constitutes due, sufficient, and appropriate notice and complies with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b) and (c) and the Local Rules.

E. **Need for Postpetition Financing**. Good cause has been shown for entry of this

Interim Order. An immediate need exists for the Debtor to obtain funds and liquidity in order to continue operations, to satisfy in full the costs and expenses of administering this Chapter 11 case, and to preserve the value of their estates until emergence under a chapter 11 plan. The ability of the Debtor to finance its operations, preserve and maintain the value of its assets, maximize returns for creditors and prevent immediate and irreparable harm to the interest of all the estates' stakeholders requires the availability of the DIP Facility. In the absence of the availability of such funds and liquidity in accordance with the terms hereof, the continued operation of the Debtor's business would not be possible, and serious and irreparable harm to the Debtor and its estates and creditors and other stakeholders of the estates would occur.

F. **No Credit Available on More Favorable Terms**. The Debtor has been unable to obtain financing on more favorable terms and conditions from sources other than the Lender pursuant to, and for the purposes set forth in, the Motion and this Interim Order, and are unable to obtain adequate unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor is also not able to obtain credit without providing the superpriority claims and granting a lien to the Lender on the terms and conditions set forth in this Interim Order.

G. **Use of Proceeds of DIP Facility**. All proceeds of the DIP Facility shall be used and applied in accordance with the terms and conditions of this Interim Order and the DIP Loan Documentation. Proceeds of the DIP Facility or cash collateral, including without limitation the proceeds of the Carve-Out, shall not be used by any party including any Committee, (a) to permit the Debtor, or any other party-in-interest or their representatives to challenge or otherwise contest or institute any proceeding to determine the validity, perfection or priority of security interests in favor of the Lender or any affiliate of the Lender, (b) to commence, prosecute or defend any claim, motion,

proceeding or cause of action against the Lender or any of its affiliates, and each of their respective agents, attorneys, advisors or representatives including, without limitation, any lender liability claims or subordination claims, (c) to commence, prosecute or defend any claim or proceeding or cause of action to disallow or challenge the obligations of the Debtor under the DIP Loan Documentation, or (d) to fund acquisitions, capital expenditures, capital leases, or any other similar expenditure (items a-d shall hereinafter be referred to as a "**Lender Claim**"). Notwithstanding the foregoing, proceeds from the DIP Facility and/or Cash Collateral not to exceed $50,000 in the aggregate (the "**Investigation Budget**") may be used on account of professional fees incurred by any Committee during the Challenge Period (as defined below) in connection with the investigation of any Lender Claims (but not the prosecution of such Lender Claims) against Lender. Notwithstanding anything to the contrary in the DIP Loan Agreement, parties in interest (including any chapter 11 trustee or if the Debtor's chapter 11 case is converted to a case under chapter 7 prior to the expiration of the Challenge Period (as defined below), the chapter 7 trustee) and any Committee shall have (i) solely with respect to the Committee (if any), sixty (60) calendar days from the date of the Committee's formation; and (ii) with respect to all other parties-in-interest, seventy-five (75) calendar days following the date of entry of the Interim Order, in each case unless such deadline is shortened by the Court (the "**Challenge Period**"), to investigate, obtain standing to assert and commence, by timely and properly filed contested matter or adversary proceeding, any Lender Claim (a "**Challenge**"). The Challenge Period will expire the day after the expiration of the Challenge Period unless a timely Challenge is commenced (the "**Challenge Period Termination Date**").

From and after the Challenge Period Termination Date, and subject to entry of a final order, and for all purposes in the Debtor's chapter 11 case and any successor case (and after the dismissal of the Debtor's chapter 11 case or any successor case), and without further notice, motion, or

application to, order of, or hearing before this Court, any and all such Challenges by any party-in-interest shall be deemed to be forever released, waived, and barred. Notwithstanding any provision to the contrary herein, nothing in this Interim Order shall be construed to grant standing on any party in interest, including any Committee, to bring any Challenge on behalf of the Debtor's estate. Notwithstanding anything in the DIP Loan Documentation, including the DIP Loan Agreement, and for the avoidance of doubt, nothing in this Interim Order shall be construed as this Court approving or authorizing any release, exculpation, discharge or other provision of similar intent.

H. **Extension of Financing; Good Faith Pursuant to Section 364(e).** The terms and conditions of the DIP Facility are fair, reasonable, and the best available under the circumstances, reflect the Debtor's exercise of prudent business judgment, and are supported by reasonably equivalent value and consideration. All of the Debtor's obligations under the DIP Facility shall be deemed to have been extended by the Lender in "good faith" as such term is used in section 364(e) of the Bankruptcy Code, and in express reliance upon the protections set forth therein, and shall be entitled to the full protection of section 364(e) of the Bankruptcy Code, in the event that this Interim Order, the Final Order or any provision hereof or thereof is vacated, reversed, or modified on appeal or otherwise.

