

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

In re

WALKER EDISON HOLDCO LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-11602 (TMH)

(Joint Administration Requested)

**DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS
(I) AUTHORIZING SECURED POST-PETITION FINANCING PURSUANT
TO 11 U.S.C. § 364, (II) AUTHORIZING USE OF CASH COLLATERAL,
(III) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 361,
363 AND 364, AND (IV) SCHEDULING A FINAL HEARING
AND (V) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (the “Debtors”), respectfully state as follows in support of this motion (the “Motion”):

PRELIMINARY STATEMENT

1. The Debtors filed these cases with the intention to complete a sale process that maximizes value for their estates and stakeholders. To that end, the Debtors have a stalking horse bid in hand from Twin-Star International Inc. for the purchase of substantially all of the Debtors’ assets, subject to Court approval and any topping bids that emerge during the sale process. However, like most companies entering bankruptcy, the Debtors lack sufficient cash on hand to fund their operating needs and complete their intended value-maximizing sale process.

2. As such, leading up to the Petition Date, the Debtors and their advisors sought potential debtor-in-possession financing. To provide the Debtors with the opportunity to run a value-

¹ The Debtors in these cases, along with the last four digits of each Debtors’ federal EIN, are as follows: Walker Edison Holdco LLC (8817); Walker Edison Intermediate, LLC (3363); Walker Edison Furniture Company LLC (6576); and EW Furniture, LLC (6288). The Debtors’ mailing address is 1553 W 9000 S West Jordan, UT 84088.

maximizing sale process in chapter 11, Blue Owl Capital Corporation (the “DIP Agent”) and the other term loan lenders under the Prepetition Term Loan Agreement (as defined below) (and with the DIP Agent, the “Proposed DIP Lenders”), offered to provide a postpetition, junior secured superpriority term loan financing DIP Facility (defined below) with funded new money principal amount of up to \$6,000,000 to allow the Debtors to fund their operations in accordance with an approved budget and \$7,000,000 to allow the Debtors to fund the prepetition Litigation.² The DIP Facility also provides for the roll-up of a certain amount of the Prepetition Term Loan Agreement (i) upon entry of the Interim DIP Order, on a one-to-one basis relative to New Money DIP Loan Commitments and Litigation DIP Loan Commitments (each as defined in the DIP Term Sheet), and (ii) upon entry of the Final DIP Order, a roll-up on a three-to-one basis relative to the New Money DIP Loan Commitments and Litigation DIP Loan Commitments on outstanding amounts under the Prepetition Term Loan Agreement.

3. The Proposed DIP Lenders are the current owners of the Debtors pursuant to a Restructuring Support Agreement entered into by and between the Debtors and the Proposed DIP Lenders dated January 27, 2023. As further detailed in the First Day Declaration, the Proposed DIP Lenders had to rescue the Debtors after it became apparent that the Debtors lacked sufficient liquidity to continue operations because of the actions of the prior owners of the Debtors. Since assuming this role, the Proposed DIP Lenders have invested more than \$79,000,000 to fund the Debtors’ operations pursuant to the Prepetition Term Loan Agreement.

² As detailed further in the First Day Declaration, the Debtors and Blue Owl Capital Corporation currently have litigation pending against the Debtors’ former owners styled as *Walker Edison Furniture Company LLC v. Brad Bonham, et al.*, Civil No. 230902160 (the “Debtor Utah Action”) and *Blue Owl Capital Corporation v. Brad Bonham, et al.*, Civil No. 240903251 (the “Sponsor Utah Action,” and with the Debtor Utah Action, the “Utah Litigation”) pending in the Third Judicial District, Salt Lake County District Court, Utah. The Litigation asserts claims for, among other things, actual and constructive fraudulent transfer and seeks to recover hundreds of millions of dollars in actual and punitive damages.

4. The Debtors also solicited proposals from other potential sources outside of the Debtors' capital structure with the goal of obtaining debtor-in-possession financing on terms that were most advantageous to them. The potential third-party lenders contacted by the Debtors included various institutions that routinely provide debtor-in-possession financing, including both well-known commercial banks, credit funds and specialty lenders. No third parties contacted by the Debtors were interested in providing debtor-in-possession financing except the Proposed DIP Lenders.

5. As such, following arm's-length, good faith negotiations on the terms set forth in the proposed DIP Facility, the Debtors agreed to enter into that certain term sheet (the "DIP Term Sheet"), with the Proposed DIP Lenders. The DIP Term Sheet and the DIP Facility were the product of arm's-length and good faith negotiations and include terms that are customary in this District.

6. The DIP Facility, coupled with the Debtors' access to Cash Collateral, provides a vital lifeline to the Debtors and is reasonable and fair. Crucially, the Debtors believe that the DIP Facility provides sufficient runway to allow the Debtors to pursue and complete a value-maximizing sale transaction. The liquidity made available under the DIP Facility, coupled with the Debtors' access to Cash Collateral, signals to the Debtors' vendors, suppliers, customers, and employees that the Debtors have the liquidity necessary to continue operating while they complete a successful going concern sale of their assets. Without the DIP Facility, the value of the Debtors' business and assets would quickly deteriorate, materially and irreparably harming the Debtors' estates. In addition, the DIP Facility allows the Debtors to continue to pursue the Litigation to the benefit of all stakeholders. Therefore, the relief requested by this Motion is a necessary step to both preserving the Debtors' operations as well as providing a bridge to a sale transaction that maximizes value for the Debtors' estates and their stakeholders.

7. For these reasons, as well as for the reasons set forth below in the *Declaration of Nate Brown in Support of Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day

Declaration”), the Debtors believe that entry into the DIP Facility is an exercise of the Debtors’ sound business judgment and will maximize value of their estates to the benefit of all of the Debtors’ stakeholders. Accordingly, the Debtors respectfully request that the Court approve the Debtors’ entry into the DIP Facility.

RELIEF REQUESTED

8. The Debtors seek the entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the “Interim DIP Order”), and a final order (the “Final DIP Order”),³ among other things:⁴

- (a) authorizing the Debtors to obtain junior secured super priority debtor in possession financing on a subordinated priority basis (the “DIP Facility”) pursuant to the terms and conditions of the DIP Term Sheet, attached as **Exhibit 1** to the Interim DIP Order, in the aggregate principal amount of up to \$13,000,000 consisting of (i) \$6,000,000 of new money, delayed draw term loans, (ii) \$7,000,000 to fund the Utah Litigation, and (iii) offering the Prepetition Term Lenders the Roll-Up Opportunity (as defined in the Interim DIP Order) of a certain amount of the Prepetition Term Loan Agreement;
- (b) authorizing the Debtors to execute, deliver and perform under the DIP Term Sheet and all other loan documentation related to the DIP Facility, including, without limitation, as applicable, security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, and such other documents that may be reasonably requested by the DIP Agent and the Proposed DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Loan Agreement and any other loan documents, the “DIP Documents”);

³ The Debtors will file the form of Final DIP Order prior to the Final Hearing (as defined herein).

⁴ The summaries and descriptions of the terms and conditions of the DIP Facility as set forth in this Motion are qualified in their entirety by the terms of the Interim DIP Order, Final DIP Order and DIP Loan Documents. Undefined terms used herein shall have the meanings ascribed to them in the Interim DIP Order or DIP Loan Documents, as applicable.

- (c) authorizing the Debtors to incur loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees and any other fees payable pursuant to the DIP Documents), costs, expenses and other liabilities, and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable under the DIP Documents (collectively, the “DIP Obligations”), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;
- (d) subject to the Carve-Out (as defined below), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties (as defined in the Interim DIP Order), allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtors, which shall be payable from, among other sources, the proceeds of the Utah Litigation and, upon entry of the Final DIP Order, from Avoidance Action Proceeds (as defined herein);
- (e) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code on all prepetition and postpetition property of the Debtors’ estates and all proceeds thereof as set forth in this Interim Order, including, the Utah Litigation and all claims and causes of action asserted therein and, upon entry of the Final Order, any Avoidance Action Proceeds, in each case subject to (1) the Carve-Out, and (2) the ABL Lender’s liens and replacement liens on the ABL Priority Collateral (defined in the Interim DIP Order);
- (f) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected priming liens pursuant to section 364(d)(1) of the Bankruptcy Code on the Prepetition Term Loan Collateral (as defined herein), which priming liens shall only prime the Prepetition Term Loan Liens (as defined in the Interim DIP Order);
- (g) authorizing the Debtors to waive, subject to entry of the Final DIP Order granting such relief, (i) their right to surcharge the Prepetition Term Loan Collateral (as defined in the Interim DIP Order) and the DIP Collateral (as defined in the Interim DIP Order) pursuant to section 506(c) of the Bankruptcy Code and (ii) any “equities of the case” exception under section 552(b) of the Bankruptcy Code;

- (h) subject to entry of the Final DIP Order granting such relief, waiving the equitable doctrine of “marshaling” and other similar doctrines (i) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties, (ii) with respect to any of the Prepetition Term Loan Collateral for the benefit of any party other than the Prepetition Term Loan Secured Parties, and (iii) with respect to the ABL Priority Collateral, for the benefit of any party other than the ABL Lender;
- (i) authorizing the Debtors to use proceeds of the DIP Facility and the Cash Collateral (as defined in the Interim DIP Order) solely in accordance with this Interim Order and/or the DIP Documents (for the avoidance of doubt, no proceeds of the DIP Facility or Cash Collateral shall be used to pay administrative expense claims under Section 503(b)(9) of the Bankruptcy Code);
- (j) authorizing the Debtors to pay (i) the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents, and (ii) the principal, interest, fees, expenses and other amounts payable under the ABL Documents as such become earned, due and payable to the extent provided in, and in accordance with the Interim DIP Order;
- (k) subject to the restrictions set forth in the DIP Documents and the Interim DIP Order, authorizing the Debtors to use ABL Priority Collateral (as defined in the Interim DIP Order) and the Prepetition Term Loan Collateral, including Cash Collateral (each term as defined in the Interim DIP Order), and provide adequate protection to the Prepetition Secured Parties (as defined in the Interim DIP Order) for any diminution in value of their respective interests in the applicable ABL Priority Collateral and Prepetition Term Loan Collateral, including, without limitation, any diminution in value resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the “Automatic Stay”), the Debtors’ use, sale, or lease of the ABL Priority Collateral and Prepetition Term Loan Collateral, and the priming of their interests in the ABL Priority Collateral and Prepetition Term Loan Collateral;
- (l) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the Debtors and their affiliates, the DIP Secured Parties, and the Prepetition Term Loan Secured Parties (as defined in the Interim DIP Order) to implement and effectuate the terms and provisions of

this Interim DIP Order, the DIP Documents and, upon entry, the Final DIP Order and to deliver any notices of termination described below and as further set forth herein;

- (m) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim DIP Order and, upon entry, the Final DIP Order; and
- (n) scheduling a hearing (the “Final Hearing”), pursuant to Bankruptcy Rule 4001(c)(2), to consider entry of the Final DIP Order (a) through (d) (collectively, the “Requested Relief”).

