

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

In re:

VIRIDOS, INC.,¹

Debtor.

Chapter 11

Case No. 25-10697 (CTG)

Re: D.I. 16, 17, 36

**FINAL ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN
POSTPETITION FINANCING AND (B) USE OF CASH COLLATERAL,
(II) GRANTING ADEQUATE PROTECTION TO THE PREPETITION LENDER,
(III) SCHEDULING A FINAL HEARING, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of Viridos, Inc., as debtor and debtor-in-possession (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506(c) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the “Bankruptcy Code”), rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), rules 2002-1, 4001-2, 7007-1, 9013-4, and 9014-2 of the Local Bankruptcy Rules for the District of Delaware (the “Local Rules”), seeking entry of this final order (this “Final Order”) (together with the Interim Order, as defined herein, the “DIP Orders”) among other things:

- i. authorizing the Debtor to obtain postpetition financing (“DIP Financing”) pursuant to a senior, secured, superpriority, debtor in possession multi-draw term loan facility (the “DIP Facility”) subject to the terms and conditions set forth in the DIP Orders and that certain Debtor in Possession Senior Secured Superpriority Credit Agreement, attached hereto in substantially final form as **Exhibit 1** (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the “DIP Credit Agreement”) by and among the Debtor, and one or more affiliates of Breakthrough Energy Ventures II, L.P. (together with successors and assigns, “BEV” or the “DIP Lender”), consisting of (i) new

¹ The Debtor in this Chapter 11 Case and the last four digits of its U.S. taxpayer identification number is: Viridos, Inc. (3940). The Debtor’s corporate headquarters is located at: 11149 N. Torrey Pines Road, La Jolla, CA 92037.

² Unless stated otherwise, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP Credit Agreement (as defined below), as applicable.

money senior secured superpriority term loans in an aggregate principal amount of up to \$4,250,000.00, subject to the Initial DIP Budget (as defined in the Interim DIP Order), and (ii) the DIP Roll-Up Loans (as defined below), which will be deemed made in order to roll up and convert amounts outstanding under the Prepetition Loan Documents (as hereinafter defined) into DIP Obligations (as defined below) as provided in the DIP Orders (the loans to be made available and/or deemed made under the foregoing clauses (i) and (ii), collectively, the “DIP Loans” and the commitments therefor, the “DIP Commitments”);

- ii. authorizing the Debtor to incur the DIP Loans and all other obligations, fees, costs, expenses and other liabilities and obligations (including indemnities and similar obligations, whether contingent or absolute) under the DIP Documents (as defined below) (collectively, the “DIP Obligations”);
- iii. authorizing the Debtor to execute, deliver and perform under the DIP Credit Agreement and all other documents and instruments that may be reasonably requested by the DIP Lender in connection with the DIP Facility (in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof, together with the DIP Credit Agreement, the “DIP Documents”);
- iv. subject to the Carve-Out (as defined below) and otherwise solely to the extent set forth herein, granting to the DIP Lender allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code;
- v. granting to the DIP Lender valid, enforceable, non-avoidable and automatically perfected first priority liens pursuant to sections 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code on the DIP Collateral (as defined below), on the terms described herein;
- vi. waiving (a) the Debtor’s right to surcharge the Prepetition Collateral (as defined below) and the DIP Collateral pursuant to section 506(c) of the Bankruptcy Code and (b) any “equities of the case” exception under section 552(b) of the Bankruptcy Code;
- vii. waiving the equitable doctrine of “marshaling” and other similar doctrines with respect to the DIP Collateral and the Prepetition Collateral (including Cash Collateral (as defined below)) for the benefit of any party other than the DIP Lender for the benefit of any party other than the DIP Lender;
- viii. authorizing the Debtor to use proceeds of the DIP Facility and Cash Collateral solely in accordance with the DIP Orders, the DIP Documents and the Approved Budget;
- ix. authorizing the Debtor to pay the DIP Obligations as they become due and payable in accordance with the DIP Documents;
- x. subject to the restrictions set forth in the DIP Documents and the DIP Orders, authorizing the Debtor to use Prepetition Collateral and provide adequate protection to the Prepetition Secured Lender (as defined below) for any diminution in value of its interests in the Prepetition Collateral, for any reason provided for in the Bankruptcy Code;

- xi. authorizing the DIP Lender to take all commercially reasonable actions to implement the terms of the DIP Orders and vacating and modifying the automatic stay to the extent necessary to permit the Debtor and the DIP Lender to implement and effectuate the terms and provisions of the DIP Orders and the DIP Documents;
- xii. waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Final Order; and
- xiii. scheduling a final hearing (the “Final Hearing”) to consider final approval of the DIP Facility and use of Cash Collateral on the terms of this Final Order.

The Court having considered the relief requested in the Motion, the exhibits attached thereto, the *Declaration of Eric Moellering in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), *Declaration of Brian Ayers in Support of the Debtor’s Motion for Entry of Interim and Final Orders (I) Authorizing Debtor to (A) Obtain Postpetition Financing and (B) Use of Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Lender, (III) Scheduling Final Hearing, and (IV) Granting Related Relief* (the “Ayers Declaration”), the available DIP Documents, and the evidence submitted and arguments made at the interim hearing held on April 17, 2025 (the “Interim Hearing”); and the Court having entered an order approving the relief requested in the Motion on an interim basis on April 17, 2025 [D.I. 36] (the “Interim Order”); and the Court having considered the Motion, the exhibits attached thereto, the First Day Declaration, the Ayers Declaration, the *Supplemental Declaration of Brian Ayers in Support of the Debtor’s Motion for Entry of a Final Order (I) Authorizing Debtor to (A) Obtain Postpetition Financing and (B) Use of Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Lender, (III) Scheduling Final Hearing, and (IV) Granting Related Relief* (the “Supplemental Ayers Declaration”), and any and all evidence submitted and arguments made at the Final Hearing held on May 9, 2025; and proper and sufficient notice of the Motion and the Final Hearing having been given in accordance with the Interim Order, Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014 and Local Rule 4001-2; and all objections,

if any, to the final relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the final relief requested in the Motion is fair and reasonable, in the best interests of the Debtor and its estate, and essential for the continued operation of the Debtor's businesses and the preservation of the value of the Debtor's assets; and it appearing that the Debtor's entry into the DIP Documents is a sound and prudent exercise of the Debtor's business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor,

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FINAL HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:³

A. **Petition Date.** On April 14, 2025 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Court") commencing this Chapter 11 Case.

B. **Debtor in Possession.** The Debtor has continued in the management and operation of its businesses and properties as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

C. **Jurisdiction and Venue.** This Court has core jurisdiction over this Chapter 11 Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Consideration of the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order approving the

³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

relief sought in the Motion consistent with Article III of the United States Constitution. Venue for these cases and proceedings on the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(b), 363(c), 363(e), 364(c), 364(d)(1), 364(e), 503 and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and the Local Rules.

D. **Notice.** The Final Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate and sufficient notice of the Motion and the Final Hearing has been provided to (a) the U.S. Trustee; (b) any statutorily appointed committee; (c) entities listed as holding the 20 largest unsecured claims against the Debtor (on a consolidated basis); (d) counsel to the DIP Lender and Prepetition Secured Lender, Greenberg Traurig, LLP, One Vanderbilt Ave., New York, NY 10017, Attn: Jeffrey M. Wolf, Brian E. Greer, and T. Charlie Liu; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; (g) the state attorneys general for the state in which the Debtor conducts business; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002, (collectively, the "Notice Parties"), in accordance with the Bankruptcy Code, Bankruptcy Rules and Local Rules.

E. **Cash Collateral.** As used herein, the term "**Cash Collateral**" shall mean all of the Debtor's cash, wherever located and held, including cash in deposit accounts, that constitutes or will constitute "cash collateral" of the DIP Lender and the Prepetition Secured Lender within the meaning of section 363(a) of the Bankruptcy Code.

F. **Debtor's Stipulations.** Subject to the provisions and limitations contained in paragraph 22 hereof, and after consultation with its attorneys, the Debtor admits, stipulates and agrees that:

(i) *Initial Prepetition Loan.* Pursuant to that certain Secured Convertible Promissory Note dated as of July 23, 2024, made by the Debtor to the order of BEV (together with its successors and assigns, the “Prepetition Secured Lender”) in the original principal amount of \$2,000,000 (the “Initial Prepetition Note”), the Debtor incurred indebtedness and other obligations to the Prepetition Secured Lender.