I. **Relief Necessary to Avoid Immediate and Irreparable Harm**. The relief requested in the Motion, as modified herein (and provided in this Interim Order) is necessary, essential, and appropriate for the continued operation of the Debtor's businesses and the management and preservation of the Debtor's assets and property. It is necessary to avoid immediate and irreparable harm to the Debtor and its estate that the Debtor be allowed to enter into the DIP Facility as contemplated herein.

NOW THEREFORE, on the motion of the Debtor and the record before this Court and

the representations of the Parties, and good and sufficient cause appearing therefore,

IT IS ORDERED that:

1. **Motion Granted**. The Motion is GRANTED in accordance with the terms and conditions set forth in this Interim Order and in accordance with the DIP Loan Documentation, as modified by this Order. The Debtor is authorized to enter into the DIP Loan Documentation on the terms and conditions set forth in the DIP Loan Agreement, and the DIP Loan Agreement is approved, subject to the modifications herein, on an interim basis as set forth herein. Any objections to the Motion with respect to the entry of this Interim Order, to the extent not withdrawn, waived, or otherwise resolved, and all reservation of rights included therein, are hereby denied and overruled.

2. **DIP Facility**.

(a) Obligations. The Debtor is expressly and immediately authorized and empowered to enter into the DIP Facility and to incur all obligations thereunder in accordance with and subject to this Interim Order, and to take all actions, which may be reasonably required and/or otherwise necessary for the performance by the Debtor under the DIP Facility, including, but not limited to, the creation and perfection of the DIP Liens described and provided for herein. The Debtor is hereby authorized and directed to pay all principal, interest, fees, and expenses and other amounts described in the DIP Loan Agreement as such shall accrue and become due thereunder. Upon entry of this Interim Order and execution of the DIP Loan Agreement (or any other DIP Loan Documentation), the DIP Facility shall represent, constitute and evidence, as the case may be, valid and binding obligations of the Debtor, enforceable against the Debtor, its estate, and/or any successors thereto. No obligation, payment, transfer or grant of security under the DIP Facility as approved under this Interim Order shall be stayed, restrained, voided, voidable or recoverable

under the Bankruptcy Code and/or under any applicable non- bankruptcy law, and/or subject to any defense, reduction, setoff, recoupment or counterclaim.

(b) Authorization to Borrow. To continue operations, subject to the terms and conditions of this Interim Order and the DIP Loan Agreement, the Debtor is hereby authorized to borrow under the DIP Facility up to an aggregate principal amount of $2,000,000 and as set forth in the Budget.

(c) Collateral. As used herein, "**Collateral**" shall means all property of the estate under section 541 of the Bankruptcy Code, including all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of each of the Debtor, including: (a) all cash, cash equivalents, deposit accounts, securities accounts, accounts, other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including all of the issued and outstanding capital stock of each of any subsidiaries), hedge agreements, real estate, furniture, fixtures, equipment (including documents of title), goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, license rights, intellectual property, general intangibles (including, for the avoidance of doubt, payment intangibles), rights to the payment of money (including tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action, and all substitutions, indemnification rights, all present and future intercompany debt, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds; (b) all property of the Debtor that was not otherwise subject to valid, perfected, enforceable and unavoidable liens on the Petition Date, and (c) all proceeds from the sale, assignment, or other disposition of (x) any leased real property

and (x) the Debtor's right to select, identify, and designate which commercial leases may be assumed and assigned under section 365 of the Bankruptcy Code.

(d) Lien. Effective immediately upon the entry of this Interim Order, and subject and subordinate only to the Carve-Out and the Pre-Prepetition Lender Adequate Protection Superpriority Claim and the Pre-Petition Lender Adequate Protection Liens, the Lender is hereby granted a secured, superpriority lien on the DIP Collateral pursuant to section 364 of the Bankruptcy Code and in accordance with the DIP Loan Agreement. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens, without the necessity of filing or recording any financing statement, mortgage, deed of trust, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens or to entitle the Lender to the priorities granted herein. Notwithstanding the foregoing, the Lender is authorized, but not required, to file, as each deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens, and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens, and all such financing statements, mortgages, notices, and other documents shall be deemed to have been filed or recorded as of the Petition Date; provided, however, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens. The Debtor is authorized and directed to execute and deliver promptly upon demand to the Lender all such financing statements, mortgages, notices and other documents as each may reasonably request, so long as the cost of maintaining or perfecting the security interest is not excessive in view of the

benefits to be obtained. The Lender may in its discretion file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office in addition to or in lieu of such financing statements, notices of lien or similar instruments.