JURISDICTION AND VENUE

9. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The Debtors consent pursuant to rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

11. The statutory bases for the relief requested herein are sections 105, 361, 362, 363, 364, 503, 506(c), and 507 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 2002-1, 4001-1, 4001-2, and 9013-1(m).

BACKGROUND

I. General Background.

12. On August 28, 2025 (the “Petition Date”), the Debtors each commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee has been appointed in these cases.

13. The Debtors are a leading supplier of innovative and affordable ready-to-assemble home furnishings to global e-commerce platforms. Headquartered in West Jordan, Utah, the Debtors have built a data-driven sourcing and logistics platform that enables integration with major online retailers, including Amazon, Wayfair, Walmart, and others. In addition to third-party platforms, the Debtors also operate their own website to sell products directly to consumers. Since their founding, the Debtors have focused exclusively on the e-commerce channel, designing and distributing stylish, space-efficient furniture for living rooms, bedrooms, home offices, and outdoor settings.

14. Additional detail regarding the Debtors, their business, the events leading to commencement of these cases and the facts and circumstances supporting the relief requested herein is set forth in the First Day Declaration filed concurrently herewith and incorporated herein by reference.

II. The Prepetition Capital Structure.

15. The most significant sources of the Debtors’ secured and unsecured indebtedness are identified and described below.⁵

⁵ In addition to the sources of indebtedness described below, there are also other sources of indebtedness described in other motions filed contemporaneously herewith, such as indebtedness related to the Debtors’ employee payroll and benefit obligations, as well as other debt accruals.

A. Prepetition ABL Credit Agreement.

16. On September 26, 2018, Debtors Walker Edison Furniture Company LLC (“Walker Edison”) and EW Furniture Company LLC (“EWFC”) as borrowers, and Debtor Walker Edison Intermediate LLC (“Intermediate”) as guarantor, and Wells Fargo Bank, National Association (the “ABL Lender”) in its capacity as administrative agent, collateral agent, swing line lender and LC issuer, and the other lenders named therein entered into that certain ABL Credit Agreement dated as of September 26, 2018, (as amended by the Consent and Amendment No.1, dated July 22, 2019; Amendment No.2, dated September 9, 2019; Amendment No. 3, dated November, 2020; Consent and Amendment No. 4, dated March 31, 2021; Amendment No. 5, dated May 21, 2021; Consent and Amendment No. 6, dated August 24, 2021; Amendment No. 7, dated December 8, 2021; Consent and Amendment No. 8, dated March 1, 2023; Amendment No. 9, dated June 6, 2023; Amendment No. 10, dated December 18, 2023; Amendment No. 11, dated February 19, 2025; and Amendment No. 12 dated as of April 2, 2025, the “ABL Agreement”). Pursuant to the ABL Agreement, the Debtors obtained a senior secured credit facility in an aggregate amount not to exceed \$20,000,000.

17. As security for the Debtors’ repayment obligations under the ABL Agreement, the Debtors granted the ABL Lender first priority liens upon and senior security interests (the “Prepetition Senior Liens”) in substantially all of the Debtors’ property and assets (collectively, the “Prepetition Senior Collateral”) as more particularly set forth in certain security documents and instruments, including but not limited to Collateral or Mortgaged Property as defined in the ABL Agreement.

18. As of the Petition Date, the Debtors owe approximately \$10,000,000 on account of the ABL Agreement.

B. The Prepetition Term Loan Agreement.

19. On March 31, 2021, Walker Edison, as borrower, and Intermediate, as guarantor, and Owl Rock Capital Corporation (“Owl Rock”), as administrative agent for the lenders and as collateral agent for the secured parties, (the “Prepetition Term Lenders”) entered into that certain Term Loan Agreement dated as of March 31, 2021 (the “2021 Term Loan Agreement”). The 2021 Term Loan Agreement provided for a secured term loan in the amount of \$300,000,000 in part to fund a \$210,000,000 payment to existing equity holders and option holders. As detailed further in the First Day Declaration, when the Former Shareholders (as defined in the First Day Declaration) abandoned the Company to the Prepetition Term Lenders in 2023, the Prepetition Term Lenders equitized a portion of their investment and assumed ownership of the Debtors. In connection with that transaction, on March 1, 2023, Walker, as borrower, and Intermediate, as guarantor, and Owl Rock, as administrative agent for the lenders and as collateral agent for the secured parties, entered into that certain Amended and Restated Loan Agreement (as amended by Amendment No. 1, dated as of March 14, 2023; Amendment No. 2, dated as of December 18, 2023; Amendment No. 3, dated as of December 4, 2024; and Amendment No. 4, dated as of March 26, 2025 (the “Amended Term Loan Agreement,” and with the 2021 Term Loan Agreement, the “Prepetition Term Loan Agreement”). The Amended Term Loan Agreement provided the Debtors with revolving commitments in a principal amount of \$40,000,000 (the “Prepetition Term Loans”) secured by certain of Debtors’ assets as described in the Amended Term Loan Agreement.

20. As of the Petition Date, the Debtors owe approximately \$213,000,000 on account of the Prepetition Term Loan Agreement.

CONCISE STATEMENT PURSUANT TO BANKRUPTCY RULE 4001

21. Pursuant to Bankruptcy Rule 4001(b), (c), and (d), and Local Rule 4001- 2(a), the following is a concise summary highlighting the proposed material terms of the DIP Facility, as specified in the DIP Term Sheet, the Interim DIP Order:

Material Provision	Summary Description of Material Provision
Obligors Bankruptcy Rule 4001(c)(1)(B) Del. Bankr. L.R. 4001-2(a)(i)(J)	<u>Borrower</u>: Walker Edison Furniture Company, LLC <u>Guarantors</u>: Walker Edison Holdco, LLC; Walker Edison Intermediate, LLC; and EW Furniture, LLC <u>Proposed DIP Lender</u>: Blue Owl Capital Corporation See Interim DIP Order, Preamble (a).
DIP Commitment Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(A), (O).	DIP Credit Facility: The DIP Facility is a junior secured debtor in possession term loan facility consisting of (i) a \$6,000,000 new money term loan tranche (the “<u>New Money DIP Loan Commitments</u>”) of which \$4,000,000 shall be funded upon entry of the Interim DIP Order and \$3,000,000 in the form of a delayed draw term loan facility, which shall be available to be drawn after the entry of the Final DIP Order (the “<u>New Money DIP Loans</u>”); (ii) a \$7,000,000 new money term loan tranche (the “<u>Litigation DIP Loan Commitments</u>”) of which \$1,500,000 will be funded upon entry of the Interim DIP Order and \$5,500,000 in the form of a delayed draw term loan facility, which shall be available to be drawn upon entry of the Final DIP Order to support the Utah Litigation expenses (the “<u>Litigation DIP Loans</u>”); (iii) upon entry of the Interim DIP Order a deemed term loan “roll up” of the Prepetition Term Loan Agreement held by the Proposed DIP Lenders (or its affiliates) on a one-to-one basis relative to the New Money DIP Loan Commitments and the Litigation DIP Loan Commitments (the “<u>Interim Roll-Up</u>”); and (iv) upon entry of the Final DIP Order a deemed term “roll up” of loans outstanding under the Prepetition Term Loan Agreement on an aggregate three-to-one basis (inclusive of the Interim Roll-Up) relative to the New Money DIP Loan Commitments (the “<u>New Money Roll-Up</u>”) and the Litigation DIP Loan Commitments (the “<u>Litigation Roll-Up</u>,” and the aggregate amount of the New Money Roll-Up and Litigation Roll-Up, the “<u>Roll-Up Amount</u>”), to be deemed incurred as of the date of entry of the Final DIP Order (the Interim Roll-Up and the Final Roll-Up together the “<u>Roll-Up Loans</u>”; and the Roll-Up Loans together with the New Money DIP Loans and the Litigation DIP Loans, the “<u>DIP Loans</u>”). See Interim DIP Order, Preamble (a).

Material Provision	Summary Description of Material Provision
Use of Proceeds Fed. R. Bankr. P. 4001(c)(1)(B)	Purpose: Proceeds of the DIP Facility will be used in compliance with the terms of the Approved Budget (as defined below), (a) to pay transaction costs, fees, and expenses which are incurred in connection with the DIP Facility, including (i) all fees and costs incurred by professionals employed by the Proposed DIP Lenders and Prepetition Term Loan Lenders, and (ii) those fees and costs incurred by professionals employed by the ABL Lender (subject to all applicable limitations herein, the “<u>ABL Adequate Protection Fees and Expenses</u>”) up to a cap of \$250,000.00, which amount includes an on-account balance of \$75,000.00 that was charged to the ABL Facility prior to the Petition Date (the “<u>ABL Adequate Protection Fees and Expenses Cap</u>”), provided that the ABL Adequate Protection Fees and Expenses Cap shall be of no force or effect and shall not limit the extent or amount of legal fees and expenses the ABL Lender shall be entitled to be paid by the Debtors in the event that the sale to the Stalking Horse Bidder (as defined below) or another winning bidder pursuant to the Stalking Horse Purchase Agreement (as defined below) fails to close, (b) to pay professional fees of the Debtors and their estates and any official committee of unsecured creditors appointed in the chapter 11 cases (the “<u>UCC</u>”), and (c) for working capital and other general corporate purposes of the Debtors, all subject to the Approved Budget and certain restrictions to be set forth in the Interim DIP Order and/or Final DIP Order, as applicable, and the documents governing the DIP Facility. Neither proceeds of the DIP Facility nor Cash Collateral shall be used to pay administrative expense claims under section 503(b)(9) of the Bankruptcy Code. No proceeds of the New Money DIP Loans shall be used to pay costs, fees, and expenses incurred in connection with the Utah Litigation, which shall be paid with proceeds of the Litigation DIP Loans. The deemed proceeds of the Roll-Up Loans shall be used to refinance an equal amount of the Prepetition Term Loans held by the Proposed DIP Lenders (or their affiliates) reducing the amount of the prepetition obligations by such amount. No proceeds of the DIP Loans or cash collateral shall be used to fund any investigation or pursuit of claims or actions against the DIP Agent, the Proposed DIP Lenders, the Prepetition Term Loan Lenders or the ABL Lender; provided, that up to \$10,000 of such proceeds may be used to cover the costs of an investigation by the Official Committee of Unsecured Creditors into the prepetition liens and claims of the Prepetition Lenders and the ABL Lender. No proceeds of the DIP Loans or cash collateral shall be used to fund any claims or actions against the DIP Agent, the Proposed DIP Lenders, the Prepetition Term Loan Lenders, or the ABL Lender. See DIP Term Sheet, “Purpose.”