(ii) *Prepetition Bridge Loan.* On or about April 8, 2025, the Prepetition Lender agreed to make additional financing available to the Debtor and, in connection therewith, the Debtor executed in favor of the Prepetition Lender that certain Amended and Restated Secured Convertible Promissory Note dated as of April 8, 2025 in the maximum principal amount of \$2,750,000 (the Initial Prepetition Note, as so amended and restated and as otherwise amended, supplemented, restated or otherwise modified prior to the Petition Date, the “Prepetition Bridge Note” and, collectively with the Note Purchase Agreement and the Security Agreement referenced in the Prepetition Bridge Note (such Security Agreement as amended, the “Prepetition Security Agreement”), and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Prepetition Loan Documents”), and the Prepetition Lender made an incremental advance in connection therewith of \$250,000. The indebtedness and obligations of the Debtor owing to the Prepetition Secured Lender under the Prepetition Loan Documents is referred to herein as the “Prepetition Loan Obligations”.

(iii) *Prepetition Loan Obligations.* As of the Petition Date, the Debtor was justly and lawfully indebted and liable to the Prepetition Secured Lender without defense, challenge, objection, claim, counterclaim, or offset of any kind, in respect of the Prepetition Loan Obligations in the aggregate outstanding principal amount of \$2,250,000, plus accrued and unpaid interest

thereon and any fees, expenses and disbursements (including attorneys' fees), costs, charges, indemnities, and any other Prepetition Loan Obligations incurred under the Prepetition Loan Documents.

(iv) *Validity of Prepetition Loan Obligations.* The Prepetition Loan Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtor, enforceable in accordance with the terms of the Prepetition Loan Documents, and no portion of the Prepetition Loan Obligations or any payment made to the Prepetition Secured Lender or applied to or paid on account of the Prepetition Loan Obligations prior to the Petition Date is subject to any contest, attack, rejection, recovery, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim (as such term is defined in the Bankruptcy Code), cause of action (including any avoidance actions under Chapter 5 of the Bankruptcy Code), choses in action or other challenge of any nature under the Bankruptcy Code or any applicable non-bankruptcy law.

(v) *Validity, Perfection and Priority of Prepetition Liens.* As of the Petition Date, pursuant to the Prepetition Loan Documents, the Debtor granted to the Prepetition Secured Lender, a security interest in and continuing lien on (the "Prepetition Liens") substantially all of its assets and property, including (i) a valid, binding, properly perfected, enforceable, non-avoidable first priority security interest in and continuing lien on the Collateral (as defined in the Prepetition Security Agreement), and all proceeds, products, accessions, rents, and profits thereof, in each case whether then owned or existing or thereafter acquired or arising (collectively, the "Prepetition Collateral"), junior, subject and subordinate only to certain liens permitted by the Security Agreement, solely to the extent such permitted liens are (a) valid, perfected and non-avoidable on the Petition Date, or (b) valid liens in existence on the Petition Date that are perfected

subsequent to the Petition Date in accordance with section 546(b) of the Bankruptcy Code (collectively, the “Prepetition Permitted Liens”); *provided*, that the cash in the Debtor’s bank account as of the Petition Date (the “Prepetition Cash”) is not subject to a properly perfected lien.

(vi) *Waiver of Challenge*. None of the Prepetition Liens (other than the lien on Prepetition Cash) are subject to any contest, attack, rejection, recovery, reduction, defense, counterclaim, subordination, recharacterization, avoidance or other cause of action (including any avoidance actions under Chapter 5 of the Bankruptcy Code), choses in action or other challenge of any nature under the Bankruptcy Code or any applicable non-bankruptcy law;

(vii) *No Claims or Causes of Action*. No claims or causes of action held by the Debtor or its estate exists against, or with respect to, the Prepetition Secured Lender, the DIP Lender or any of their respective predecessors, principals, parents, affiliates, subsidiaries, ventures, partners, insurers, investors, attorneys, officers, shareholders, members, directors, managers, equity holders, agents, representatives, employees, vendors, subcontractors, clients, administrators, professionals, executors and personal representatives, successors, assigns or heirs (the “Representatives”) under or relating to any agreements by and among the Debtor and the Prepetition Secured Lender that is in existence as of the Petition Date.

(viii) *Release*. Subject to the provisions and limitations contained in paragraph 22 hereof, effective as of the date of entry of the Interim Order, the Debtor and its estate, on its own behalf and on behalf of its respective predecessors, successors, heirs, and past, present and future subsidiaries and assigns, each hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Lender, the DIP Lender, and each of their respective Representatives (collectively, the “Released Parties”), from any and all liability to the Debtor (and its successors and assigns) and from any and all claims, counterclaims, demands,

defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action of any kind, nature and description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, in contract or tort, in each case arising out of or related to the Prepetition Loan Documents, the DIP Facility, the DIP Documents, the DIP Roll-Up Loans, the negotiation thereof and the transactions and agreements reflected thereby, that the Debtor at any time had, now has or may have, or that its predecessors, successors or assigns at any time had or hereafter may have against any of the Released Parties for or by reason of any act, omission, matter, or cause arising at any time on or prior to the date of entry of the Final Order; *provided* that the release set forth in this section shall not release (i) any claims against or liabilities of a Released Party that a court of competent jurisdiction determines has resulted from such Released Party's fraud or willful misconduct or (ii) the DIP Lender from honoring its obligations to the Debtor under the DIP Documents.

G. Findings Regarding DIP Financing and Use of Cash Collateral.

(i) Good and sufficient cause has been shown for the entry of this Final Order and for authorization of the Debtor to obtain financing pursuant to the DIP Documents.

(ii) The Debtor has demonstrated an immediate and critical need to obtain the DIP Financing and to use Prepetition Collateral in accordance with the Approved Budget to permit, among other things, the orderly continuation of the operation of its business, to maintain business relationships with vendors and suppliers, to make payroll, to satisfy other working capital and operational needs, and to fund administrative expenses of this Chapter 11 Case. Access to sufficient working capital and liquidity provided by the DIP Financing, as well as through the use of Prepetition Collateral, is necessary for the avoidance of immediate irreparable harm to the

Debtor's estate and for the preservation and maintenance of its going concern value.

(iii) The Debtor is unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense or secured financing on more favorable terms from sources other than the DIP Lender under the DIP Financing. The Debtor is also unable to obtain secured credit without granting to the DIP Lender the DIP Liens and the DIP Superpriority Claims (each as defined below) and granting adequate protection to the Prepetition Secured Lender as provided in paragraph 12 of this Final Order (the "Adequate Protection") on the terms and subject to the conditions set forth in this Final Order and in the DIP Documents.

(iv) Based on the Motion, the First Day Declaration, the Ayers Declaration, the Supplemental Ayers Declaration and the record and argument presented to the Court at the Interim Hearing and the Final Hearing, the terms of the DIP Financing, the terms of the Adequate Protection, and the terms on which the Debtor may continue to use Prepetition Collateral pursuant to the DIP Orders and the DIP Documents are consistent with the Bankruptcy Code, including section 506(b) thereof, are fair and reasonable, and reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties under the circumstances.

(v) The DIP Orders, the DIP Financing, the Adequate Protection, and the use of the Prepetition Collateral have been negotiated in good faith and at arm's length among the Debtor, the DIP Lender and the Prepetition Secured Lender (each of whom acted in good faith in negotiating such documents), and all of the loans and other financial accommodations extended by the DIP Lender to the Debtor under, in respect of, or in connection with, the DIP Financing and the DIP Documents (including the granting of Adequate Protection provided herein), shall be deemed to have been extended by the DIP Lender in good faith, as that term is used in section

364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Lender shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(vi) The Prepetition Secured Lender and the DIP Lender have acted in good faith and without negligence, misconduct, or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, documenting, or obtaining requisite approvals of the DIP Orders, the DIP Facility and the use of Prepetition Collateral, including in respect of the granting of the DIP Liens and the Adequate Protection Liens (defined below), any challenges or objections to the DIP Facility or the use of Prepetition Collateral, the DIP Documents, and all other documents related to, and all transactions contemplated by, the foregoing. Accordingly, without limiting any other right to indemnification, the Prepetition Secured Lender and the DIP Lender shall be and hereby are indemnified as provided in the Prepetition Loan Documents and the DIP Documents, as applicable, including, without limitation, Section 10.3 of the DIP Credit Agreement.

(vii) The Prepetition Secured Lender is entitled to the Adequate Protection as set forth herein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the Motion and on the record presented to the Court, the terms of the proposed Adequate Protection are fair and reasonable, reflect the Debtor's prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of Prepetition Collateral.