(e) Superpriority Administrative Claim Status. Subject to the Carve-Out, the Pre-Prepetition Lender Adequate Protection Superpriority Claim and the Pre-Petition Lender Adequate Protection Liens, the Lender is hereby granted pursuant to Section 364(c)(1) of the Bankruptcy Code an allowed superpriority administrative expense claim in the chapter 11 case and any successor case in respect of all of the DIP Obligations (i) with priority over any and all administrative expense claims and unsecured claims against the Debtor or its estate in this chapter 11 case or any successor case, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expense of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code; and (ii) which at all times shall be senior to the rights of the Debtor or its estate, and any successor trustee or other estate representative, to the extent permitted by law.

3. **Authorization and Approval to Use Proceeds of DIP Facility**. Subject to the terms and conditions of this Interim Order and the DIP Loan Agreement, the Debtor is authorized to request and use proceeds of DIP Facility.

4. **No Obligation to Extend Credit**. The Lender shall have no obligation to make any loan or advance under the DIP Loan Agreement unless all of the conditions precedent under the DIP Loan Agreement and this Interim Order have been satisfied in full or waived by the Lender in its sole discretion in accordance with the terms of the DIP Loan Agreement.

5. **Limitation on Use of DIP Facility Proceeds**. From and after the Petition Date, the Debtor shall use advances of credit under the DIP Facility only for the purposes specifically set forth in this Interim Order and the DIP Loan Agreement, and only in compliance with the Budget. No portion of the Carve-Out and no proceeds of the DIP Facility, may be used in contravention of the DIP Loan Agreement. The Lender shall have no obligation or responsibility to monitor the Debtor's use of the DIP Facility, and the Lender may rely upon the Debtor's representation that the use of the DIP Facility at any time is in accordance with the requirements of this Interim Order and the DIP Loan Agreement.

6. **Carve-Out**. As used herein, "Carve-Out" means (a) the unpaid, postpetition fees and expenses of the Clerk of the Court and the U.S. Trustee pursuant to 28 U.S.C. § 1930(a) in such amount, with respect to the U.S. Trustee as agreed to by the U.S. Trustee or as determined by the Court; (b) the unpaid postpetition fees and expenses of the professionals retained by the Debtor and by any Committee (up to a maximum of $50,000 in the case of any professionals retained by the Committee), whose retentions are approved pursuant to final orders of the Court under sections 327, 328, 363 or 1103(a) of the Bankruptcy Code (the "Chapter 11 Professionals"), but only to the extent that such fees and expenses are (i) incurred prior to the giving of a notice of the occurrence of the Termination Date by the Lender to the Debtor and any Committee, (ii) subsequently allowed by the Bankruptcy Court under sections 330, 331, or 363 of the Bankruptcy Code, and (iii) not otherwise paid from retainers; (c) $50,000 of fees incurred by the Chapter 11 Professionals after the Lender's transmission of notice of the Termination Date, to the extent such fees and expenses are (i) subsequently allowed by the Bankruptcy Court under sections 330, 331, or 363 of the Bankruptcy Code, and (ii) not otherwise paid from any retainers; provided that such notice of Termination Date is not rescinded or withdrawn; and (d) all reasonable fees and expenses incurred

by a trustee under Section 726(b) of the Bankruptcy Code in an aggregate amount not exceeding $10,000. For the avoidance of doubt, the existence of the Carve-Out shall not create any obligation of the Lender or any Pre-Petition Secured Lender for the direct payment or reimbursement of any fees or disbursements of any of the professional incurred in connection with the Debtor's chapter 11 case or any successor case under any chapter of the Bankruptcy Code.

7. **Cash Management**. The Lender shall be deemed to have "control" over all cash management accounts for all purposes of perfection under the Uniform Commercial Code and/or applicable law. Until the occurrence of an Event of Default, all amounts collected in the cash collection accounts may be used in accordance with this Interim Order in accordance with the Budget; after the occurrence and during the continuance of an Event of Default, subject only to the funding of the Carve-Out and all such amounts shall be applied in accordance with the terms of this Interim Order and the DIP Loan Agreement.

8. **DIP Documents**.

(a) At the option of the Lender, the Debtor shall execute definitive financing documentation with respect to the DIP Facility, including, without limitation, a credit agreement, a promissory note, guarantees and security documents, in each case, satisfactory in form and substance to the Lender ("**Additional DIP Documents**"). Any such Additional DIP Documents shall, upon execution, supersede the provisions of the DIP Loan Agreement; provided that if the Lender determines not to require the Debtor to execute any Additional DIP Documents, the provisions of the DIP Loan Agreement and this Interim Order shall govern the DIP Facility. The provisions of any Additional DIP Documents shall be consistent with the DIP Loan Agreement Sheet and this Interim Order. In the event the Additional DIP Documents deviate in a material way from the terms of the DIP Loan Agreement, or in the event requested by the Lender, the Debtor

shall seek Court approval of any such Additional DIP Documents.