Conditions of Closing and Borrowing Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(E)	Conditions Precedent: The obligation of the Proposed DIP Lenders to advance DIP Loans hereunder will be subject to satisfaction, or written waiver by the Proposed DIP Lenders, of each of the following conditions precedent as of the date of each such advance (each a “<u>Funding Date</u>”): (a) Debtors and each of the Prepetition Term Loan Lenders shall each have delivered to the Proposed DIP Lenders an executed counterpart of the DIP Term Sheet and any other document requested by the Proposed DIP Lenders; (b) the Interim DIP Order and the Final DIP Order, as applicable, shall have been entered by the Bankruptcy Court and be in full force and effect and not have been vacated, reversed, modified, amended or stayed and not be subject to a pending appeal or motion or motion for leave to appeal or other proceeding to set aside any such order or to challenge the relief therein provided; (c) the Bankruptcy Court shall have entered orders, interim and final, authorizing the Debtors to use the ABL Lender’s cash collateral and such orders shall be in full force and effect and not have been vacated, reversed, modified, amended or stayed and not be subject to a pending appeal or motion or motion for leave to appeal or other proceeding to set aside any such order or to challenge the relief therein provided; (d) Proposed DIP Lenders shall have received a Draw Request (as defined in the DIP Term Sheet) in form and content acceptable to the Proposed DIP Lenders no later than 2:00 p.m. prevailing Eastern time at least seventy-two (72) hours before the applicable Funding Date; (e) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects on and as of the applicable Funding Date; (f) no Event of Default (as defined below) under the DIP Facility or under any DIP Order shall have occurred and be continuing as of the applicable Funding Date, or shall exist after giving effect to the requested disbursement; (g) no Event of Default under the ABL Agreement shall have occurred and be continuing as of the applicable Funding Date, or shall exist after giving effect to the requested disbursement; (h) the Proposed DIP Lenders shall be satisfied that the liens and security interests of the Proposed DIP Lenders in the DIP Collateral (as defined in the Interim DIP Order) have been perfected by the DIP Orders and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements with the priority set forth in the DIP Term Sheet; (i) the Bankruptcy Court shall have ruled upon all such motions (whether made by the Proposed DIP Lenders or others), and issued all such orders in the Bankruptcy Cases as the Proposed DIP Lenders may deem necessary or appropriate as a condition to funding of any DIP Loans;
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Material Provision	Summary Description of Material Provision
	(j) no condition, event or circumstance arising subsequent to the Petition Date shall then exist which would be expected to have a material adverse effect on (i) the DIP Collateral or the Proposed DIP Lenders' liens on the DIP Collateral or the priority of such liens, or (ii) the Proposed DIP Lenders' rights and remedies under the DIP Term Sheet or any DIP Order; and (k) Proposed DIP Lenders shall then be satisfied, in its sole discretion, that the continued funding of DIP Loans is reasonably likely to preserve and enhance the value of all Collateral for the purpose of facilitating an orderly disposition thereof. See DIP Term Sheet, "Conditions Precedent."
Repayment Features/Provisions Limiting Repayment Bankruptcy Rule 4001(b)(1)(B) Del. Bankr. L.R. 4001-2(a)(i)(I)	Mandatory Prepayments: Until such time as all DIP Obligations have been indefeasibly paid in full in cash, the Debtors shall remit to the Proposed DIP Lenders 100% of the net cash proceeds (after any required payment of any liens, claims or encumbrances having priority over the DIP Liens (as defined below) including the ABL Liens, (as defined in the Interim DIP Order)) derived from: (a) any sale or other disposition of any DIP Collateral, approved by the Bankruptcy Court, including any sale or disposition of all or substantially all of Debtors' assets pursuant to section 363 of the Bankruptcy Code, simultaneously with the consummation thereof; (b) any indemnity payments and insurance proceeds not included as proceeds of asset dispositions; and (c) the proceeds received from the incurrence or issuance of indebtedness by any Debtor without the prior written consent of Proposed DIP Lenders. Any amounts so paid or prepaid may not be reborrowed. No reinvestment of the proceeds of any insurance proceeds, asset sales or other proceeds described above shall be permitted without the prior written consent of the Proposed DIP Lenders. Voluntary Prepayments: None. See DIP Term Sheet, "Mandatory Prepayments" and "Voluntary Prepayments."

Material Provision	Summary Description of Material Provision
Approved Budget Bankruptcy Rule 4001(c)(1)(B) Del. Bankr. L.R. 4001-2(a)(i)(E)	Approved Budget: Attached to the DIP Term Sheet as Exhibit 2 is a thirteen-week operating budget for the Debtors outlining actual and anticipated expenses for which the Proposed DIP Lenders have agreed to provide funding, subject to the terms of the DIP Term Sheet and the DIP Orders (the “<u>Approved Budget</u>”). Upon entry of the Interim DIP Order, the Proposed DIP Lenders will advance the sum of \$3,568,000 to the Debtors solely for application against those expenses denominated as “First Day Expenses” in the Approved Budget. Thereafter, the Proposed DIP Lenders shall make additional DIP Loans available from time to time, but not more frequently than once during any calendar week, upon the Debtors’ written request, which shall be accompanied by (i) an itemization of all expenses set forth in the Approved Budget for which funding is then sought, and (ii) a reconciliation of the Approved Budget showing the application of all amounts previously disbursed and any actual or anticipated changes in budgeted expenses (collectively, a “<u>Draw Request</u>”). The Debtors shall give written notice to the DIP Agent of each Draw Request at least seventy-two (72) hours prior to the proposed date of funding. The Approved Budget may be revised from time to time in the sole discretion of the Proposed DIP Lenders, provided that the Proposed DIP Lenders shall at no time be obligated to consent to any change in the Approved Budget requested by the Debtors. Proceeds of the DIP Loans shall be maintained in a segregated bank account over which the Proposed DIP Lenders shall retain control, and which shall be subject to the DIP Liens (as defined in the DIP Term Sheet) in favor of the Proposed DIP Lenders (the “<u>DIP Loan Account</u>”). Funds on deposit in the DIP Loan Account shall be available to the Debtors from time to time to be applied directly to the payment of amounts permitted to be paid under the Approved Budget as and when the same shall become due and payable, subject to the terms and conditions of this DIP Term Sheet and the DIP Orders. See DIP Term Sheet, “Approved Budget.”
Case Milestones Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(H)	The Debtors shall be required to achieve the following milestones (collectively, the “<u>Milestones</u>”) which may be extended or waived in writing by the Proposed DIP Lenders, in their sole discretion: • No later than 1 business day following the Petition Date, the Debtors shall have executed an asset purchase agreement, in form and substance satisfactory to the Proposed DIP Lenders and the ABL Lender, with the Stalking Horse Bidder for the purchase of substantially all assets of the operating assets of the Debtors under the Stalking Horse Agreement, with any financing required by the Stalking Horse Bidder in connection with the Stalking Horse Agreement not conditioned upon the occurrence of

Material Provision	Summary Description of Material Provision
	any further or future event other than the entry of an order by the Bankruptcy Court approving the sale; • No later than 2 business days after the Petition Date, the Interim DIP Order approving the DIP Facility on an interim basis, in form and substance acceptable to the Proposed DIP Lenders and the ABL Lender, shall be entered by the Bankruptcy Court; • No later than 2 business days after the Petition Date, the Debtors shall file with the Bankruptcy Court one or more motions, each in form and substance reasonably acceptable to the Proposed DIP Lenders and the ABL Lender, seeking approval of the Stalking Horse Agreement (the “<u>Sale Motion</u>” and, the transaction in respect thereof, the “<u>Sale Transaction</u>”) and (ii) bidding procedures (which are in form and substance satisfactory to the Proposed DIP Lenders) in connection with approval of the Sale Transaction (the “<u>Bid Procedures Motion</u>”); • No later than 18 days after the Petition Date, the Bankruptcy Court shall have entered an order establishing bidding procedures consistent with the Bidding Procedures Motion (the “<u>Bidding Procedures Order</u>”), which order shall in form and substance be reasonably acceptable to the Proposed DIP Lenders and the ABL Lender; • No later than 18 days after the Petition Date, the Final DIP Order approving the DIP Facility on a final basis, in form and substance acceptable to the Proposed DIP Lenders and, solely to the extent Such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, to the ABL Lender, shall be entered by the Bankruptcy Court; • No later than 25 days after the Petition Date, unless the Proposed DIP Lenders and otherwise agree, submission of qualified bids in respect of the Sale Transaction; • No later than 28 days after the Petition Date, the Debtors shall have held an auction in connection with the Sale Transaction; • No later than 30 days after the Petition Date, the Bankruptcy Court shall have entered an order approving the Sale Transaction (the “<u>Sale Order</u>”), which order shall be in form and substance reasonably acceptable to the Proposed DIP Lenders and the ABL Lender; • No later than 31 days after the Petition Date, the Debtors shall have consummated the Sale Transaction in accordance with the Sale Order;

Material Provision	Summary Description of Material Provision
	- No later than 45 days after the Petition Date, unless the Proposed DIP Lenders otherwise agree, the Debtors shall have filed a chapter 11 plan (the “<u>Chapter 11 Plan</u>”) and disclosure statement, which shall be acceptable in form and substance to the Proposed DIP Lenders and (if applicable) the ABL Lender; and - No later than 90 days after the Petition Date, unless the Proposed DIP Lenders otherwise agree, the Bankruptcy Court shall have entered an order (the “<u>Confirmation Order</u>”) confirming the Chapter 11 Plan, which Confirmation Order shall be in form and substance acceptable to the Proposed DIP Lenders and (if applicable) the ABL Lender. See DIP Term Sheet, “Milestones.”
DIP Financing Maturity Dates Fed. R. Bankr. P. 4001(c)(1)(B)	New Money DIP Loan Commitments Maturity Date: The New Money DIP Loans and New Money Roll-Up shall be due and payable upon the earliest of (i) the date that is five months after the Petition Date, (ii) the closing date of a sale of substantially all of the Debtors’ assets, (iii) the Chapter 11 Plan (as defined below) effective date, (iv) the date of dismissal of the chapter 11 cases or conversion to chapter 7, (v) the acceleration of the DIP Facility following an Event of Default, (vi) at the Proposed DIP Lenders’ option, the failure of Debtors timely to satisfy any Milestone, and (vii) the filing of any Unapproved Plan (as defined below). The Debtors’ consensual use of the ABL Lender’s cash collateral shall terminate upon the earlier of a New Money DIP Loan Commitments Maturity Date, and a Cash Collateral Termination Date (as defined in the Interim DIP Order). Litigation DIP Loan Commitments Maturity Date: The Litigation DIP Loans and Litigation Roll-Up shall be due and payable upon earlier of (i) the date that is five months after the Petition Date, (ii) the Chapter 11 Plan effective date, (iii) the date of dismissal of the chapter 11 cases or conversion to chapter 7, (iv) the acceleration of the DIP Facility following an Event of Default, (v) at the Proposed DIP Lenders’ option, the failure of Debtors timely to satisfy any Milestone, and (vi) the filing of any Unapproved Plan. See DIP Term Sheet, “Maturity Date.”

Material Provision	Summary Description of Material Provision
Interest Rate Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(B)	Interest: 10.00% per annum on the New Money DIP Loans and New Money Roll-Up, payable in kind, which shall be paid in cash on the date on which any New Money DIP Loans or New Money Roll-Up are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date (as defined in the DIP Term Sheet) and/or upon the acceleration of the DIP Facility. 10.00% per annum on the Litigation DIP Loans and the Litigation Roll-Up, payable in kind, which shall be paid in cash on the date on which any Litigation DIP Loans or Litigation Roll-Up are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date (as defined in the DIP Term Sheet), and/or upon the acceleration of the DIP Facility. All interest shall be calculated as simple interest on the basis of a 360-day year for the actual number of days elapsed. Default Rate: Following the occurrence and during the continuance of an Event of Default (and after giving effect to any applicable notice or grace periods), all amounts due in respect of the DIP Obligations shall bear interest at the rate of twelve percent (12.00%) per annum. See DIP Term Sheet, “Interest.”