(viii) To the extent its consent is required, the Prepetition Secured Lender has consented to the use of, as applicable, the Prepetition Collateral, the imposition of the Carve-Out, and the priming of the Prepetition Liens on the Prepetition Collateral by the DIP Liens (subject to

the Prepetition Permitted Liens), on the terms set forth in this Final Order and the DIP Documents; *provided* that nothing in the DIP Orders or the DIP Documents shall (x) be construed as the affirmative consent by the Prepetition Secured Lender for the use of Prepetition Collateral other than on the terms set forth in this Final Order, (y) be construed as a consent by any party to the terms of any other financing or the granting of any lien on the Prepetition Collateral (whether senior or junior) other than as contemplated by this Final Order, or (z) prejudice, limit or otherwise impair the rights of the Prepetition Secured Lender to seek new, different or additional adequate protection or assert any other right, and the rights of any other party in interest, including the Debtor, to object to such relief are hereby preserved.

(ix) The Debtor had prepared and delivered to the DIP Lender an initial debtor-in-possession cash flow budget (the “Initial DIP Budget”), in the form attached to the Interim DIP Order as Exhibit 2. The Initial DIP Budget reflects, among other things, the Debtor’s anticipated operating disbursements, non-operating disbursements, and liquidity for each calendar week covered thereby. The Initial DIP Budget may be modified, amended, extended, and updated from time to time in accordance with the DIP Credit Agreement and this Final Order. Each subsequent budget, once approved by the DIP Lender in accordance with the DIP Credit Agreement, shall modify, replace, supplement or supersede, as applicable, the Initial DIP Budget for the periods covered thereby (the Initial DIP Budget and each subsequent approved budget, an “Approved Budget”); provided, however, that to the extent funds are used in accordance with an Approved Budget prior to approval of a subsequent budget, the use of such funds shall continue to be authorized notwithstanding the approval of a subsequent budget by the DIP Lender that does not provide for such use of funds unless expressly set forth on such subsequent budget.

(x) The Prepetition Secured Lender shall be entitled to all of the rights and

benefits of section 552(b) of the Bankruptcy Code and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Lender with respect to proceeds, product, offspring, or profits of any of the Prepetition Collateral.

H. **Prepetition Permitted Liens; Continuation of Prepetition Liens.** Nothing herein constitutes a finding or ruling by this Court that any alleged Prepetition Permitted Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtor, the DIP Lender, or the Prepetition Secured Lender to challenge the validity, priority, enforceability, seniority, avoidability, perfection, or extent of any alleged Prepetition Permitted Lien. The Prepetition Liens and the DIP Liens are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens.

I. **DIP Roll-Up Loans.** Subject to the provisions of paragraph 22 of this Final Order, from and after entry of the Interim Order and the initial funding under the DIP Facility (the “Initial Advance”), a portion of the principal of the outstanding Prepetition Loan Obligations in an amount equal to the amount of the Initial Advance, shall have been rolled up, and converted into DIP Obligations, and upon entry of this Final Order, the entire remaining balance of the outstanding Prepetition Loan Obligations shall be rolled up, and converted into DIP Obligations (collectively, the “DIP Roll-Up Loans”). The Prepetition Secured Lender (who is also the DIP Lender) would not have consented to extend the DIP Financing or other financial accommodations to the Debtor without the inclusion of the DIP Roll-Up Loans in the DIP Obligations. Thus, the roll-up of the Prepetition Obligations is consideration for, and solely on account of, the agreement of the DIP Lender to extend the DIP Loans and not on account of the Prepetition Loan Obligations.

Based upon the Motion, the foregoing findings and conclusions, and the overall record before the Court, and after due consideration, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. **Motion Granted.** The Motion is granted on a final basis on the terms and conditions set forth in this Final Order. All objections to the Motion and this Final Order to the extent not withdrawn, waived, settled, or resolved are hereby overruled on the merits.

2. **Authorization of the DIP Financing and the DIP Documents.**

(a) The Debtor is hereby authorized to execute, deliver, enter into and perform all of its obligations under the DIP Documents and perform such other acts as may be necessary, appropriate or desirable in connection therewith. Upon entry of this Final Order, the Debtor is hereby authorized to borrow up to \$6,500,000.00 in the aggregate pursuant to the DIP Credit Agreement and Approved Budget. The proceeds of the DIP Loans shall be used for all purposes permitted under the DIP Documents and the DIP Orders, subject to and in accordance with the Approved Budget (subject to any permitted variances).

(b) Upon entry of this Final Order, all outstanding Prepetition Loan Obligations shall be deemed rolled up and converted into DIP Obligations, subject to the provisions of paragraph 22 hereof. The Debtor is authorized to take such actions as shall be necessary or desirable to effect the roll-up and conversion of the Prepetition Loan Obligations to DIP Obligations.

(c) In furtherance of the foregoing and without further approval of this Court, the Debtor is authorized and directed to perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents, execute or record pledge and security agreements, mortgages, financing statements and other similar documents, if any, and to

pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable in connection with the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents;

(ii) the execution and delivery of, and performance under, any amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the DIP Lender may accept; it being understood that no further approval of this Court shall be required for any such amendments, waivers, consents or other modifications or the payment of any fees, including attorneys', accountants', appraisers' and financial advisors' fees, and other expenses, charges, costs, indemnities and other like obligations in connection therewith, that do not shorten the maturity of the DIP Facility, increase the DIP Commitment or increase the rate of interest or fees payable thereunder; nor shall updates, modifications, and supplements to the Approved Budget require any further approval of this Court;

(iii) the non-refundable payment to the DIP Lender of any fees in connection with the DIP Facility, including any amendment fees, premiums, servicing fees, audit fees, structuring fees, upfront fees, closing fees, commitment premiums, exit fees, closing date fees, prepayment fees or agency fees, and any amounts due in respect of any indemnification and expense reimbursement obligations, in each case, as provided in the DIP Documents shall be deemed to have been approved upon entry of the Interim Order and this Final Order, whether any such obligations arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated; and upon payment thereof, all such amounts shall be irrevocable and shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance, disallowance,

impairment, or other claim, cause of action or other challenge of any nature under the Bankruptcy Code or applicable non-bankruptcy law; and

(iv) the non-refundable payment or reimbursement to the DIP Lender for fees and expenses incurred by its professionals, whether any such fees and expense arose before or after the Petition Date, as provided under the terms of the DIP Credit Agreement. Any such DIP Lender professional shall not be required to comply with the U.S. Trustee fee guidelines or file applications or motions with, or obtain approval of, this Court for compensation and reimbursement of fees and expenses but shall submit copies of summary invoices to the Debtor, the U.S. Trustee and any statutorily appointed committee. The summary invoices shall be required only to provide the total aggregate number of hours billed and a summary description of services provided and the expenses incurred by the applicable professional, and shall be subject to all applicable privilege and work product doctrines. If the Debtor, the U.S. Trustee or any statutorily appointed committee objects to the reasonableness of the fees and expenses of any such professional under any such invoice and the parties cannot resolve such objection within ten (10) days after receipt of such invoice, then the Debtor, the U.S. Trustee or any statutorily appointed committee, as the case may be, shall file with this Court and serve on such professional an objection (the “Fee Objection”), and any failure by any such party to file a Fee Objection within such ten (10) day period (or such longer period as may be agreed by the affected professional) shall constitute a waiver of any right of such party to object to the applicable invoice. Notwithstanding any provision herein to the contrary, any objection to, and any hearing on an objection to, payment of any fees, costs, and expenses set forth in a DIP Lender professional fee invoice shall be limited to the reasonableness of the particular items or categories of the fees, costs, and expenses that are the subject of such objection. The Debtor shall timely pay in accordance

with the terms and conditions of this Final Order (a) the undisputed fees, costs, and expenses reflected on any invoice to which a Fee Objection has been timely filed and (b) all fees, costs and expenses on any invoice to which no Fee Objection has been timely filed.