(b) The Debtor and the Lender may enter into one or more amendments, waivers, consents, or other modifications to and under the DIP Loan Documentation, in each case in accordance with the terms of the DIP Loan Agreement and in such form as the Debtor and the Lender agree in the Lender's sole discretion, and no further approval of this Court shall be required for any amendment, waiver, consent, or other modification to and under the DIP Loan Agreement (and any fees paid in connection therewith) that does not materially and adversely affect the Debtor or which does not (i) shorten the maturity of the DIP Facility, (ii) increase the principal amount of or the rate of interest on the DIP Facility, or (iii) change any event of default, add any covenants, or amend the covenants to be materially more restrictive; provided, however, any such material amendment, waiver, consent, or other modification shall be subject to further Court approval. Copies of all amendments and modifications to and under the DIP Loan Documentation, regardless of materiality, shall be provided to the U.S. Trustee and the Committee, if any. No consent to any such amendment, waiver, consent, or modification shall be implied by any action, inaction, or acquiescence of the Lender.

9. **Approved Budget**. Attached to Motion as Exhibit B is a 13-week budget approved by the Lender (the "**Budget**"), which sets forth, among other things, projected cash receipts and cash disbursements. The Debtor may from time to time deliver to the Lender an updated proposed Budget for approval by the Lender on not more than a weekly basis; provided that such proposed budget shall not become an approved Budget until approved by the Lender in writing in its sole discretion. The Budget is approved on an interim basis. The proceeds of the DIP Facility and Cash Collateral under this Interim Order shall be used by the Debtor strictly in accordance with the Budget (subject to Permitted Variances), this Interim Order and the DIP Loan Agreement. Other

than with respect to the Carve-Out, none of the Lender's consent to, or acknowledgement of, the Budget shall be construed as consent to use the proceeds of the DIP Facility beyond the Termination Date, as applicable, or the use of Cash Collateral following the Termination Date, regardless of whether the aggregate funds shown on the Budget have been expended. Notwithstanding anything to the contrary herein, the Debtor shall pay the fees, costs and expenses of the Lender Professionals (as defined below) in accordance with the DIP Documents and this Interim Order without reference to the Approved Budget

Reimbursement of Fees, Costs and Expenses of DIP Lender. The Debtor shall be obligated to reimburse the Lenders for their reasonable and documented costs, fees, and expenses in connection with the preparation, negotiation, execution and administration of the DIP Loan Documents, including any amendment or waiver thereof, which shall include, without limitation, the Legal Fees. Each professional shall provide copies of applicable invoices (which invoices may be redacted or summarized for protection of an applicable privilege or the work product doctrine) (the fees thereunder, the "Invoiced Fees") to counsel to the Debtors, counsel to the Creditors' Committee, if any, and the U.S. Trustee.[3] Any objections raised by the Debtor, the U.S. Trustee or the Creditors' Committee, if any, challenging the reasonableness of any portion of the Invoiced Fees (such portion, the "Disputed Invoiced Fees") must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional or party within 10

[3] For the avoidance of doubt, the fees provided for in this Interim Order must be reasonable. Although the U.S. Trustee fee guidelines do not specifically apply, professionals shall submit time and expense detail entries to the U.S. Trustee, as well as any further information or back up documentation requested by the U.S. Trustee to determine the reasonableness of the invoiced amount. Invoices for such fees and expenses provided to any party other than the U.S. Trustee shall not be required to include any information subject to the attorney-client privilege, joint defense privilege, bank examiner privilege, or any information constituting attorney work product, and time and expense detail entries and other information provided solely to the U.S. Trustee shall be returned or destroyed after the U.S. Trustee has reviewed such material and any objections to the applicable fees and expenses have been resolved upon request of the applicable professional. Furthermore, the provision of invoices, time entries or other information pursuant to the terms hereof shall in no event constitute a waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine.

Business Days of receipt (the "Review Period") and, if after the Review Period an objection remains unresolved, such objection will be subject to resolution by the Court. After the Review Period, the undisputed portion of Invoiced Fees will be paid promptly by the Debtor, without the necessity of filing formal fee applications, regardless of whether such amounts arose or were incurred before or after the Petition Date. The Debtor shall pay any Disputed Invoiced Fees promptly upon resolution of the objection, including to the extent resolved through approval by the Court, to the extent of such approval. In no event shall any invoice or other statement submitted by the Lender to the Debtor, the Creditors' Committee, if any, the U.S. Trustee or any other interested person (or any of their respective Professionals) with respect to fees or expenses incurred by any professional retained by the Lender operate to waive the attorney/client privilege, the work-product doctrine or any other evidentiary privilege or protection recognized under applicable law.