Material Provision	Summary Description of Material Provision
Fees Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(B)	Upfront Fee: 2.00% of the New Money DIP Loan Commitments, payable in-kind on the entry of the Interim DIP Order. Exit Fee: 2.00% in respect of the New Money DIP Loan Commitment payable (without duplication) on the date on which any New Money DIP Loans are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Facility 4.00% in respect of the Litigation DIP Loan Commitments, payable (without duplication) on the date on which any Litigation DIP Loan Commitments are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Facility. Unused Fee: 0.50% per annum on the undrawn New Money DIP Loan Commitments, payable in cash on the date on which the New Money Loans are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Facility. 0.50% per annum on the undrawn Litigation DIP Loan Commitments, payable in cash on the date on which the Litigation DIP Loans are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date (as defined in the DIP Term Sheet), and/or upon the acceleration of the DIP Facility. See DIP Term Sheet, “Upfront Fee,” “Exit Fee,” and “Unused Fee.”

Events of Default Fed. R. Bankr. P. 4001(c)(1)(B)(v), (x) Local Rule 4001-2(a)(i)(M)	The occurrence of any of the following shall constitute an “<u>Event of Default</u>”: (a) the entry of an Interim DIP Order in form or substance that is not reasonably acceptable to the Proposed DIP Lenders and the ABL Lender in their sole discretion; or entry of a Final DIP Order that is not reasonably acceptable to the Proposed DIP Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, the ABL Lender, each in their sole discretion; (b) failure to pay principal DIP Obligations in full when due, including without limitation, on the Maturity Date (as defined in the DIP Term Sheet); (c) failure to pay interest, fees or other amounts in full within three (3) business days after the date due following written notice, including without limitation, on the Maturity Date; (d) failure of any representation, warranty or certification to be true and correct in all material respects (or, to the extent qualified by materiality or Material Adverse Change, in all respects) when made; (e) failure by any Debtor to be in compliance in all material respects with the provisions of the DIP Term Sheet, any DIP Order or any other order of the Bankruptcy Court following five (5) business days’ written notice and an opportunity to cure; (f) dismissal of any of the Debtors’ bankruptcy cases (the “<u>Bankruptcy Cases</u>”); (g) the appointment in any of the Bankruptcy Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code) relating to the operation of the business of any Debtor, without the prior written consent of the Proposed DIP Lenders and the ABL Lender; (h) failure of any Milestones to be satisfied by the specified deadline therefor; (i) any exercise of remedies by or on behalf of the ABL Lender upon a default under the ABL Agreement, assertion of cash dominion by or on behalf of the ABL Lender, implement reserves or make any modifications to the ABL Agreement negatively impacting the borrowing base availability, or violation of any term of any DIP Order by the ABL Lender; (j) the filing of any application by any Debtor for the approval of (or an order is entered by the Bankruptcy Court approving) any claim arising under section 507(b) of the Bankruptcy Code, other than for ABL Lender’s Section 507(b) claim for any Diminution or other Section 507(b) claims granted by or permitted in the DIP Orders; (k) the granting of relief from the automatic stay by the Bankruptcy Court to any other creditor or party in interest in the Bankruptcy Cases with respect to any portion of the DIP Collateral with an aggregate value exceeding \$25,000 without the prior written consent of the Proposed DIP Lenders and the ABL Lender;
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(l) the filing of a plan of reorganization or liquidation by any Debtor without the written consent of the Proposed DIP Lenders and (if applicable) the ABL Lender, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of the Proposed DIP Lenders and (if applicable) the ABL Lender (any such plan an “Unapproved Plan”);

(m) the entry of a Final DIP Order that fails to contain (i) stipulations binding on the Debtors as to the validity, extent, and priority of the liens securing the Prepetition Loans and the ABL Facility (each as defined in the Interim DIP Order), and (ii) waivers and releases of all claims by the Debtors against the Prepetition Lenders and the ABL Lender, each in a form satisfactory to the Proposed DIP Lenders and Prepetition Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, to the ABL Lender;

(n) the existence of any unexpired “Challenge Period” available to an official committee appointed in the Debtors’ bankruptcy cases or other party-in-interest following the conclusion of the final hearing to consider approval of the Sale Transaction (as defined in the Interim DIP Order);

(o) any creditor or party in interest commences (or supports) any action against the DIP Agent or the Proposed DIP Lenders to subordinate or avoid any liens granted hereunder or under any DIP Order in favor of the DIP Agent or the Proposed DIP Lenders or the ABL Lender;

(p) any Debtor files a pleading in any court seeking or supporting an order to revoke, reverse, stay, vacate, amend, supplement or otherwise modify this DIP Term Sheet, or any DIP Order, or to disallow any DIP Obligations or obligations under the ABL Facility (as defined in the Interim DIP Order), in whole or in part;

(q) any material provision of this DIP Term Sheet or any DIP Order, shall for any reason cease to be valid and binding, and the consequence of which shall have a material negative effect of the Proposed DIP Lenders and/or ABL Lender without the prior written consent of the affected Proposed DIP Lenders and/or ABL Lender;

(r) any DIP Lien shall for any reason cease to be valid and binding, without the prior written consent of the Proposed DIP Lenders;

(s) failure by the Debtors or Guarantor to comply in any material respect with the DIP Orders or any other order of the Bankruptcy Court following five (5) business days’ written notice and an opportunity to cure;

(t) conversion of any of the Bankruptcy Cases to a case under chapter 7 of the Bankruptcy Code;

(u) any request is made by any Debtor, or is supported by any Debtor, for the reversal, modification, amendment, stay, reconsideration or vacation of any DIP Order without the prior written consent of the Proposed DIP Lenders and the ABL Lender;

Material Provision	Summary Description of Material Provision
	(v) the entry of an order amending, modifying, staying, revoking, reversing, vacating or terminating any DIP Order without the express written consent of the Proposed DIP Lenders and the ABL Lender; (w) the termination of any of the Debtors' exclusive right to propose a plan of reorganization under chapter 11 of the Bankruptcy Code without the prior written consent of the Proposed DIP Lenders and the ABL Lender; (x) without the prior written consent of the Proposed DIP Lenders, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of the Proposed DIP Lenders, the filing with the Bankruptcy Court of a motion seeking approval of a sale of all or substantially all assets of the Debtors under section 363 of the Bankruptcy Code that, in either case, does not provide for indefeasible payment in full in cash to the Proposed DIP Lenders of all DIP Obligations upon closing of such sale or the effective date of a plan pursuant to which such sale is made, unless otherwise agreed to by the Proposed DIP Lenders; (y) the filing of any motion seeking approval of a sale of any DIP Collateral without the consent of the Proposed DIP Lenders, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of the Proposed DIP Lenders (other than any sale permitted by the Final DIP Order or permitted under "Negative Covenants" below), or any sale or other disposition of all or a material portion of the DIP Collateral other than as permitted by the Final DIP Order and any sale permitted under "Negative Covenants" below; and (z) entry of any judgment for the payment of money by Debtors in an amount greater than \$50,000 that would be enforceable on a post-Petition Date basis. Subject to the terms of the DIP Orders, the Proposed DIP Lenders shall be permitted to accelerate the DIP Obligations and exercise all rights and remedies available to them at law, in equity or under the terms of the DIP Orders, in their sole discretion, upon the occurrence of an Event of Default. See DIP Term Sheet, "Events of Default."
Security and Priority Status Fed. R. Bankr. P. 4001(c)(1)(B)(i) Local Rule	DIP Superpriority Claims: Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtors on a joint and several basis (without the need to file any proof of claim) with, to the fullest extent permitted under the Bankruptcy Code or other applicable law, priority over any and all claims against the Debtors, 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, including any and all administrative expenses or other

Material Provision	Summary Description of Material Provision
4001-2(a)(i)(G), (N), (P), (U)	claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a) (other than section 507(a)(1)), 507(b), 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations)), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the “<u>DIP Superpriority Claims</u>”) shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and shall be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof including the proceeds of the Utah Litigation and, upon entry of the Final DIP Order, Avoidance Action Proceeds (as defined in the Interim DIP Order). The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim DIP Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise, all to the maximum extent permitted by law. The DIP Superpriority Claims shall be <i>pari passu</i> in right of payment with one another, senior to the 507(b) Claims (as defined herein), and subordinated only to (1) the Carve-Out (as defined below) and (2) the ABL Lender’s liens and replacement liens on the ABL Priority Collateral (as defined in the Interim DIP Order). Liens on DIP Proceeds: As security for the DIP Obligations, effective automatically and properly perfected upon entry of the Interim DIP Order, the DIP Agent for its own benefit and for the benefit of the DIP Secured Parties is granted continuing, valid, binding, enforceable, non-avoidable, automatically perfected, post-petition security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to the Interim Order and the DIP Documents, the “<u>DIP Liens</u>”) on all property identified in and according to the priority set forth in clauses (a) through (e) of paragraph 6 of the Interim DIP Order. See Interim DIP Order, ¶¶ 5, 6.
Roll Up Local Rule 4001–2(a)(i)(O)	Roll-Up: The DIP Facility includes the Roll-Up Loans as defined above.