3. **DIP Obligations.** The DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the Debtor, enforceable against the Debtor and its estate in accordance with their respective terms and the DIP Orders, and any successor thereto, including any trustee appointed in this Chapter 11 Case, or in any case under chapter 7 of the Bankruptcy Code upon conversion of this case, or in any other proceedings superseding or related to any of the foregoing (collectively, the “Successor Cases”). The DIP Obligations shall include all loans and any other indebtedness or obligations, contingent or absolute, which may from time to time be owing by the Debtor to the DIP Lender, in each case, under the DIP Documents and the DIP Orders, including all principal, interest, costs, fees, expenses, premiums, indemnities and other amounts and further including all DIP Roll-Up Loans. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Lender shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

4. **Carve-Out.**

(a) As used herein, “**Carve-Out**” means the following expenses: (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930(a) (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code in an amount not exceeding \$25,000 (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses solely to the extent set forth in the Approved Budget on a line item basis (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code or section 156(c) of title 28 of the United States Code, including counsel of the Debtor and any statutorily appointed committee (together, the “Professional Persons”), at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve Out Trigger Notice (these clauses (i) through (iii), the “Pre-Carve Out Amounts”) and (iv) Allowed Professional Fees in an amount not to exceed \$50,000, incurred after the first business day following delivery by the DIP Lender of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”). For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender to the Debtor, its restructuring counsel, the U.S. Trustee and counsel to any statutorily appointed committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default (as defined below), stating that the Post-Carve Out Trigger Notice Cap has been invoked (the date of delivery of the

Carve Out Trigger Notice, the “Termination Declaration Date”). For the avoidance of doubt, the DIP Lender shall not be required to fund any Allowed Professional Fees in excess of amounts permitted under the Approved Budget, the DIP Credit Agreement and the DIP Orders.

(b) *Carve Out Reserves.* From and after entry of the Interim Order, the Debtor shall be permitted to reserve the amounts allocated for Allowed Professional Fees in accordance with the Approved Budget for amounts allocated for the weeks preceding entry of this Final Order. Upon entry of this Final Order, the Debtor shall be permitted to reserve the amounts allocated for Allowed Professional Fees in accordance with the Approved Budget on a weekly basis on the first day of each week, all amounts allocated for that week and all prior weeks, solely to pay Allowed Professional Fees (the “Carve Out Reserves”). On the Termination Declaration Date, the Debtor shall no longer be permitted to utilize any DIP Collateral or Prepetition Collateral to fund the Carve Out Reserves other than funds for the Post-Carve Out Trigger Notice Cap. The Debtor may, at its option, open a segregated account to hold the Carve Out Reserves but a segregated account shall not be required to effectuate the reserve provisions of the DIP Orders. To the extent the funds allocated to the Carve Out Reserves exceed the amounts necessary to pay accrued fees and expenses for which an application has not yet been filed, fees and expenses subject to a pending application, Allowed Professional Fees and the Post-Carve Out Trigger Notice Cap in accordance with the terms of the DIP Orders and the Approved Budget, such excess funds shall be returned to the DIP Lender unless the DIP Obligations (including the DIP Roll-Up Loans) have been indefeasibly paid in full, in cash and all DIP Commitments have been terminated. If the DIP Obligations, including the DIP Roll-Up Loans have been paid in full, in cash, any such excess proceeds shall go to the Debtor’s estate. For the avoidance of doubt and notwithstanding anything to the contrary in the DIP Orders, the DIP Facility, or in any Prepetition Loan Document, the

Carve-Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Loan Obligations.

(c) *No Direct Obligation to Pay Allowed Professional Fees.* Without limiting the obligations of the DIP Lender and the Prepetition Secured Lender with respect to the Carve-Out, neither the DIP Lender nor the Prepetition Secured Lender shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Case or any Successor Cases under any chapter of the Bankruptcy Code, and nothing in the DIP Orders or otherwise shall be construed to obligate the DIP Lender or the Prepetition Secured Lender, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtor has sufficient funds to pay such compensation or reimbursement.

(d) *Payment of Carve-Out on or After the Termination Declaration Date.* Any payment or reimbursement in respect of any Allowed Professional Fees made on or after the occurrence of the Termination Declaration Date shall be in accordance with the Approved Budget and shall permanently reduce the Carve Out Reserves on a dollar- for-dollar basis. The Carve Out Reserves shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protection granted under the DIP Orders, the DIP Documents, the Bankruptcy Code, and applicable law.

5. **DIP Superpriority Claims.** Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations (including the DIP Roll-Up Loans) shall constitute allowed superpriority administrative expense claims (the “DIP Superpriority Claims”) against the Debtor (without the need to file any proof of claim) with priority over any and all claims against the Debtor (but for the

avoidance of doubt, junior to the Carve-Out), now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code (including the Adequate Protection), whether or not such expenses or claims may become secured by a judgment lien or other non- consensual lien, levy or attachment. Subject only to the Carve-Out, the DIP Superpriority Claims shall be payable from, and have recourse to, all prepetition and postpetition property of the Debtor and all proceeds thereof (including proceeds or property recovered, whether by judgment, settlement or otherwise as a result of any claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, the “Avoidance Actions,” and any such proceeds and/or recoveries thereof, the “Avoidance Proceeds”), but excluding the Carve-Out Reserves and amounts held therein other than the Debtor’s reversionary interest therein. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

6. **DIP Liens.** As security for the DIP Obligations, effective and automatically properly perfected on the date the Interim Order was entered, and without the necessity of execution, recordation or filing of any perfection document or instrument, or the possession or control by the DIP Lender of, or over, any Collateral (as defined under the DIP Credit Agreement), without any further action by the DIP Lender, the following valid, binding, continuing, fully perfected, enforceable and non-avoidable security interests and liens (the “DIP Liens”) are hereby granted to the DIP Lender (all property identified in clauses (a) through (c) below being collectively referred

to as the “DIP Collateral,” and, together with the Prepetition Collateral, the “Collateral”):

(a) Liens on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a first priority lien on and security interest in (subject only to the Carve-Out) all tangible and intangible prepetition and postpetition property of the Debtor, whether existing on the Petition Date or thereafter acquired, and the proceeds, products, rents, and profits thereof, that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, including Avoidance Actions and Avoidance Proceeds, but excluding the Carve Out Reserves (and any amounts held therein) (collectively, the “Unencumbered Property”).

(b) Liens Priming the Prepetition Secured Lender’s Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest (subject to the Carve-Out) in, and lien upon, all tangible and intangible prepetition and postpetition property of the Debtor of the same nature, scope, and type as the Prepetition Collateral, regardless of where located (the “DIP Priming Liens”). Notwithstanding anything herein to the contrary, the DIP Priming Liens shall be (A) senior in all respects to the Prepetition Liens on the Prepetition Collateral, (B) senior to any Adequate Protection Liens on the Prepetition Collateral and (C) not subordinate to any lien, security interest or mortgage that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code. The Prepetition Liens with respect to the Prepetition Collateral shall be primed by and made subject and subordinate to the DIP Priming Liens.

(c) Liens Junior to Certain Other Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected security interest in and

lien upon all tangible and intangible prepetition and postpetition property of the Debtor that, on or as of the Petition Date, is subject to any Prepetition Permitted Liens, which liens shall be junior and subordinate to any such Prepetition Permitted Liens.

(d) No Senior Liens. The DIP Liens shall not be (i) subject or subordinate to or made *pari passu* with (A) any lien or security interest that is avoided and preserved for the benefit of the Debtor or its estate under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or the DIP Orders, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit (including any regulatory body), commission, board or court for any liability of the Debtor, or (C) any intercompany liens; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code.

7. Approved Budget; Variance Testing.

(a) The Debtor shall at all times comply with the Approved Budget, subject to the Permitted Variance (as defined below). Commencing on the second Wednesday after the date of entry of the Interim Order, and on a bi-weekly basis thereafter on each second Wednesday (or the immediately following business day if any such Wednesday is not a business day), the Debtor shall deliver by email to the DIP Lender a variance report for the immediately preceding two-week period, comparing actual aggregate cash disbursements for such period to the projected disbursements for such period as set forth in the Approved Budget. In the event that the Debtor's actual aggregate cash disbursements for such period exceed the aggregate projected disbursements for such period by an amount in excess of 10% without the DIP Lender's consent, it shall constitute an Event of Default under the DIP Loan Agreement and the DIP Orders (any such variance in an

amount less than 10% shall be referred to herein as a “Permitted Variance”); provided, however, no variances shall be permitted for the line items in the Approved Budget for Professional Persons. For clarity, the Permitted Variances do not increase in any way the DIP Lender’s obligation to increase the amount of the DIP Facility or the amounts to be allocated to the Cave-Out Reserves as set forth in the Approved Budget and the DIP Orders.

(b) The Debtor shall provide any statutorily appointed committee with all reporting and other information required to be provided to the DIP Lender under the DIP Documents.

8. **Section 506(c) Waiver.** No costs or expenses of administration of this case or any Successor Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceeding under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral or Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Lender and the Prepetition Secured Lender, and nothing contained in the DIP Orders shall be deemed to be a consent by the DIP Lender or Prepetition Secured Lender to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise (and no consent shall be implied from any action, inaction or acquiescence by any of the DIP Lender or the Prepetition Secured Lender).

9. **No Marshaling.** In no event shall the DIP Lender or the Prepetition Secured Lender be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Loan Obligations, or the Prepetition Collateral, as applicable. Further, in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Secured Lender.