10. **Budget Testing**. By no later than 5:00 P.M. (Eastern Time) on the Friday of the second full calendar week following the Petition Date (the "First Testing **Date**"), and no later than 5:00 P.M. (Eastern Time) on each Friday after the First Testing Date (together with the First Testing Date, each a "**Testing Date**"), the Debtor shall deliver to the Lender a variance report for the applicable Testing Period (as defined below) in form and detail acceptable to the Lender (an "**Approved Variance Report**") showing comparisons of (a) actual cumulative cash receipts of the Debtor for such Testing Period compared to the projected cumulative cash receipts of the Debtor for such Testing Period as set forth in the Budget and (b) actual cumulative operating disbursements, capital expenditures, and non-operating disbursements (including professionals fees of the Debtor and the Committee, if any) of the Debtor on a line-by-line basis for such Testing Period compared to the projected cumulative operating disbursements, capital expenditures, and non-operating disbursements (including professionals fees of the Debtor and the Committee, if

any) of the Debtor on a line-by-line basis for such Testing Period as set forth in the Budget. The term "Testing Period" means (i) with respect to receipts, the two-week period beginning on Sunday and ending on the Saturday immediately prior to the applicable Testing Date, and (ii) with respect to operating disbursements, capital expenditures, and non-operating disbursements (including professionals fees of the Debtor and the Committee, if any), the weekly period beginning on Sunday and ending on the Saturday immediately prior to the applicable Testing Date.

11. **No transfers of DIP Collateral**. The Debtor shall not sell, transfer, lease, encumber, or otherwise dispose of any portion of the DIP Collateral other than in the ordinary course of business or as otherwise permitted by the DIP Loan Agreement, without the prior written consent of the Lender, or pursuant to a sale of all or substantially all of the Debtor's assets in accordance that has been approved by the Lender in writing. For the avoidance of doubt, transfers of the Debtor's assets in the ordinary course of operations of the Debtor's business shall not be prohibited pursuant to this paragraph 11. Except as may be provided in the DIP Loan Agreement, the Debtor is authorized and directed, upon the closing of a sale of any of the DIP Collateral, to pay all cash proceeds of any such sale within two (2) business days of receipt thereof to the Lender to satisfy the DIP Obligations, and any order approving the sale of such DIP Collateral shall provide that the sale is conditioned upon the payment in full of the DIP Obligations (except to the extent otherwise agreed in writing by the Lender.

12. **Rights and Remedies upon Event of Default**.

(a) Upon the occurrence and during the continuation of any Event of Default, subject to five (5) business days' notice to the Debtor during which the Debtor may seek an emergency hearing before the Bankruptcy Court (at which hearing the sole issue shall be whether or not an Event of Default has occurred or is continuing), notwithstanding the provisions of Bankruptcy

Code section 362, without any application, motion or notice to, hearing before, or order from the Court, other than, subject to the terms of this Interim Order: (a) the Lender may send a written notice to the Debtor, counsel to the Committee (if any) and the U.S. Trustee (any such declaration shall be referred to herein as a "**Termination Declaration**"), which shall be filed on the docket of the Chapter 11 Case, declaring (1) all DIP Obligations owing under the DIP Loan Documentation and this Interim Order to be immediately due and payable, (2) the commitment of the Lender to make DIP Loans to be terminated, whereupon such commitments shall be terminated to the extent any such commitment remains under the DIP Facility, and (3) the termination of the DIP Facility and the DIP Loan Documentation as to any future liability or obligation of the Lender, but without affecting any of the DIP Liens or the DIP Obligations; (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Loan Documentation; and (c) upon delivery of the Termination Declaration, the Lender shall be deemed to have declared a termination, reduction, or restriction on the ability of the Debtor to use Cash Collateral, other than to pay expenses set forth in the Budget that are necessary to avoid immediate and irreparable harm to the Debtor's estate. The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtor, counsel to the Committee (if any), and the U.S. Trustee.