Validity of Prepetition Liens Fed. R. Bankr. 4001(c)(1)(B)(iii) Local Rule 4001-2(a)(i)(Q)	Validity, Perfection and Priority of Prepetition Term Loan Liens. The Debtors acknowledge and agree that as of the Petition Date and subject to the entry of a Final DIP Order and any Challenge (as defined in the Interim DIP Order), (a) the Prepetition Term Loan Liens on the Prepetition Term Loan Collateral (each as defined in the Interim DIP Order) were and are valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Term Loan Secured Parties for fair consideration and reasonably equivalent value; (b) the Prepetition Term Loan Liens were and are senior in priority over any and all other liens on the Prepetition Term Loan Collateral, subject only to the ABL Liens, certain liens senior by operation of law, and liens in existence immediately prior to the Petition Date capable of being perfected under section 546(b) of the Bankruptcy Code, solely to the extent any such liens are valid, properly perfected, non-avoidable and senior in priority to the Prepetition Term Loan Liens and permitted under the Prepetition Term Loan Documents as of the Petition Date (the “<u>Prepetition Term Loan Permitted Prior Liens</u>”); (c) the Prepetition Term Loan Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Term Loan Obligors enforceable in accordance with the applicable Prepetition Term Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations exist, and no portion of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations are subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action and/or choses in action, including, without limitation, “lender liability” causes of action, avoidance claims under Chapter 5 of the Bankruptcy Code (or any state law equivalent) whether arising under applicable state law or federal law (including, without limitation, any recharacterization, subordination, avoidance, disgorgement, recovery or other claims arising under or pursuant to sections 105, 510, or 542 through 552 of the Bankruptcy Code), against any of the Prepetition Term Loan Secured Parties or their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Term Loans, Prepetition Term Loan Liens or the Prepetition Term Loan Obligations; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Term Loan or the Prepetition Term Loan Obligations, the priority of the Debtors’ obligations thereunder, and the validity, extent, and priority of the Prepetition Term Loan Liens securing the Prepetition Term Loans. Validity, Perfection and Priority of Prepetition ABL Liens: The Debtors acknowledge and agree that as of the Petition Date (a) the Prepetition ABL Liens on the ABL Priority Collateral (each as defined in the Interim DIP Order) were and are valid, binding, enforceable, non-avoidable and
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Material Provision	Summary Description of Material Provision
	properly perfected and were granted to, or for the benefit of, the ABL Lender for fair consideration and reasonably equivalent value; (b) the Prepetition ABL Liens were and are senior in priority over any and all other liens on the ABL Priority Collateral, subject only to the Prepetition ABL Liens, certain liens senior by operation of law, and liens in existence immediately prior to the Petition Date capable of being perfected under section 546(b) of the Bankruptcy Code, solely to the extent any such liens are valid, properly perfected, non-avoidable and senior in priority to the Prepetition ABL Liens and permitted under the ABL Documents as of the Petition Date (the “<u>ABL Permitted Prior Liens</u>,” and together with the Term Loan Permitted Prior Liens, the “<u>Prepetition Permitted Prior Liens</u>”); (c) the ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the ABL Obligors enforceable in accordance with the applicable ABL Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition ABL Liens or ABL Obligations exist, and no portion of the Prepetition ABL Liens or ABL Obligations are subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action and/or choses in action, including, without limitation, “lender liability” causes of action, avoidance claims under Chapter 5 of the Bankruptcy Code (or any state law equivalent) whether arising under applicable state law or federal law (including, without limitation, any recharacterization, subordination, avoidance, disgorgement, recovery or other claims arising under or pursuant to sections 105, 510, or 542 through 552 of the Bankruptcy Code), against the ABL Lender or its respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Term Loans, Prepetition ABL Liens or the ABL Obligations; and (f) the Debtors waive, discharge, and release any right to challenge any of the ABL Loan or the ABL Obligations, the priority of the Debtors’ obligations thereunder, and the validity, extent, and priority of the Prepetition ABL Liens securing the ABL Loans. See Interim DIP Order, ¶¶ G(iv), (viii).

Material Provision	Summary Description of Material Provision
Cash Collateral Fed. R. Bankr. P. 4001(b)(1)(B)	Use of Cash Collateral: The Debtors are authorized, subject to the terms and conditions of the Interim DIP Order, to use Cash Collateral in accordance with the DIP Documents and the Approved Budget; <i>provided that</i> (a) the Prepetition Secured Parties are granted the Adequate Protection as set forth in paragraph 11 of the Interim DIP Order; (b) except on the terms and conditions of the Interim DIP Order, the Debtors shall be enjoined and prohibited from at any times using Cash Collateral absent further order of the Court; <i>and</i> (c) the Debtors' authority to use Cash Collateral shall be conditioned on subparagraphs (i) – (iv) in paragraph 11 of the Interim DIP Order See Interim DIP Order, ¶ 11.

Adequate Protection Fed. R. Bankr. P. 4001(c)(1)(B)(iv), (c)(1)(B)(ii)	Adequate Protection of the ABL Lender. The ABL Lender is entitled, pursuant to sections 361, 362, 363(e), 364, and 507 of the Bankruptcy Code, to adequate protection of its interests in the ABL Priority Collateral (as defined in the Interim DIP Order) to the extent of any diminution in the value of ABL Lender's liens on the prepetition ABL Priority Collateral, including from the use of all Cash Collateral constituting ABL Priority Collateral, from and after the Petition Date ("<u>Diminution</u>") (with, upon the assertion of any ABL Adequate Protection Claims (as defined below), the presumption being that diminution in value has occurred and the burden being on any party opposing the assertion of any ABL Adequate Protection Claims to show that such diminution has not occurred), for any reason provided for under the Bankruptcy Code, including, without limitation, any Diminution resulting from the sale, lease or use by the Debtors of the ABL Priority Collateral, any priming of the ABL Liens as a result of the Carve-Out and this Interim Order, the grant of any other lien under section 364 of the Bankruptcy Code or the stay of the ABL Lender's rights under the ABL Documents, the payment of any amounts under the Carve-Out or pursuant to this Interim Order, the Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "<u>ABL Adequate Protection Claims</u>"). In consideration of the foregoing, the ABL Lender is hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such ABL Adequate Protection Claims, and as an inducement to the ABL Lender to consent to any priming of the ABL Liens and use of the ABL Priority Collateral, as applicable (collectively, the "<u>ABL Adequate Protection Obligations</u>"): (i) <u>Prepetition Adequate Protection Liens.</u> The ABL Lender is granted (effective and perfected upon the date of the Interim DIP Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the ABL Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the ABL Priority Collateral (the "<u>ABL Adequate Protection Liens</u>"), in each case senior to all other liens but subject and subordinate only to the Carve-Out. For the avoidance of doubt and notwithstanding anything to the contrary in the Interim Order, the ABL Adequate Protection Liens and ABL Liens shall not extend to or include the Utah Litigation or any proceeds thereof, the Stalking Horse Claims, or, subject to paragraph 11 of the Interim Order, a Stalking Horse Deposit. (ii) <u>ABL Section 507(b) Claims.</u> The ABL Lender is granted, subject to the Carve-Out, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases as provided for in section 507(b) of the Bankruptcy Code in the amount of the ABL Adequate Protection Claims, with, to the fullest extent permitted under the
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Bankruptcy Code, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “ABL 507(b) Claims”), which ABL 507(b) Claims shall be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (including, upon entry of the Final DIP Order, Avoidance Action Proceeds). The ABL 507(b) Claims shall be subject and subordinate only to the Carve-Out and the DIP Superpriority Claims, and shall be *pari passu* with the Prepetition Term Loan 507(b) Claims (defined below).

- (iii) ABL Lender Payments. Interest shall continue to accrue on the ABL Loans at the applicable non-default rate of interest under the ABL Documents, which shall be paid in cash when due in accordance with the ABL Documents pursuant to the Approved Budget.
- (iv) ABL Lender Fees and Expenses. As defined below.
- (v) ABL Lender Adequate Protection Information Rights. Unless otherwise agreed by the ABL Lender, the Debtors shall promptly provide the ABL Lender and, to the extent applicable, counsel to such party, with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under the “Reporting Requirements” section of the DIP Loan Agreement (the “Adequate Protection Reporting Requirements”). Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the ABL Lender shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement. In addition, the Debtors shall provide the ABL Lender, the Prepetition Term Loan Secured Parties, and the DIP Lender with all reporting that the Debtors were responsible to provide the ABL Lender under the ABL Facility immediately prior to the Petition Date.
- (vi) Maintenance of Collateral. The Debtors shall maintain and insure the ABL Priority Collateral in amounts and for the risks, and by the entities, to any extent required under the ABL Documents.

Adequate Protection of the Prepetition Term Loan Secured Parties.

The Prepetition Term Loan Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Term Loan Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Term Loan Secured Parties’ interests in the Prepetition Term Loan Collateral from and after the Petition Date (with, upon the assertion of any Prepetition Term Loan Adequate Protection Claims (as defined below), the

presumption being that diminution in value has occurred and the burden being on any party opposing the assertion of any Prepetition Term Loan Adequate Protection Claims to show that such diminution has not occurred), for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Term Loan Collateral (including Cash Collateral), the priming of the Prepetition Term Loan Liens by the DIP Liens pursuant to the DIP Documents and the Interim DIP Order, the grant of any other lien under section 364 of the Bankruptcy Code or the stay of the Prepetition Term Loan Secured Parties' rights under the Prepetition Term Loans, the payment of any amounts under the Carve-Out or pursuant to the Interim DIP Order, the Final DIP Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "Prepetition Term Loan Adequate Protection Claims," and together with the ABL Adequate Protection Claims, the "Adequate Protection Claims"). In consideration of the foregoing, the Prepetition Term Loan Secured Parties are hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such Prepetition Term Loan Adequate Protection Claims, and as an inducement to the Prepetition Term Loan Secured Parties to consent to the priming of the Prepetition Term Loan Liens and use of the Prepetition Term Loan Collateral (including Cash Collateral), as applicable (collectively, the "Prepetition Term Loan Adequate Protection Obligations," and together with the ABL Adequate Protection Obligations, the "Adequate Protection Obligations"):

- (i) Prepetition Adequate Protection Liens. The Prepetition Term Loan Agent, for itself and for the benefit of the other Prepetition Term Loan Secured Parties, is hereby granted (effective and perfected upon the date of the Interim DIP Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Term Loan Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the "Prepetition Term Loan Adequate Protection Liens," and together with the ABL Adequate Protection Liens, the "Adequate Protection Liens"), in each case senior to all other liens but subject and subordinate only to (i) the DIP Liens, (ii) the Carve-Out, and (iii) the ABL Liens.
- (ii) Prepetition Term Loan Section 507(b) Claims. The Prepetition Term Loan Secured Parties are granted, subject to the Carve-Out, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Term Loan Adequate Protection Claims, with, to the fullest extent permitted under the Bankruptcy Code, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "Prepetition Term Loan 507(b) Claims," and together with the ABL 507(b) Claims, the

	“<u>507(b) Claims</u>”), which Prepetition Term Loan 507(b) Claims shall be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (including, upon entry of the Final Order, Avoidance Action Proceeds). The Prepetition Term Loan 507(b) Claims shall be subject and subordinate only to the Carve-Out and the DIP Superpriority Claims, and shall be <i>pari passu</i> with the ABL 507(b) Claims. Except to the extent expressly set forth in this Interim Order, the Final Order or the DIP Documents, no party shall receive or retain any payments, property, or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated. (iii) <u>Prepetition Term Loan Secured Parties’ Fees and Expenses.</u> As defined below. (iv) <u>Prepetition Term Loan Secured Parties’ Payments.</u> To the extent allowed pursuant to section 506(b) of the Bankruptcy Code, interest shall continue to accrue on the Prepetition Term Loans at the applicable default rate of interest under the Prepetition Term Loan Documents, paid in kind by capitalizing such interest and adding it to the outstanding principal balance of the Prepetition Term Loans in accordance with the Prepetition Term Loan Documents. (v) <u>Milestones.</u> Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the Prepetition Term Loan Secured Parties are hereby entitled to performance of those certain case milestones set forth in the “Milestones” section of the DIP Loan Agreement (for such purposes, the “<u>Adequate Protection Milestones</u>”). (vi) <u>Budget and Financial Covenants.</u> Until indefeasible payment in full of all DIP Obligations and all other obligations under the DIP Facility, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Loan Agreement (for such purposes, the “<u>Adequate Protection Budget Requirement</u>”), and (ii) the Prepetition Term Loan Secured Parties are hereby entitled to performance of those certain financial and other covenants set forth in the “Affirmative Covenants” and “Negative Covenants” sections of the DIP Loan Agreement (for such purposes, the “<u>Adequate Protection Covenants</u>”). (vii) <u>Prepetition Term Loan Secured Parties’ Adequate Protection Information Rights.</u> Unless otherwise agreed by the Prepetition Term Loan Secured Parties, the Debtors shall promptly provide the Prepetition Term Loan Secured Parties and, to the extent applicable, counsel to such party (and subject to applicable confidentiality
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Material Provision	Summary Description of Material Provision
	restrictions contained in any of the Prepetition Term Loan Documents), with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the Adequate Protection Reporting Requirements. Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the Prepetition Term Loan Secured Parties shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement. In addition, the Debtors shall provide the ABL Lender, the Prepetition Term Loan Secured Parties, and the DIP Lender with all reporting that the Debtors were responsible to provide the ABL Lender under the ABL Facility immediately prior to the Petition Date. (viii) <u>Maintenance of Collateral</u>. The Debtors shall continue to maintain and insure the Prepetition Term Loan Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Term Loan Documents and the DIP Documents. See Interim DIP Order, ¶ 13.