10. **Payments Free and Clear.** Any and all payments or proceeds remitted to the DIP Lender or Prepetition Secured Lender pursuant to the provisions of the DIP Orders, the DIP Documents or any subsequent order of the Court shall be irrevocable, received free and clear of any claim, charge, assessment or other liability in favor of the Debtor, including without limitation, any such claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtor.

11. **Use of Cash Collateral and DIP Facility.** The Debtor is hereby authorized, solely on the terms and conditions of the DIP Orders, to use all Cash Collateral solely in accordance with the DIP Documents and Approved Budget (subject to the Permitted Variance). The Debtor is directed to, and shall be deemed to, fund all cash disbursements on and after the Petition Date, *first*, using all Prepetition Cash held in the Debtor's deposit accounts on the Petition Date and *second*, using proceeds of the DIP Facility, with any amounts funded under the DIP Facility deemed Cash Collateral of the DIP Lender under the DIP Loan Documents and the DIP Orders for all purposes.

12. **Adequate Protection of Prepetition Secured Lender.** Pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, as adequate protection of the Prepetition Secured Lender's interests in the Prepetition Collateral for the imposition of the automatic stay, for the aggregate diminution in value of the Prepetition Collateral ("Diminution in Value") and as an inducement to the Prepetition Secured Lender to consent to the priming of the Prepetition Liens, the use of its Prepetition Collateral and the imposition of the Carve-Out, the Prepetition Secured Lender is granted the following Adequate Protection:

(a) Adequate Protection Liens. To the extent of the Diminution in Value, the Prepetition Secured Lender is hereby granted a replacement security interest in and lien on all of

the DIP Collateral (the “Adequate Protection Liens”), which liens are (i) effective and perfected upon the date of entry of the Interim Order, without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements, and (ii) subject and subordinate only to (A) the DIP Liens, (B) the Prepetition Permitted Liens, if any, and (C) the Carve-Out.

(b) Prepetition Secured Lender’s Adequate Protection Superpriority Claim.

The Prepetition Secured Lender is hereby granted an allowed superpriority administrative expense claim against the Debtor (without the need to file any proof of claim) under section 507(b) of the Bankruptcy Code on account of the Diminution in Value (the “Adequate Protection Superpriority Claim”), which Adequate Protection Superpriority Claim (i) shall be payable from and have recourse to all of the DIP Collateral, and (ii) shall be subject and subordinate only to (A) the DIP Liens, (B) the Adequate Protection Liens, (C) the Prepetition Liens (D) the DIP Superpriority Claims, (E) the Carve-Out and (F) the Prepetition Permitted Liens, if any.

(c) Prepetition Secured Lender Fees and Expenses. As further adequate protection, the Debtor shall pay to the Prepetition Secured Lender, in cash, all reasonable and documented prepetition and postpetition fees and out-of-pocket expenses of the Prepetition Secured Lender’s advisors, including, without limitation, those of Greenberg Traurig, LLP and local legal counsel (if any) (collectively, the “Adequate Protection Fees and Expenses”), subject to the review procedures set forth in paragraph 2(c)(iv) of this Final Order.

(d) Based on the Supplemental Ayers Declaration, which demonstrates that the Prepetition Loan Obligations are over secured, from the Petition Date through and until entry of this Final Order, interest shall continue to accrue under the Prepetition Loan Document at the non-default rate and shall constitute Prepetition Loan Obligations and shall be included in the DIP Roll-

Up Loans.

13. Perfection of DIP Liens and Adequate Protection Liens.

(a) Without in any way limiting the validity of the automatic perfection of the DIP Liens and the Adequate Protection Liens under the terms of the DIP Orders, the DIP Lender and the Prepetition Secured Lender are hereby authorized (but not required) to execute in the name of the Debtor, as its true and lawful attorneys (with full power of substitution, to the maximum extent permitted by law) and to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar perfection instruments in any jurisdiction, or take possession of certificated securities, or take any other similar action in a manner not inconsistent herewith to document, validate or perfect the liens and security interests granted to them hereunder (the “Perfection Actions”). All such Perfection Actions shall be deemed to have been taken on the date of entry of the Interim Order. The automatic stay shall be modified to the extent necessary to permit the DIP Lender and the Prepetition Secured Lender to take any Perfection Action. For the avoidance of doubt, the DIP Liens and the Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute or subordination, at the time and on the date of entry of the Interim Order, whether or not the DIP Lender or the Prepetition Secured Lender take such Perfection Actions.

(b) A certified copy of the Interim Order or this Final Order may, in the discretion of the DIP Lender and the Prepetition Secured Lender, be filed or recorded in the filing or recording offices in addition to or in lieu of any financing statements, mortgages, notices of lien or similar instruments, and all filing and recording offices are hereby authorized and directed to accept a certified copy of the Interim Order or this Final Order for filing and/or recording, as applicable.

14. Preservation of Rights Under the DIP Orders.

(a) Other than the claims and liens expressly granted or permitted by the DIP Orders, including the Carve-Out, no claim or lien having a priority superior to or *pari passu* with those granted by the DIP Orders shall be permitted while any of the DIP Obligations, the Adequate Protection and Prepetition Loan Obligations remain outstanding, and, except as otherwise expressly provided in or permitted under the DIP Orders, the DIP Liens and the Adequate Protection Liens shall not be: (i) junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise; (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the Debtor; or (iv) junior to any intercompany liens or security interests of the Debtor.

(b) No rights, protection or remedies of the DIP Lender or the Prepetition Secured Lender granted by DIP Orders or the DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent to the Debtor's authority to continue to use Cash Collateral; (ii) any actual or purported termination of the Debtor's authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtor's continued use of Cash Collateral or the provision of adequate protection to any party.

15. Maintenance of Collateral. Until the indefeasible payment in full in cash of all DIP Obligations, all Prepetition Loan Obligations, the Adequate Protection and the termination of

the DIP Commitment, the Debtor shall insure the DIP Collateral as required under the DIP Documents and/or the Prepetition Loan Documents, as applicable.

16. **Survival.** Notwithstanding any order that may be entered dismissing the Chapter 11 Case under section 1112 of the Bankruptcy Code or converting these cases to a Successor Case: (A) the DIP Superpriority Claims, the Adequate Protection Superpriority Claims, the DIP Liens, the Adequate Protection Liens, and the Prepetition Liens shall continue in full force and effect, shall maintain their priorities as provided in the DIP Orders, and shall remain binding on all parties in interest until all DIP Obligations, Adequate Protection and Prepetition Loan Obligations shall have been indefeasibly paid in full in cash; (B) the other rights granted by the DIP Orders, including with respect to the Carve-Out, shall not be affected; and (C) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in the DIP Orders.

(a) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated, or stayed, such reversal, modification, vacatur, or stay shall not affect (i) the validity, priority, or enforceability of any DIP Obligations (including the DIP Roll-Up Loans) or Adequate Protection incurred prior to the actual receipt of written notice by the DIP Lender or Prepetition Secured Lender, as applicable, of the effective date of such reversal, modification, vacatur, or stay; or (ii) the validity, priority, and enforceability of the DIP Liens, the Prepetition Liens, the Adequate Protection Liens, and the Carve-Out, each to the fullest extent provided under section 364(e) of the Bankruptcy Code. Notwithstanding any such reversal, modification, vacatur or stay, the DIP Obligations, DIP Liens, Adequate Protection, Adequate Protection Liens, DIP Superpriority Claims, and the Adequate Protection Superpriority Claims incurred prior to the actual receipt of written notice by the DIP Lender or the Prepetition Secured Lender, as applicable,

of the effective date of such reversal, modification, vacatur, or stay shall be governed in all respects by the original provisions of this Final Order, and the DIP Lender and the Prepetition Secured Lender shall be entitled to, and are hereby granted, all the rights, remedies, privileges and benefits arising under section 364(e) of the Bankruptcy Code.

(b) Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Lender and the Prepetition Secured Lender granted by this Final Order and the DIP Documents, as well as the Carve-Out, shall survive, and shall not be modified, impaired or discharged by the entry of an order (i) converting or dismissing the Chapter 11 Case; (ii) approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents); or (iii) confirming a chapter 11 plan in the Chapter 11 Case. The terms and provisions of this Final Order and the DIP Documents shall continue in full force and effect in this Chapter 11 Case and in any Successor Cases until all DIP Obligations and Adequate Protection are indefeasibly paid in full in cash, the DIP Commitments have been terminated, and all Prepetition Loan Obligations have been indefeasibly paid in full in cash.