(b) For the avoidance of doubt, the Events of Default relating to (i) the material impairment of the Debtor's ability to perform its obligations under the DIP Facility or of the DIP Lender to enforce the Obligations; (b) the material adverse effect on the value of the Debtor's assets or the amount that the DIP Lender would be likely to receive (after giving consideration to delays in payment and costs of enforcement) in the liquidation of such assets; (c) the material impairment of the priority of the DIP Lender's rights and liens with respect to the Collateral pledged to it hereunder; (d) Medicare or Medicaid, or any other governmental entity, setting off or

otherwise withholding payment against any accounts receivable owing to Debtor; and (e) the commencement of any suit by any Person that is not subject to the automatic stay against the DIP Lender that would, or seek to, in any way reduce, set off, or subordinate the Obligations or DIP Liens, shall only apply to the extent that the action or condition giving rise to such Event of Default occurs or arises after the Petition Date.

13. **No Waiver by Failure to Seek Relief**. The rights and remedies of the Lender and the Pre-Petition Secured Lenders (if any) are cumulative and not exclusive of any rights or remedies that such parties may have under the DIP Loan Documentation, any prepetition loan documentation, applicable law, or otherwise. The failure or delay on the part of the Lender or any Pre-Petition Secured Lender to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Loan Documentation or any prepetition loan documentation, or applicable law, as the case may be, shall not constitute a waiver of any of their respective rights or be deemed as an admission that no Event of Default has occurred.

14. **Emergency Hearing**. The Debtor may seek an emergency hearing on an expedited basis (the "**Emergency Hearing**") during the five (5) business days following the date a Termination Declaration is delivered (such five (5) business day period, the "**Remedies Notice Period**") for the sole purpose of determining whether an Event of Default has in fact occurred or is continuing, and the Debtor hereby waives its right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent that such relief would in any way impair or restrict the rights and remedies of the Lender; provided that if the Emergency Hearing is requested to be heard prior to the expiration of the Remedies Notice Period but is scheduled for a later date by the Court, the Remedies Notice Period shall be automatically extended to the date of such hearing. During the Remedies Notice Period, the Debtor

shall continue to have the right to use Cash Collateral in accordance with the terms of this Interim Order, solely to pay necessary expenses set forth in the Budget to avoid immediate and irreparable harm to the Estate. At the end of the Remedies Notice Period, unless the Court has entered an order to the contrary, the Debtor's right to use Cash Collateral shall immediately cease, and the Lender shall have the rights set forth immediately below.

15. **Certain Rights and Remedies Following Termination Date**. Following the Termination Date and upon either the expiration of the Remedies Notice Period or pursuant to an order of the Court (which may authorize the remedies set forth in this paragraph or any other appropriate remedy as then determined by the Court) (a "**Remedy Enforcement Event**"), the Lender shall be entitled to exercise all rights and remedies in accordance with the DIP Loan Documentation, this Interim Order, and applicable law and shall be permitted to satisfy the relevant DIP Obligations and DIP Liens based on the priorities set forth in the DIP Loan Documentation and this Interim Order. Following the occurrence of a Remedy Enforcement Event, except as otherwise ordered by the Court: (a) the Debtor is hereby authorized and directed to, with the exclusion of the Carve-Out, remit to any Pre-Petition Secured Lender one-hundred percent (100%) of all collections, remittances, and proceeds of the DIP Collateral in accordance until such Pre-Petition Secured Lender's secured claims have been satisfied in full and thereafter remit one-hundred percent (100%) of all collections, remittances, and proceeds of the DIP Collateral to the Lender; (b) the Lender may compel the Debtor to seek authority to, (i) sell or otherwise dispose of all or any portion of the DIP Collateral pursuant to Bankruptcy Code section 363 (or any other applicable provision) on terms and conditions pursuant to Bankruptcy Code sections 363, 365, and other applicable provisions of the Bankruptcy Code, and (ii) assume and assign any lease or executory contract included in the DIP Collateral to the Lender's designees in accordance with

and subject to Bankruptcy Code section 365, (c) the Lender may direct the Debtor to (and the Debtor shall comply with such direction to) seek authority to dispose of or liquidate the DIP Collateral via one or more sales of such DIP Collateral or property and/or the monetization of other DIP Collateral or property, (d) the Lender may or may direct the Debtor to (and the Debtor shall comply with such direction to), collect any and all accounts receivable, (e) the Lender shall be authorized to succeed to any and all of the Debtor's rights and interests under any licenses for the use of any intellectual property in order to complete the production and sale of any inventory with respect to the DIP Collateral, and (f) the Debtor shall take all action that is reasonably necessary to cooperate with the Lender in the exercise of its rights and remedies and to facilitate the realization of the DIP Collateral by the Lenders in a manner consistent with the priorities set forth in this Interim Order and the DIP Documents.