Material Provision	Summary Description of Material Provision
Waiver of 506(c), 552(b), and Marshalling Fed. R. Bankr. P. 4001(c)(1)(B)(x) Local Rule 4001-2(a)(i)(V), (W), (X).	Limitation on Charging Expenses Against Collateral: Except to the extent of the Carve-Out, no costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral, ABL Priority Collateral, or Prepetition Term Loan Collateral (including Cash Collateral) pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent, ABL Lender, or the Prepetition Term Loan Secured Parties, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties. Nothing contained in the Interim DIP Order shall be deemed to be a consent by the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties to any charge, lien, assessment or claims against the DIP Collateral under section 506(c) of the Bankruptcy Code or otherwise. No Marshalling: In no event shall the DIP Secured Parties or the Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, ABL Loans, the ABL Priority Collateral, the Prepetition Term Loans, or the Prepetition Term Loan Collateral. Further, in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Term Loan Secured Parties or the ABL Lender with respect to proceeds, products, offspring or profits of any Prepetition Term Loan Collateral or ABL Priority Collateral. See Interim DIP Order, ¶¶ 8, 9.
Carveout Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4002-2(a)(i)(F)	Carve-Out: The term “<u>Carve-Out</u>” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate pursuant to 31 U.S.C. § 3717, (ii) reasonable fees and expenses incurred by a trustee and payable under section 726(b) of the Bankruptcy Code (without regard to the Carve-Out Trigger Notice (as defined below)) in an aggregate amount not to exceed \$25,000, (iii) to the extent allowed at any time, whether by interim order, final order, or other order, all accrued but unpaid fees and expenses (excluding any restructuring, sale, success, or other transaction fee of any investment bankers or financial advisors) (the “<u>Allowed Professional Fees</u>”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code and any Creditors’ Committee (the “<u>Estate Professionals</u>”) at any time on or before the first business day following delivery by the DIP Agent (acting at the direction of the DIP Lender) of a Carve-Out Trigger Notice (as defined below), whether allowed by

Material Provision	Summary Description of Material Provision
	the Court prior to or after delivery of a Carve-Out Trigger Notice up to but not in excess of the amount approved in the Approved Budget for each such Estate Professional (whether to be actually paid or to be accrued) through the date of the Carve-Out Trigger Notice (the amounts set forth in the foregoing clauses (i), (ii) and (iii), the “<u>Pre-Carve-Out Trigger Notice Amount</u>”), which amount shall be funded by the Debtors into a non-interest bearing account (the “<u>Professional Fee Account</u>”) on Wednesday of each week (or such other day of the week agreed to by the Debtors and the DIP Agent) for the next week’s fees and expenses set forth in the Approved Budget (the “<u>Weekly Carve-Out Funded Amount</u>”); and (iv) Allowed Professional Fees of the Estate Professionals incurred after the date of delivery by the DIP Agent (acting at the direction of the DIP Lender) of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, final order or other court order, in an aggregate amount not to exceed \$75,000 for the Debtors’ professionals and \$25,000 for professionals of the Creditors’ Committee (the amount set forth in this clause (iv) being the “<u>Post-Carve-Out Trigger Notice Cap</u>”). For the avoidance of doubt, (x) for the purposes of the Carve-Out, each of the Estate Professionals included in the Approved Budget shall have the aggregate budget allocated to such professional therein, and any fees and expenses incurred by an Estate Professional in excess of their allocated Carve-Out budget shall not be payable from the Carve-Out; and (y) the Carve-Out shall be reduced dollar-for-dollar by any payments of fees and expenses to such Estate Professional. Nothing herein shall limit the ability of any Estate Professional to seek payment of any allowed fees and expenses as an administrative expense in these Bankruptcy Cases. For purposes of this Interim Order, the “<u>Carve-Out Trigger Notice</u>” shall mean a written notice (which may be made via electronic mail or other electronic means) delivered by the DIP Agent (acting at the direction of DIP Lender) to the Debtors and their counsel, Morris, Nichols, Arsht & Tunnell LLP, stating that the Trigger Notice Cap has been invoked. The Carve-Out Trigger Notice may only be delivered following the occurrence and during the continuation of an event of default under the DIP Facility. Post-Carve-Out Trigger Notice: On the date on which a Carve-Out Trigger Notice is delivered in accordance with paragraph 4 of the Interim DIP Order (any such date, the “<u>Carve-Out Trigger Date</u>”), the Debtors shall utilize all available cash to fund a reserve in an amount equal to the Carve-Out (the “<u>Carve-Out Reserve</u>”). All funds in the Carve-Out Reserve shall be used first to pay the obligations set forth in clauses (a)(i)-(iv) in the above definition of “Carve-Out” until paid in full, and then as set forth in the DIP Loan Agreement. Notwithstanding anything to the contrary in this Interim Order or the DIP Documents, the failure of the Carve-Out Reserve to satisfy in full the fees of Estate Professionals shall not affect the priority of the Carve-Out.

Material Provision	Summary Description of Material Provision
	Payment of Carve-Out on or After the Carve-Out Trigger Date: Any payment or reimbursement made on or after the occurrence of the Carve-Out Trigger Date in respect of any Allowed Professional Fees incurred after the occurrence of the Carve-Out Trigger Date shall permanently reduce the Post-Carve-Out Trigger Notice Cap on a dollar-for-dollar basis. Priority of Carve-Out: Each of the DIP Liens, the ABL Liens, the Prepetition Term Loan Liens, the ABL Adequate Protection Liens, the Prepetition Term Loan Adequate Protection Liens, and the DIP Superpriority Claims (as defined below) shall be subject and subordinate to payment of the Carve-Out. The Carve-Out shall be senior to all claims and liens over all assets of the Debtors, including any DIP Collateral; <u>provided</u> that, upon the funding of the Weekly Carve-Out Funded Amount, the subordination of the liens of the Prepetition Secured Parties and the DIP Lender in respect of the Carve-Out amounts listed in subparagraph 4(a)(iii) shall be limited to the funds deposited into the Professional Fee Account for the Allowed Professional Fees covered by any such weekly Carve-Out Funded Amount(s). See Interim DIP Order, ¶ 4.
Indemnification Fed. R. Bankr. P. 4001(c)(1)(B)(ix)	The Prepetition Secured Parties and the DIP Secured Parties 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 Facility and the use of the Cash Collateral, including in respect of the granting of the DIP Liens and the Adequate Protection Liens, any challenges or objections to the DIP Facility or the use of Cash Collateral, the DIP Documents, and all other documents related to and all transactions contemplated by the foregoing. Accordingly, without limitation to any other right to indemnification, the Prepetition Secured Parties, and the DIP Secured Parties shall be and hereby are indemnified (as applicable) as provided in the Prepetition Loan Documents and DIP Documents, as applicable, including, without limitation, the “Indemnity” section of the DIP Loan Agreement, subject only to the Carve-Out. The Debtors agree that no exception or defense in contract, law, or equity exists as of the date of this Interim Order to any obligation set forth, as the case may be, in paragraph 20 of the Interim DIP Order or otherwise in the DIP Documents, or in the Prepetition Loan Documents to indemnify and/or hold harmless the DIP Secured Parties or any Prepetition Secured Party, as the case may be, and any such defenses that may be in existence as of the date of this Interim Order are hereby waived. See Interim DIP Order, ¶ 20.

Material Provision	Summary Description of Material Provision
Right to File Plan Fed. R. Bankr. P. 4001(c)(1)(B)(v)	The Milestones contemplate that no later than 45 days after the Petition Date, unless the Proposed DIP Lenders otherwise agree, the Debtors shall have filed the Chapter 11 Plan and disclosure statement, which shall be acceptable in form and substance to the Proposed DIP Lenders. <i>See DIP Term Sheet, “Milestones.”</i>

Modification of the Automatic Stay Fed. R. Bankr. P. 4001(c)(1)(B)(iv)	The Automatic Stay in the Chapter 11 Cases otherwise applicable to the DIP Agent, the DIP Secured Parties, the ABL Lender, and the Prepetition Term Loan Secured Parties is modified so that three (3) business days' after the Termination Date (the "<u>Remedies Notice Period</u>"): (A) the DIP Agent, on behalf of the DIP Secured Parties, subject to the Intercreditor Agreement (as defined herein), shall be entitled to exercise all of its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations, DIP Superpriority Claims, and DIP Liens, including but not limited to (subject to the funding of the Carve-Out Reserve in accordance with paragraph 4(c) of the Interim DIP Order and payment of all accrued but unpaid wages and benefits to the Debtors' employees) (1) freeze or sweep monies or balances in the Debtors' DIP Loan Account; (2) immediately set-off any and all amounts in accounts maintained by the Debtors with the DIP Secured Parties against the DIP Obligations; (3) enforce any and all rights against DIP Collateral, including, without limitation, foreclosure on all or any portion of the DIP Collateral; and (4) take any other actions or exercise any other rights or remedies permitted under this Interim Order, the DIP Documents or applicable law; (B) subject to the foregoing clause (A), the ABL Lender shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable ABL Documents and this Interim Order (subject to the terms of and any limitations contained in this Interim Order) to satisfy the ABL Obligations, the ABL 507(b) Claim, and the ABL Liens, including, but not limited to, freeze or sweep money balances and/or any and all amounts in accounts maintained by the Debtors with the ABL Lender, and take any and all other actions permitted by this Interim Order, the ABL Documents, or this Interim Order, <u>provided however</u> that the ABL Lender shall not without the written consent of the DIP Lender freeze, sweep, or otherwise obtain possession or restrict the use of funds constituting proceeds of the DIP Loans; (C) subject to the foregoing clauses (A) and (B), the Prepetition Term Loan Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Term Loan Documents and this Interim Order (subject to the terms of and any limitations contained in this Interim Order) to satisfy the Prepetition Term Loan Obligations, the Prepetition Term Loan 507(b) Claims, and the Prepetition Term Loan Liens, and take any and all other actions permitted by this Interim Order, the ABL Documents, or this Interim Order. Notwithstanding anything to the contrary herein, the disbursement, transfer and/or payment of funds or proceeds derived from the DIP Collateral, the ABL Priority Collateral and/or the Prepetition Term Loan Collateral (including Cash Collateral) shall be subject to the "Application of Payments" and "Priority of Payments" provisions of the DIP Loan Agreement governing the priority of payment between the DIP Lender, ABL Lender, and the Prepetition Term Loan Secured Parties. During the Remedies Notice Period, the Debtors or any other party in interest with standing shall be entitled to seek an emergency hearing with the Court to be held within the Remedies Notice Period for the purpose of determining whether an Event of Default has occurred or is continuing, and with respect to such other matters determined to be relevant by the Court. Unless the Court orders otherwise prior to the expiration of the Remedies Notice Period, the Automatic Stay, as to the
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Material Provision	Summary Description of Material Provision
	DIP Agent, the DIP Secured Parties, and Prepetition Secured Parties, shall automatically be terminated at the end of the Remedies Notice Period without further notice or order. Upon expiration of the Remedies Notice Period, absent order of the Court to the contrary, the DIP Agent, the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties shall be permitted to exercise all remedies set forth herein, and in the DIP Documents, and as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order. Notwithstanding the foregoing, if the Debtors request an emergency hearing during the Remedies Notice Period, but such hearing is scheduled for a later date by the Court (not requested by the Debtors), then the Remedies Notice Period shall be automatically extended to the date of such hearing. See Interim DIP Order, ¶ 7(e)(2). The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent, the ABL Lender, and the Prepetition Term Loan Secured Parties to take all actions, as applicable, referenced in paragraphs 15(a) and 15(b). See Interim DIP Order, ¶ 15. The Debtors, the DIP Secured Parties and the Prepetition Term Loan Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of the Interim DIP Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in the Chapter 11 Cases to take all actions as are necessary or appropriate to implement the terms of the Interim DIP Order. See Interim DIP Order, ¶ 33.