17. **Termination Event.** On the Termination Date (as defined below), all DIP Obligations shall be immediate due and payable and any remaining portion of the DIP Commitment will terminate.

(a) Until the DIP Obligations are indefeasibly paid in full and the DIP Commitment is terminated, the occurrence of any of the following events, unless waived by the DIP Lender in writing (which may be by electronic mail) and in accordance with the terms of the DIP Documents, shall constitute an event of default under this Final Order and under the DIP Credit

Agreement (collectively, the “Events of Default”):

(i) the failure of the Debtor to perform, in any material respect, any of the terms, provisions, conditions, covenants or obligations under the DIP Orders, including, without limitation, failure to make any payment under the DIP Orders when due or comply with any Milestones;

(ii) the occurrence of any Event of Default under, and as defined in, the DIP Credit Agreement or any other DIP Documents;

(iii) the Debtor proposes or supports any plan of reorganization or sale of all or substantially all of the Debtor’s assets, or order confirming such plan or approving such sale, that is not conditioned upon the indefeasible payment (including by credit bid) of the DIP Obligations, the Prepetition Loan Obligations, and the payment of the Adequate Protection, in each case, in full in cash (other than by credit bid), within a commercially reasonable period of time (and in no event later than the effective date of such plan of reorganization or sale) without the prior written consent of the DIP Lender and, to the extent any portion of the Prepetition Loans then remains outstanding, the Prepetition Secured Lender;

(iv) a motion is filed by the Debtor or any committee appointed in the Chapter 11 Case seeking the conversion or dismissal of the Chapter 11 Case or seeking the appointment of a trustee, examiner or any other fiduciary appointed as a legal representative of any of the Debtor or with respect to the property of the estate of the Debtor;

(v) an order is entered converting or dismissing the Chapter 11 Case or appointing a trustee, examiner or any other fiduciary appointed as a legal representative of any of the Debtor or with respect to the property of the estate of the Debtor.

(b) As a condition to the DIP Facility and the use of Cash Collateral, the Debtor

has agreed to the following milestones (the “Milestones”):

(i) No later than four (4) business days after the Petition Date, entry by the Court of the Interim Order;

(ii) Subject to the Court’s availability, no later than twenty-five (25) calendar days after the Petition Date, entry by the Court of an order approving the Bidding Procedures (as defined in the DIP Credit Agreement) for the sale of the Debtor’s assets;

(iii) Subject to the Court’s availability, no later than thirty-five (35) calendar days after the Petition Date, entry by the Court of this Final Order;

(iv) No later than forty-five (45) calendar days after the Petition Date, the submission deadline for all bids for the sale of the Debtor’s assets as set forth in the Bidding Procedures;

(v) No later than fifty (50) calendar days after the Petition Date, holding an auction (if necessary) for the sale of the Debtor’s assets as set forth in the Bidding Procedures;

(vi) Subject to the Court’s availability, no later than fifty-two (52) calendar days after the Petition Date, entry by the Court of the Sale Order (as defined in the DIP Credit Agreement); and

(vii) No later than fifty-five (55) calendar days after the Petition Date, consummation of the sale of the Debtor’s assets in accordance with the Bidding Procedures.

For the avoidance of doubt, unless waived in writing by the DIP Lender in its sole discretion, the failure of the Debtor to meet the Milestones by the applicable specified deadlines set forth herein shall constitute an Event of Default under the DIP Documents and the DIP Orders.

18. **Rights and Remedies Upon Event of Default.** Upon the occurrence and during the continuation of an Event of Default, notwithstanding section 362 of the Bankruptcy Code,

without any application, motion or notice to, hearing before, or order from the Court, and subject only to the terms of this Final Order: (a) the DIP Lender may send a written notice to the Debtor, any statutorily appointed committee and the U.S. Trustee (any such notice 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 Documents to be immediately due and payable, (2) any remaining portion of the DIP Commitment of the DIP Lender to be terminated, (3) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Lender, but without affecting any of the DIP Liens or the DIP Obligations, and (4) the application of the Carve-Out has occurred following the delivery of the Carve Out Trigger Notice to the Debtor; (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Documents; and (c) upon delivery of the Termination Declaration, the DIP Lender shall be deemed, absent further order of the Court, to have declared a termination of the ability of the Debtor to use Cash Collateral. The date on which a Termination Declaration is delivered by the DIP Lender and filed on the docket shall be referred to herein as the “Termination Date.” Following the Termination Date, neither the DIP Lender nor the Prepetition Secured Lender shall be required to consent to the use of any Cash Collateral or provide any loans or other financial accommodations under the DIP Facility, except as expressly provided in this Final Order or further order of the Court. The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtor, any statutorily appointed committee and the U.S. Trustee.

19. **Emergency Hearing.** Upon the delivery of a Termination Declaration, the Debtor, any statutorily appointed committee, the DIP Lender, and the Prepetition Secured Lender consent to a hearing on an emergency basis regarding whether the Termination Date has occurred. During

the five (5) business days following the date that a Termination Declaration is delivered (such five (5) business day period, the “Remedies Notice Period”), the Debtor shall continue to have the right to use Cash Collateral in accordance with the terms of this Final Order, solely to pay necessary expenses set forth in the Approved Budget to avoid immediate and irreparable harm to the Debtor’s 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, unless otherwise provided herein and the DIP Lender shall have the rights set forth immediately below.

20. **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 (the “Termination Enforcement Order”), the DIP Lender shall be entitled to exercise all rights and remedies in accordance with the DIP Documents, the DIP Orders and applicable law. Following the expiration of the Remedies Notice Period or entry of the Termination Enforcement Order, except as otherwise ordered by the Court (including in any Termination Enforcement Order): (a) the Debtor is hereby authorized and directed to, with the exclusion of the Carve-Out, remit to the DIP Lender one-hundred percent (100%) of all collections, remittances, and proceeds of the DIP Collateral in accordance with the DIP Documents; (b) the DIP Lender may compel the Debtor to seek authority from the Court to, (i) sell or otherwise dispose of all or any portion of the DIP Collateral (or any other property of the Debtor to the extent a lien is not permitted by law to attach to such property, the proceeds of which are DIP Collateral) pursuant to section 363 of the Bankruptcy Code (or any other applicable provision) on terms and conditions pursuant to 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 DIP Lender’s designees in accordance with and subject to section 365 of the Bankruptcy Code, (c) the

DIP Lender may direct the Debtor to (and the Debtor shall comply with such direction to) dispose of or liquidate the DIP Collateral (or any other property of the Debtor to the extent a lien is not permitted by law to attach to such property, the proceeds of which are 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 DIP Lender may, or may direct the Debtor to (and the Debtor shall comply with such direction to), collect accounts receivable, without setoff by any account debtor, (e) the DIP Lender shall be authorized to succeed to any 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 DIP Lender in the exercise of its rights and remedies and to facilitate the realization of the DIP Collateral by the DIP Lender as set forth in the DIP Documents.

21. **Discharge.** Except as otherwise agreed in writing by the DIP Lender and the Prepetition Secured Lender, the DIP Obligations and the Adequate Protection of the Debtor shall not be discharged by the entry of an order confirming any plan of reorganization in this Chapter 11 Case, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash, on or before the effective date of such confirmed plan of reorganization.

22. **Effect of Stipulations on Third Parties.** The Debtor's stipulations, admissions, agreements and releases contained in Paragraph F of the DIP Orders shall be binding upon the Debtor in all circumstances and for all purposes. The Debtor's stipulations, admissions, agreements and releases contained in Paragraph F of the DIP Orders shall be binding upon all other parties in interest, including, without limitation, any statutorily appointed committee and any other person or entity acting or seeking to act on behalf of the Debtor's estate, including any chapter 7 or

chapter 11 trustee or examiner appointed or elected for any of the Debtor, in all circumstances and for all purposes unless: (a) such party in interest with requisite standing has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein) by no later than seventy-five (75) calendar days following entry of the Interim Order (the “Challenge Period”), (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Loan Obligations, the DIP Roll-Up Loans or the Prepetition Liens, or (B) asserting or prosecuting any Avoidance Action or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the “Challenges”) against the Prepetition Secured Lender or its respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (collectively, the “Representatives”) in connection with or related to the Prepetition Loan Documents, the Prepetition Loan Obligations, the Prepetition Liens and the Prepetition Collateral; and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge; *provided, however*, that any pleadings filed in connection with a Challenge shall set forth with specificity the basis for such Challenge and any Challenges not so specified prior to the expiration of the Challenge Period shall be deemed forever waived, released and barred. If no Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such Challenge then: (1) the Debtor’s stipulations, admissions, agreements and releases contained in the DIP Orders shall be binding on all parties in interest; (2) the obligations of the Debtor under the Prepetition Loan Documents shall constitute allowed claims not subject to defense avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance,

impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity for all purposes in these cases and any Successor Case(s); (3) the Prepetition Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to defense, avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual or otherwise), disallowance, impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity, including any statutorily appointed committee or any other party in interest acting or seeking to act on behalf of the Debtor's estate, including, without limitation, any chapter 7 or chapter 11 trustee or examiner, and any defense, avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any statutorily appointed committee or any other party acting or seeking to act on behalf of the Debtor's estate, including, without limitation, any chapter 7 or chapter 11 trustee or examiner, whether arising under the Bankruptcy Code or otherwise, against the Prepetition Secured Lender and its Representatives shall be deemed forever waived, released and barred. If any Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements and releases contained in Paragraph F of the DIP Orders shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on each person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in the DIP Orders vests or confers on any person or entity (each as defined in the Bankruptcy Code), including any statutory or non-statutory committees or trustee appointed or

formed in this Chapter 11 Case, standing or authority to pursue any claim or cause of action belonging to the Debtor or its estate, including, without limitation, any Challenges with respect to the Prepetition Loan Documents, Prepetition Loan Obligations, DIP Roll-Up Loans or Prepetition Liens, and any ruling on standing, if appealed, shall not stay or to otherwise delay confirmation of any plan of reorganization or sale of the Debtor's assets in this Chapter 11 Case. The filing of a motion seeking standing to file a Challenge before the termination of the Challenge Period, which attaches a proposed Challenge, shall extend the Challenge Period with respect to that party until two (2) business days after the Court rules on the standing motion, or such other time period ordered by the Court in approving the standing motion.

23. **Limitation on Use of DIP Financing Proceeds and Collateral.** Notwithstanding any other provision of the DIP Orders or any other order entered by the Court, no DIP Loans, DIP Collateral, Prepetition Collateral or any portion of the Carve-Out, may be used directly or indirectly, including without limitation through reimbursement of professional fees of any non-Debtor party, in connection with (a) the investigation, threatened initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against the DIP Lender, or the Prepetition Secured Lender, or their respective Representatives (in their capacities as such), or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Loan Obligations, Adequate Protection Liens, or Adequate Protection Superpriority Claims or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the DIP Obligations, the Prepetition Loan Obligations and/or liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under the DIP Orders, the DIP Documents or the Prepetition Loan Documents in respect of the Prepetition Loan Obligations, including, in the

case of each (i) and (ii), without limitation, for lender liability or pursuant to sections 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise (provided that, notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and DIP Collateral may be used by any statutorily appointed committee to investigate, but not to prosecute, (A) the claims and liens of the Prepetition Secured Lender and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Lender, up to an aggregate cap of no more than \$20,000 (the “Investigation Cap”), (b) attempts to prevent, hinder, or otherwise delay or interfere with the Prepetition Secured Lender’s or the DIP Lender’s, as applicable, enforcement or realization on the Prepetition Loan Obligations, Prepetition Collateral, DIP Obligations, DIP Collateral, as applicable, and the liens, claims and rights granted to such parties under the DIP Orders; (c) attempts to seek to modify any of the rights and remedies granted to the Prepetition Secured Lender or the DIP Lender under the DIP Orders, the Prepetition Loan Documents or the DIP Documents, as applicable, other than in accordance with this Final Order; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens and claims permitted by the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and Adequate Protection Superpriority Claims; or (e) to pay or to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are authorized by the Court, agreed to in writing by the DIP Lender, expressly permitted under the DIP Orders or under the DIP Documents (including the Approved Budget, subject to the Permitted Variance), in each case unless all DIP Obligations, Prepetition Loan Obligations, Adequate Protection, and claims granted to the DIP Lender and Prepetition Secured Lender under the DIP Orders, have been paid in full in cash or otherwise agreed to in writing by the DIP Lender and the

Prepetition Secured Lender, as applicable.

24. **Final Order Governs.** In the event of any inconsistency between the provisions of the Interim Order, this Final Order, the DIP Documents or Prepetition Loan Documents, the provisions of this Final Order shall govern. Any authorization contained in any other order entered by this Court shall be consistent with and subject to the requirements set forth in this Final Order and the DIP Documents, including, without limitation, the Approved Budget (subject to the Permitted Variance).

25. **Binding Effect; Successors and Assigns.** Subject to paragraph 22 of this Final Order where applicable, the DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in these cases, including, without limitation, the DIP Lender, the Prepetition Secured Lender, any statutorily appointed committee, the Debtor and its respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtor, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtor or with respect to the property of the estate of the Debtor) and shall inure to the benefit of the DIP Lender, the Prepetition Secured Lender, the Debtor, and its respective successors and assigns; *provided* that the DIP Lender and the Prepetition Secured Lender shall have no obligation to permit the use of the DIP Collateral or the Prepetition Collateral by, or to extend any financing to, any chapter 7 trustee or chapter 11 trustee or similar responsible person appointed for the estate of the Debtor.

26. Nothing in the DIP Orders, the DIP Documents, the Prepetition Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Lender or the Prepetition Secured

Lender any liability for any claims arising from the prepetition or postpetition activities of the Debtor in the operation of its business, or in connection with its restructuring efforts. The DIP Lender and Prepetition Secured Lender shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the DIP Collateral or Prepetition Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person, and all risk of loss, damage or destruction of the DIP Collateral or Prepetition Collateral shall be borne by the Debtor.

27. **Limitation of Liability.** In determining to make any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or Prepetition Collateral or in exercising any rights or remedies as and when permitted pursuant to the DIP Orders or the DIP Documents or Prepetition Loan Documents, as applicable, none of the DIP Lender or Prepetition Secured Lender shall (a) have any liability to any third party or be deemed to be in “control” of the operations of the Debtor; (b) owe any fiduciary duty to the Debtor, its creditors, shareholders or estate; or (c) be deemed to be acting as a “Responsible Person” or “Owner” or “Operator” or “managing agent” with respect to the operation or management of the Debtor (as such terms or 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 other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in the DIP Orders shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Lender or Prepetition Secured Lender of any liability for any claims arising from the prepetition or postpetition activities of the Debtor and its respective Representatives.

28. **Proofs of Claim.** Notwithstanding any order entered by this Court in relation to

the establishment of a bar date in this Chapter 11 Case or any Successor Case, the Prepetition Secured Lender shall not be required to file proofs of claim in these cases or any Successor Case in order to assert claims for payment of any of the Prepetition Loan Obligations, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts payable under the Prepetition Loan Documents or the DIP Orders. The Debtor's stipulations, admissions and acknowledgments of the claim and liens in respect of the Prepetition Loan Obligations set forth in the DIP Orders are deemed to constitute timely proofs of claim in respect of all indebtedness, secured status and claims arising under the Prepetition Loan Documents and the DIP Orders. The provisions of this paragraph 28 are intended solely for the purpose of administrative convenience and shall not affect the right of the Prepetition Secured Lender (or its successors in interest) to vote on any plan filed in this Chapter 11 Case. The DIP Lender shall not be required to file proofs of claim with respect to the DIP Obligations.

29. **Insurance.** From and after entry of the Interim Order and to the fullest extent provided by applicable law, the DIP 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.

30. **Allocation and Payment of All Sale Proceeds to Pay DIP Obligations and Prepetition Loan Obligations.** In connection with any sale or other disposition of the Debtor's or its estate's assets, including any sales occurring under or pursuant to section 363 of the Bankruptcy Code, any plan of reorganization or plan of liquidation under section 1129 of the Bankruptcy Code, or a sale or disposition by a chapter 7 trustee for the Debtor under section 725 of the Bankruptcy Code (any of the foregoing sales or dispositions, a "Sale"), all proceeds from any such Sale shall be paid over to BEV first to repay the DIP Obligations in full and thereafter to

pay the Prepetition Loan Obligations (if such obligations have not been converted to DIP Roll-Up Loans) after which the residual sale proceeds, if any, shall be held by the Debtor or the chapter 7 trustee (if appointed) until further order of the Court.

31. **Preservation of 363(k) Rights.** The DIP Lender and Prepetition Lender are expressly authorized and permitted to credit bid up to the full amount of the DIP Obligations, inclusive of the DIP Roll-Up Loans (and to the extent applicable, the Prepetition Loan Obligations), pursuant to section 363(k) of the Bankruptcy Code. BEV shall be considered a “Qualified Bidder” under the Bidding Procedures and shall not be required to post a good faith deposit in connection with such sale. BEV also shall have the right, but not the obligation, to supplement its credit bid with additional cash consideration at any auction for the sale of the Debtor’s assets. BEV shall have the absolute right to assign, transfer, sell, or otherwise dispose of its rights to credit bid as set forth in this paragraph to any acquisition vehicle formed in connection with such credit bid or other designee.