16. **Access to DIP Collateral**. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the Lender under this Interim Order, the DIP Loan Documentation and applicable law, after the occurrence of the Termination Date and either upon the expiration of the Remedies Notice Period or the entry of any order of the Bankruptcy Court, for the purpose of exercising any remedy with respect to any of the DIP Collateral, the Lender (or any of its employees, agents, consultants, contractors, or other professionals) (collectively, the "**Enforcement Agents**") shall have the right, subject to any applicable laws and regulations governing the operation of the Debtor's business, to: (i) enter upon, occupy, and use any real or personal property, fixtures, equipment, leasehold interests, or warehouse arrangements owned or leased by the Debtor; (ii) enter into the premises of the Debtor in connection with the orderly sale or disposition of the DIP Collateral (including, without limitation, to complete any work in process); (iii) exercise any rights of the Debtor to access any DIP Collateral (including

inventory) held by any third party; and (iv) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment or any other similar assets of the Debtor, or assets which are owned by or subject to a lien of any third party and which are used by the Debtor in its business The Enforcement Agents will be responsible for the payment of any applicable fees, rentals, royalties, or other amounts owing to such lessor, licensor or owner of such property (other than the Debtor) on a per diem basis and solely for the period of time that the Enforcement Agents actually occupy any real property or use the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals, or other amounts owing for any period prior to the date that the Enforcement Agents actually occupy or use such assets or properties). Nothing contained herein shall require the Enforcement Agents to assume any lease as a condition to the rights afforded in this paragraph 16.

18. **No Lender Liability**. Solely as a result of the Lender's determination to make any loan (whether under the DIP Loan Documentation or otherwise) or the exercise by the Lender of any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Documentation or the taking by the Lender of any other act permitted under this Interim Order and the DIP Loan Documentation, the Lender shall not (i) be considered or deemed to be in control of the operations of the Debtor or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal, state or local statute or regulation), (ii) shall be considered or deemed to be a joint employer with the Debtor, or (iii) owe any fiduciary duty to the Debtor, its creditors, shareholders, or the Debtor's estate. Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon

the Lender of any liability for any claims arising from the prepetition or postpetition activities of the Debtor and its affiliates (as defined in section 101(2) of the Bankruptcy Code).

19. **Insurance Proceeds and Policies**. Upon entry of this Interim Order and to the fullest extent provided by applicable law, the Lender shall be, and shall be deemed to be, without any further action or notice, named as additional insured and loss payee on each insurance policy maintained by the Debtor that in any way relates to the DIP Collateral.

20. **No Waiver by Failure to Seek Relief**. The rights and remedies of the Lender and any Pre-petition Secured Lender are cumulative and not exclusive of any rights or remedies that the Lender or any Pre-Petition Secured Lender may have under the DIP Documents, any prepetition loan documents, applicable law, or otherwise. The failure or delay on the part of any of the Lender or any Pre-Petition Secured Lender to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Documents, any prepetition loan documentation, or applicable law, as the case may be, shall not constitute a waiver of any of their respective rights or be deemed as an admission that no Event of Default has occurred.

21. **Use of Cash Collateral; Adequate Protection**.

(a) Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, and the DIP Loan Agreement, Debtor shall be and is hereby authorized to use the Cash Collateral (as defined in section 363 of the Bankruptcy Code) for the period commencing on the date of this Interim Order and terminating upon the Termination Date. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtor or its estate outside the ordinary course of business, or any use of Cash Collateral or other proceeds resulting therefrom, except as expressly permitted in this Interim Order, and in the DIP Loan Agreement.

(b) Replacement Liens. As adequate protection for the diminution in value of

their interests in the Pre-Petition Collateral on account of the Debtor's use of such Pre-Petition Collateral, the imposition of the automatic stay and the subordination to the Carve-Out (collectively, the "**Diminution in Value**"), any Pre- Petition Lender is hereby granted pursuant to §§361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all Collateral (the "**Pre-Petition Lender Adequate Protection Liens**"). The Pre-Petition Lender Adequate Protection Liens shall be junior and subordinate only to the Carve-Out, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral.

(c) Section 507(b) Priority Claims. As adequate protection for the Diminution in Value, the Pre-Petition Lender is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Chapter 11 Case and any successor bankruptcy cases (the "**Pre-Petition Lender Adequate Protection Superpriority Claim**"). The Pre-Petition Lender Adequate Protection Superpriority Claim shall be junior only to the Carve-Out and shall otherwise have priority over all administrative expense claims and unsecured claims against Debtor and its estate now existing or hereafter arising, of any kind or nature whatsoever.

22. **Proofs of Claim**. The Lender is hereby authorized and entitled, in its sole and absolute discretion, but not required, to file (and amend and/or supplement, as its sees fit) a proof of claim and/or aggregate proofs of claim in this Chapter 11 case for any claim allowed herein. Any order entered by the Court in relation to the establishment of a bar date for any claim (including without limitation administrative claims) in this Chapter 11 case shall not apply to the Lender.