Material Provision	Summary Description of Material Provision
Secured Party's Expenses and Attorneys' Fees Local Rule 4001-2(a)(i)(K)	ABL Lender Fees and Expenses: The Debtors shall provide the ABL Lender cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses relating to the exercise of remedies in connection with the ABL Documents and incurred by primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the ABL Lender, and any other advisor retained by or on behalf of the ABL Lender (subject to all applicable limitations herein, the "<u>ABL Adequate Protection Fees and Expenses</u>"), up to an aggregate maximum amount of \$250,000.00, which includes an on-account balance of \$75,000.00 that was charged to the ABL Facility prior to the Petition Date (the "<u>ABL Adequate Protection Fees and Expenses Cap</u>") (and such counsel and advisors, the "<u>ABL Advisors</u>"), subject to the review procedures set forth in paragraph 17 of this Interim Order. Upon entry of this Interim Order, as provided in the Interim DIP Budget, the Debtors are authorized to use proceeds of the DIP Loans to pay the ABL Adequate Protection Fees and Expenses, including but not limited to, making payments to the ABL Advisors; provided that the ABL Adequate Protection Fees and Expenses Cap shall be of no force or effect and shall not limit the extent or amount of legal fees and expenses the ABL Lender shall be entitled to be paid by the Debtors in the event that the sale to the Stalking Horse Bidder or another winning bidder pursuant to the Stalking Horse Purchase Agreement fails to close. Prepetition Term Loan Secured Parties' Fees and Expenses. The Debtors shall provide the Prepetition Term Loan Secured Parties cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses relating to the exercise of remedies in connection with the Prepetition Term Loan Obligations and incurred by primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Term Loan Secured Parties, including without limitation, Whiteford, Taylor & Preston LLC, and any other advisor retained by or on behalf of the Prepetition Term Loan Secured Parties (the "<u>Prepetition Term Loan Adequate Protection Fees and Expenses</u>," and with the ABL Adequate Protection Fees and Expenses, the "<u>Adequate Protection Fees and Expenses</u>") (and such counsel and advisors, the "<u>Prepetition Term Loan Secured Parties Advisors</u>"), subject to the review procedures set forth in paragraph 17 of the Interim DIP Order. Upon entry of the Interim Order, as provided in the Interim DIP Budget, the Debtors are authorized to use proceeds of the DIP Loans to pay the Adequate Protection Fees and Expenses, including but not limited to making payments to the Prepetition Term Loan Secured Parties Advisors. See Interim DIP Order, ¶¶ 13(a)(iii), (b)(iii).

Material Provision	Summary Description of Material Provision
Challenge Period / Investigation of Prepetition Liens and Claims Local Rule 4001-2(a)(i)(L)	(A) the earlier of 75 calendar days after entry of the Interim DIP Order or (B) any such later date agreed to in writing by the applicable Prepetition Secured Party(ies) (the time period established by the foregoing clauses (A) and (B), the “ <u>Challenge Period</u> ”) See Interim DIP Order, ¶ 18(c)(i)
Releases Fed. R. Bankr. P. 4001(c)(1)(B)(viii)	Release: Subject to the entry of the Final DIP Order, each of the Debtors and (subject to paragraph 18 of the Interim DIP Order) the Debtors’ estates, on its and their own behalf and on behalf of its and their respective past, present and future predecessors, heirs, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the “ <u>Released Parties</u> ”), from any and all (a) obligations and liabilities to the Debtors (and their successors and assigns) and (b) claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action of any kind, nature or 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, upon contract or tort or under any state or federal law or otherwise, in each case arising out of or related to (as applicable) the Prepetition Loan Documents, the ABL Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the transactions and agreements reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their predecessors, successors or assigns at any time had or hereafter can or may have against any of the Released Parties. For the avoidance of doubt, nothing in this release shall relieve the Proposed DIP Lender or the Debtors of their DIP Obligations under the DIP Documents from and after the date of the Interim DIP Order. See Interim DIP Order, ¶ G(xii).

BASIS FOR RELIEF REQUESTED

I. The Debtors Should Be Authorized to Obtain Junior Secured, Super Priority DIP Financing.

22. As set forth above, the Debtors’ ability to maximize the value of their estates and successfully complete their going-concern sale process hinges upon them being able to access

postpetition financing. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit outside the ordinary course of business, and (c) obtaining credit with specialized priority or on a secured basis. Pursuant to section 364(c) of the Bankruptcy Code, if a debtor cannot obtain postpetition credit on an unsecured basis, a court may authorize such debtor to obtain credit or incur debt that is entitled to superpriority administrative expense status, secured by a senior lien on unencumbered property or secured by a junior lien on encumbered property. *See* 11 U.S.C. § 364(c).

A. The Debtors Have Exercised Their Sound Business Judgment in Entering into the DIP Facility.

23. After appropriate robust, good faith, and arm's-length negotiations, the Debtors concluded that the proposed DIP Facility is the best alternative available under the circumstances of these cases. Bankruptcy courts routinely defer to a debtor's business judgment on most business decisions, including the decision to borrow money, unless such decision is arbitrary and capricious. *See, e.g., In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility because such facility "reflect[ed] sound and prudent business judgment"); *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *In re Barbara K. Enters., Inc.*, Case No. 08-11474, 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest."); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] reasonable business judgment to be exercised so long as the financing agreement does

not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of postpetition financing requires, inter alia, an exercise of “sound and reasonable business judgment.”).

24. To determine whether the business judgment standard is met, the Court need only “examine whether a reasonable business person would make a similar decision under similar circumstances.” *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513-14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor’s business judgment when the decision involves a “business judgment made in good faith upon a reasonable basis, and within the scope of [the debtor’s] authority under the [Bankruptcy] Code”). Bankruptcy courts will not generally second-guess a debtor’s business decisions when those decisions involve “a business judgment made in good faith, upon a reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code.” *Curlew Valley Assocs.*, 14 B.R. at 513 (footnote omitted). To determine whether the business judgment test is met, “the court ‘is required to examine whether a reasonable business person would make a similar decision under similar circumstances.’” *In re Dura Auto. Sys. Inc.*, Case No. 06-11202 (KJC), 2007 Bankr. LEXIS 2764, at *272 (Bankr. D. Del. Aug. 15, 2007) (citation omitted). The Court should evaluate the soundness of a debtor’s business judgment, “in context, and considering the relative circumstances of the parties.” *Farmland Indus.*, 294 B.R. at 886 (“Viewed in isolation, several of the terms of the [postpetition financing] might appear to be extreme or even unreasonable. Certainly, many of them favor the Proposed DIP Lenders. But, taken in context, and considering the relative circumstances of the parties, the Court does not believe that the terms are unreasonable.”); *see also Unsecured Creditors’ Comm. Mobil Oil Corp. v. First Nat’l Bank &*

Trust Co. (In re Elingsen McLean Oil Co., Inc.), 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing that a debtor may have to enter into “hard bargains” to acquire funds for its reorganization).

25. Here, as described in the First Day Declaration, the Debtors’ determination to enter into the DIP Facility was a business decision guided by the Debtors’ financial needs to maximize value for the Debtors’ estates and maintain positive ordinary course relations with their employees and vendors. Specifically, the Debtors and their advisors determined that the Debtors would require additional liquidity to continue operating “business as usual” while they pursue a value-maximizing sale transaction. The additional certainty of having an achievable and near-term exit path from chapter 11 on the Petition Date strongly weighed in favor of the Debtors’ decision to enter into the DIP Facility.

26. The Debtors’ advisors went to market in an attempt to find a third-party lender who was willing to provide financing on more favorable terms. In this process, MACCO Financial Group, Inc. (“MACCO”), the Debtors’ proposed financial advisor, contacted a number of third party financial institutions in an effort to procure debtor-in-possession financing. However, the Debtors were unable to obtain any competing financing proposals on any terms. The Debtors ultimately selected the Proposed DIP Lenders proposal as the best and only option available under the circumstances.

27. Accordingly, the Debtors submit that entry into the DIP Facility is in the best interests of the Debtors’ stakeholders, is necessary to preserve the value of the estates’ assets and is an exercise of the Debtors’ sound and reasonable business judgment.

B. The DIP Loan Documents Are Appropriate Under Section 364.

28. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit out of the ordinary course of business and (c) obtaining credit with specialized priority or with security. If a debtor in possession cannot obtain postpetition credit on an unsecured basis, pursuant to Section 364(c) of the Bankruptcy Code, a court may authorize a debtor in possession to obtain credit or incur debt, repayment of which is entitled to superpriority administrative expense status or is secured by a senior lien on unencumbered property or a junior lien on encumbered property, or combination of the foregoing.

29. As a condition to entering into the DIP Facility and obtaining the needed liquidity, the Debtors must obtain authorization, pursuant to sections 364(c) of the Bankruptcy Code, to grant (a) the Proposed DIP Lenders automatically perfected security interests in and liens upon all of the DIP Collateral and (b) allowed superpriority administrative expense claims to the Proposed DIP Lenders.