32. **Effectiveness.** Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

33. **Headings.** Paragraph headings used herein are for convenience only and shall not affect the construction of, or to be taken into consideration in interpreting, this Final Order.

34. **Bankruptcy Rules.** The requirements of Bankruptcy Rules 4001, 6003 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

35. **No Third Party Rights.** Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct,

indirect or incidental beneficiary.

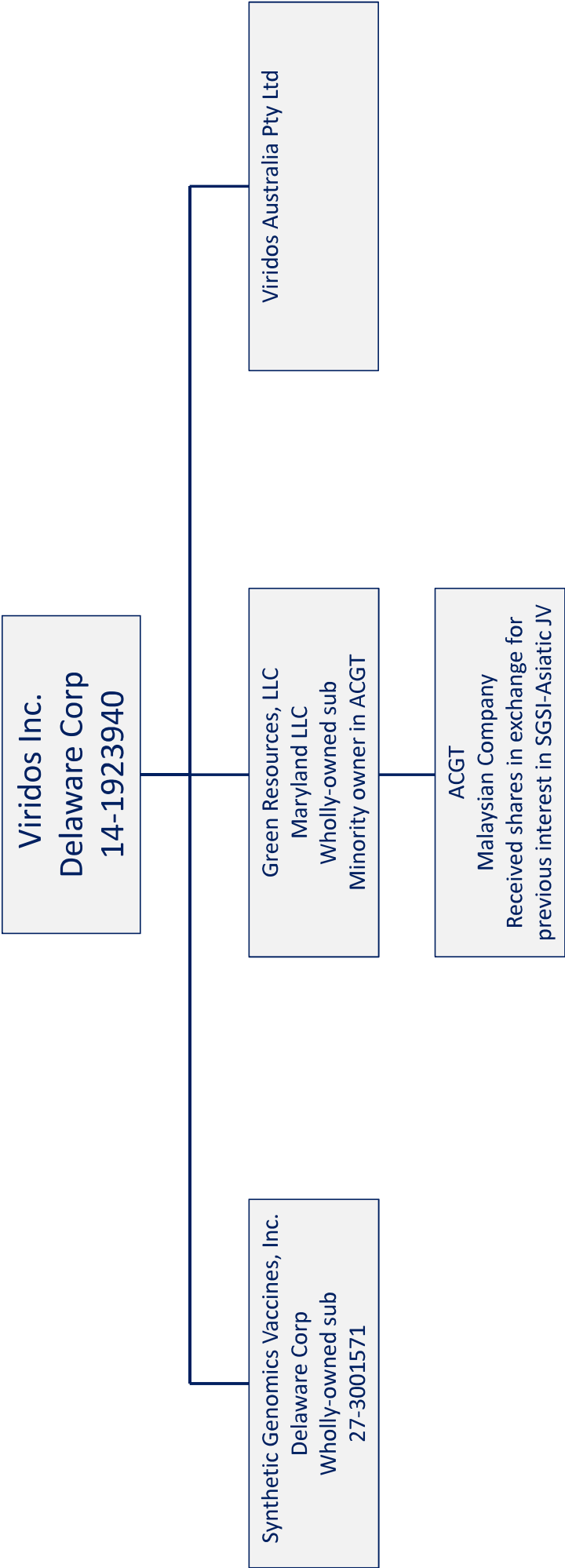
36. **Necessary Action.** The Debtor, the DIP Lender and the Prepetition Secured Lender are authorized to take all reasonable actions as are necessary or appropriate to implement the terms of this Final Order.

37. **Retention of Jurisdiction.** This Court shall retain jurisdiction to enforce the provisions of this Final Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for the Debtor notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

Dated: May 8th, 2025
Wilmington, Delaware



CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE



Note: All subsidiaries are either dormant or have immaterial operations

Exhibit 2

Initial DIP Budget

Viridos, Inc.

Projected Cash Flow Budget

DRAFT - Preliminary and For Discussion Purposes Only

	1. Proj. W/E 18-Apr	2. Proj. W/E 25-Apr	3. Proj. W/E 2-May	4. Proj. W/E 9-May	5. Proj. W/E 16-May	6. Proj. W/E 23-May	7. Proj. W/E 30-May	8. Proj. W/E 6-Jun	9. Proj. W/E 13-Jun	10. Proj. W/E 20-Jun	11. Proj. W/E 27-Jun	12. Proj. W/E 4-Jul	13. Proj. W/E 11-Jul
Beginning Book Balance													
Beginning Cash	\$ 439,817	\$ 434,817	\$ 1,407,622	\$ 1,240,843	\$ 1,046,861	\$ 933,989	\$ 57,507	\$ 2,192,507	\$ 1,960,525	\$ 1,893,025	\$ 1,878,653	\$ 1,578,653	\$ 749,014
Receipts													
Bridge Financing	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Financing	-	1,500,000	-	-	-	-	2,500,000	-	-	-	-	-	-
Other misc.	-	-	35,000	-	-	-	-	-	-	-	-	-	-
TOTAL	\$ -	\$ 1,500,000	\$ 35,000	\$ -	\$ -	\$ -	\$ 2,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Recurring Operating Disbursements													
Payroll	-	-	126,482	\$ 26,157	\$ 4,372	\$ 126,482	-	\$ 126,482	-	\$ 4,372	\$ -	\$ 126,482	\$ -
Rent (Greenhouse Location)	-	-	3,213	-	-	-	-	31,500	-	-	-	31,500	-
Employee Insurance	-	-	-	-	-	-	-	34,000	-	-	-	-	-
Other operating expenses	-	-	37,500	67,500	-	-	-	-	67,500	-	-	67,500	-
Other	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	\$ -	\$ 167,195	\$ 136,779	\$ 193,982	\$ 4,372	\$ 126,482	\$ -	\$ 191,982	\$ 67,500	\$ 4,372	\$ -	\$ 225,482	\$ -
One-Time Disbursements													
RIF Payroll / PTO payouts	-	-	-	-	-	-	-	-	-	-	-	359,075	\$ -
Severance	-	-	-	-	-	-	-	-	-	-	-	215,082	-
Rent (Main Building)	-	-	-	-	46,000	660,000	-	-	-	-	-	-	-
Other operating expenses	-	-	-	-	62,500	80,000	-	-	-	-	-	-	-
CalCompates Wire	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ 108,500	\$ 740,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 574,157	\$ -
Restructuring Disbursements													
DIP Loan Fees & Interest	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Lender's Counsel [Greenberg Traurig]	-	100,000	-	-	-	-	100,000	-	-	-	100,000	-	-
Debtors' Counsel [WBD]	-	150,000	-	-	-	-	150,000	-	-	-	100,000	-	-
Debtors' Financial Advisor [Rock Creek]	-	100,000	-	-	-	-	100,000	-	-	-	100,000	-	-
Independent Director	-	-	20,000	-	-	-	-	10,000	-	-	-	-	-
Claims/Noticing Agent	-	-	30,000	-	-	-	-	30,000	-	-	-	30,000	-
UST Fees	-	-	-	-	-	-	-	-	-	-	-	-	-
Committee Professionals / SubV Trustee Fees	-	-	-	-	-	-	-	-	-	-	-	-	-
D&O Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-
Critical Vendors	-	-	-	-	-	-	-	-	-	-	-	-	-
Corporate Counsel [Gunderson]	-	10,000	-	-	-	10,000	-	-	-	10,000	-	-	-
IP Counsel [DLA Piper]	-	-	15,000	-	-	-	15,000	-	-	-	-	-	-
Litigation Counsel [Shepherd Mullen]	5,000	-	-	-	-	-	-	-	-	-	-	-	-
Winddown Expenses	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	\$ 5,000	\$ 360,000	\$ 65,000	\$ -	\$ -	\$ 10,000	\$ 365,000	\$ 40,000	\$ -	\$ 10,000	\$ 300,000	\$ 30,000	\$ -
Ending Book Balance													
Ending Cash	\$ 434,817	\$ 1,407,622	\$ 1,240,843	\$ 1,046,861	\$ 933,989	\$ 57,507	\$ 2,192,507	\$ 1,960,525	\$ 1,893,025	\$ 1,878,653	\$ 1,578,653	\$ 749,014	\$ 749,014

Viridos, Inc.

13-Week Cash Flow Budget

Page 1 of 1