23. **Other Rights and Obligations.**

(a) Good Faith Under Section 364(e) of the Bankruptcy Code. Based on the

representations of the Debtor and the Lender and for purposes of this interim order and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the DIP Facility as approved by this Interim Order, in the event any or all of the provisions of this Interim Order are hereafter modified, amended and/or vacated by a subsequent order of this Court and/or any other court, the Lender is entitled to the protections provided in section 364(e) of the Bankruptcy Code, and no such appeal, modification, amendment and/or vacation shall affect the validity and/or enforceability of any advances made hereunder and/or the liens and/or priority authorized and/or created hereby or thereby. Notwithstanding any such modification, amendment and/or vacation, any claim granted to the Lender hereunder arising prior to the effective date of such modification, amendment and/or vacation of any lien granted to the Lender shall be governed in all respects by the original provisions of this Interim Order, and the Lender shall be entitled to all of the rights, remedies, privileges and/or benefits, including the liens granted herein, with respect to any such claim. Because the DIP Facility is made in reliance on this Interim Order, the obligations incurred by the Debtor and/or owed to the Lender prior to the effective date of any stay, modification or vacation of this Interim Order shall not, as a result of any subsequent order in the Case or in any successor case, be disallowed and/or subordinated, lose its lien priority or administrative expense claim status, and/or be deprived of the benefit of the status of the liens and claims granted to the Lender under this the Interim Order.

(b) Binding Effect. The provisions of this Interim Order shall be binding upon and inure to the benefit of the Lender, the Debtor, and its respective successors and assigns (including, without limitation, any trustee and/or other fiduciary hereinafter appointed as a legal representative of the Debtor or with respect to the property of the estate of the Debtor).

(c) No Waiver. The failure of the Lender to seek relief or otherwise exercise

its rights and remedies under this Interim Order shall not constitute a waiver of any of the Lender's rights hereunder.

(d) No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, third party or incidental beneficiary.

(e) Amendment. The Debtor and the Lender may amend, modify, supplement and/or waive any provision of the DIP Facility without further notice to or approval of the Court, unless such amendment, modification, supplement or waiver (i) increases the interest rate charged in connection with the DIP Facility, (ii) increases the commitment of the Lender to make advances under the DIP Facility, or (iii) otherwise is adverse to the interests of the Debtor or their estates. Except as otherwise provided herein, no waiver, modification and/or amendment of any of the provisions hereof shall be effective unless set forth in writing, signed by, or on behalf of, the Debtor and the Lender and approved by the Court after notice to parties in interest.

(f) Priority of Terms. To the extent of any conflict between or among (i) the Motion, any other order of this Court, or any other agreements, including without limitation the DIP Loan Documentation, on the one hand, and (ii) the terms and provisions of this Interim Order, on the other hand, the terms and provisions of this Interim Order shall govern.

(g) Enforceability. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully enforceable nunc pro tunc to the Petition Date immediately upon execution hereof.

(h) Waiver of Any Applicable Stay. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Interim Order.

(i) Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

(j) Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in the Chapter 11 Case; (b) converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code; (c) dismissing the Chapter 11 Case or any Successor Case; or (d) pursuant to which this Court abstains from hearing the Chapter 11 Case or any Successor Case.

(k) **Necessary Action**. The Debtor is authorized to take any and all such actions and to make, execute and deliver any and all instruments as may be reasonably necessary to implement the terms and conditions of this Interim Order and the transactions contemplated hereby.

24. **Final Hearing**. A final hearing to consider the relief requested in the Motion shall be held on January 23, 2025 at 10:00 am (Eastern Time) and any objections or responses to the Motion shall be filed and served so as to be actually received on or prior to January 22, 2025 at 4:00 p.m. (Eastern Time), and served on the following parties: (a) proposed counsel to the Debtor, Manatt, Phelps & Phillips, LLP, 7 Times Square, New York, NY 10036 (Attn: Schuyler G. Carroll, Esq.), scarroll@manatt.com; (b) counsel to the Lender, Lowenstein Sandler LLP (Attn: Dan Besikof, Esq.), dbesikof@lowenstein.com; counsel to the United States Trustee, William K. Harrington, United States Trustee, Department of Justice, Office of the U.S. Trustee, Alexander Hamilton U.S. Custom House, One Bowling Green, Rm. 534, New York, NY 10004 Attn: Andrea Schwartz, Esq., (andrea.b.schwartz@usdoj.gov); and, if applicable, (c) counsel to any statutory committees appointed in this Chapter 11 Case.

Dated: January 13, 2025
White Plains, New York

/s/ Sean H. Lane
HONORABLE SEAN H. LANE
UNITED STATES BANKRUTPCY JUDGE