30. The statutory requirement for obtaining postpetition credit under section 364(c) of the Bankruptcy Code is a finding, made after notice and hearing, that the debtor in possession is “unable to obtain unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense.” *See In re Garland Corp.*, 6 B.R. 456, 461 (B.A.P. 1st Cir. 1980) (secured credit under section 364(c)(2) is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (noting that “although a debtor is not required to seek credit from every possible source, a debtor must show that it has made a reasonable effort to seek other sources of credit available under section 364(a) & (b)”); *In re Crouse Group, Inc.*, 71

B.R. 544, 549 (Bankr. E.D. Pa. 1987) (debtor seeking secured credit under section 364(c) of the Bankruptcy Code must prove that it was unable to obtain unsecured credit pursuant to section 364(b) of the Bankruptcy Code).

C. The Debtors Were Unable to Obtain Necessary Postpetition Financing on an Unsecured Basis Under 11 U.S.C. § 364(a) or (b).

31. As set forth in the First Day Declaration, the Debtors could not have obtained a working capital facility of the type and magnitude required in these cases on an unsecured basis.

32. To show that the credit required is not obtainable on an unsecured basis, a debtor need only demonstrate “by good faith effort that credit was not available without” the protections of section 364(c) of the Bankruptcy Code. *Bray v. Shenandoah Fed. Sav. & Loan Ass’n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986). Thus, “[t]he statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” *Id.* at 1088; *see also Ames*, 115 B.R. at 40 (holding that debtor made a reasonable effort to secure financing where it approached four lending institutions, was rejected by two, and selected the least onerous financing option from the remaining two lenders). Moreover, where few lenders are likely to be able and willing to extend the necessary credit to the debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff’d sub nom. Anchor Savings Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989).

33. As stated above, the Debtors and their advisors contacted a number of potential financing sources and the Proposed DIP Lenders offered the only available financing under the circumstances. The Debtors believe, after rigorous arm’s-length negotiations with the

Proposed DIP Lenders, the DIP Facility reflects the most favorable terms on which the Debtors are currently able to obtain postpetition financing, and that the Debtors could not obtain financing without granting the liens in the priority described herein.

D. The Rates and Fees of the DIP Loan Documents Are Reasonable.

34. Under the DIP Loan Documents, the Debtors have agreed, subject to Court approval, to pay certain interest and fees to the Proposed DIP Lenders as more fully described herein. The collateral terms, covenants, interest rates, and fees under the DIP Loan Documents were subject to negotiation and required by the Proposed DIP Lenders and thus are an integral component of the overall terms of the DIP Facility. The Debtors considered the fees when determining, in their sound business judgment, whether the DIP Facility constituted the best terms on which the Debtors could obtain sufficient debtor in possession financing. Under the circumstances, the interest rates and fees reflected in the DIP Loan Documents are reasonable and substantially in line with other debtor in possession financings generally, including debtor in possession financings approved by courts in other comparable chapter 11 cases. Thus, the Debtors believe paying these fees in order to obtain the DIP Facility is in the best interests of the Debtors' estates.

II. The Debtors Request for Use of Cash Collateral and the Proposed Adequate Protection Is Appropriate.

35. Section 363(c) of the Bankruptcy Code governs a debtor's use of a secured creditor's Cash Collateral. Section 363(c) provides, in pertinent part, that: "The trustee may not use, sell, or lease cash collateral . . . unless—(A) each entity that has an interest in such cash collateral consents[.]"

36. During the interim period under the Interim DIP Order, the Debtors only intend to use cash collateral under the ABL Agreement with the consent of the ABL Lender. The

Debtors remain hopeful that they will reach an agreement with ABL Lender to cover certain budget items, and should such an agreement be reached, the Debtors' use of the ABL Lender's cash collateral will be consensual.

37. Out of an abundance of caution, should the Debtors and the ABL Lender fail to reach an agreement for the use of cash collateral under the ABL Agreement, the Debtors reserve all rights to petition the Court for authorization to use such cash collateral during the Final Hearing. Should the Debtors make a request for the non-consensual use of cash collateral, the Debtors will provide the ABL Lender with adequate protection in the form of superpriority administrative expense claims, and payment of reasonable fees and expenses, which (i) is fair and reasonable and (ii) adequately protects against the diminution in value of the ABL Lender's collateral under the ABL Agreement.

III. The Proposed DIP Lenders Should be Deemed Good Faith Lenders.

38. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. ¶ 364(e).

39. Here, the DIP Loan Documents embody the best terms on which the Debtors could currently obtain DIP financing under the circumstances. All negotiations regarding the

provisions of the DIP Facility were conducted in good faith and on an arm's-length basis. The terms and conditions of the DIP Facility are reasonable. Further, no consideration is being provided to any party to the DIP Facility other than as disclosed herein. Accordingly, the Court should find that the Proposed DIP Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code and are entitled to all of the protections afforded by that section.

IV. The Scope of the Carve-Out Is Necessary and Appropriate.

40. Without the Carve-Out (as defined in the Interim DIP Order), the Debtors and other parties-in-interest may be deprived of certain rights and powers because the services for which professionals may be paid in these chapter 11 cases would be restricted. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (observing that courts insist on carveouts for professionals representing parties-in-interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve-Out does not directly or indirectly deprive the Debtors' estates or other parties-in-interest of possible rights and powers. Additionally, the Carve-Out ensures that assets will be available for the Office of the United States Trustee for the District of Delaware, and professional fees of the Debtors and an unsecured creditors committee, if one is appointed. Accordingly, the Carve-Out is necessary and appropriate, and should be approved.

V. The Proposed Roll-Up Loan Should Be Approved.

41. Section 363(b) of the Bankruptcy Code permits a debtor to use, sell, or lease property, other than in the ordinary course of business, with court approval. Third Circuit law is well-settled that such transactions should be approved when they are supported by a sound business purpose. *See In re Abbots Dairies, Inc.*, 788 F.2d 143 (3d Cir. 1986). The business

judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986).

42. Here, the Roll Up is required by the Proposed DIP Lenders as a condition to their commitment to provide post-petition financing and integral to the economic terms of the DIP Facility. As discussed in the First Day Declaration, the Proposed DIP Lenders made it evident in their negotiations with the Debtors that the inclusion of the Roll Up was a required part of any DIP Facility. Given the thorough and arm's-length negotiations with the Proposed DIP Lenders, as well as the assessment of the Debtors and MACCO that they were unlikely to find better currently available alternatives given the circumstances, agreeing to the Roll Up was a reasonable exercise of the Debtors' business judgment.

43. Courts in this jurisdiction have approved similar features in debtor in possession financing packages, including on an interim basis. *See, e.g., In re PGX Holdings, Inc.*, Case No. 23-10718 (CTG) (Bankr. D. Del. Jul. 31, 2023) (authorizing an approximately \$63 million DIP Facility, including an approximately \$43 million roll-up); *In re SiO2 Medical Prods., Inc.*, Case No. 23-10366 (JTD) (Bankr. D. Del. Apr. 26, 2023) (authorizing an approximately \$120 million DIP facility, including a \$60 million roll-up of the prepetition term loan); *In re OSG Grp. Holdings, Inc.*, Case No. 22-10718 (JTD) (Bankr. D. Del. Aug. 9, 2022) (authorizing an approximately \$25 million DIP and a \$10.7 million roll-up); *In re Phoenix Servs. Topco LLC*, Case No. 22-10906 (MFW) (Bankr. D. Del. Sept. 29, 2022) (authorizing \$25 million in new money on an interim basis with an additional \$25 million funding into escrow on an interim basis available for draw and a roll-up of approximately \$75 million pursuant to interim order); *In re TPC Grp. Inc.*, Case No. 22-10493 (CTG) (Bankr. D. Del. June 3, 2022) (authorizing \$32 million in new money and a roll-up of \$59 million pursuant to interim order); *In re Nine Point Energy Holdings*,

Inc., Case No. 21-10570 (MFW) (Bankr. D. Del. March 17, 2021) (authorizing \$13 million in new money and a roll-up of \$39 million pursuant to interim order); *In re Libbey Glass Inc.*, Case No. 20-11439 (LSS) (Bankr. D. Del. June 3, 2020) (authorizing \$30 million in new money and a roll-up of \$30 million pursuant to interim order); *In re Orexigen Therapeutics, Inc.*, Case No. 18-10518 (KG) (Bankr. D. Del. March 13, 2018) (authorizing \$7.5 million new money and a roll-up of \$7.5 pursuant to interim order); *In re Remington Outdoor Co., Inc.*, Case No. 18-10684 (BLS) (Bankr. D. Del. Mar. 28, 2018) (authorizing approximately \$338 million DIP and a roll-up of approximately \$150 million pursuant to interim order); *In re Bon-Ton Stores, Inc.*, Case No. 18-10248 (MFW) (Bankr. D. Del. Feb. 6, 2018) (authorizing full roll-up of all \$489 million outstanding prepetition revolving obligations pursuant to interim order); *In re Real Indus. Inc.*, Case No. 17-12464 (KJC) (Bankr. D. Del. Nov. 20, 2017) (authorizing approximately \$365 million DIP that included a creeping roll-up pursuant to interim order and a full roll-up pursuant to final order of approximately \$266 million prepetition debt).

44. Accordingly, the Court should approve the Roll Up of the Prepetition Term Loan Agreement.

VI. Modification of the Automatic Stay.

45. By this Motion, the Debtors are requesting modification of the automatic stay with respect to the Proposed DIP Lenders as necessary to effectuate the provisions of the Interim DIP Order. The Debtors believe that these provisions are required for the Debtors to obtain the DIP Facility and use Cash Collateral as provided in the Interim DIP Order.

46. Stay modification provisions of this kind are ordinary and standard terms of postpetition use of collateral by debtors-in-possession, and, in the Debtors' business judgment, are reasonable and necessary under the present circumstances. *See, e.g., In re Royal Interco, LLC*,

No. 25-10674 (TMH) (Bankr. D. Del. May 5, 2025); *In re SiO2 Medical Prods., Inc.*, No. 23-10366 (JTD) (Bankr. D. Del. Apr. 26, 2023) (modifying automatic stay as necessary to effectuate the terms of the order and following occurrence of an event of default); *In re Carestream Health, Inc.*, No. 22-10778 (JKS) (Bankr. D. Del. Aug. 24, 2022); *In re Enjoy Tech., Inc.*, Case No. 22-10580 (JKS) (Bankr. D. Del. July 26, 2022) (terminating automatic stay after occurrence of event of default and applicable notice); *In re Stimwave Techs. Inc.*, Case No. 22-10541 (KBO) (Bankr. D. Del. July 14, 2022) (same); *In re MD Helicopters Inc.*, Case No. 22-10263 (KBO) (Bankr. D. Del. Apr. 26, 2022) (same); *In re Salem Harbor Power Dev. LP (f/k/a Footprint Power Salem Harbor Dev. LP)*, Case No. 22-10239 (MFW) (Bankr. D. Del. Apr. 22, 2022) (same).

47. Accordingly, the Debtors respectfully request that the Court authorize the modification of the automatic stay in accordance with the terms set forth in the Interim DIP Order.

VII. The Milestones Under the DIP Facility Are Reasonable.

48. The DIP Facility contemplates, as a product of negotiation with and as required by the Proposed DIP Lenders as a condition to providing the DIP Facility, the Debtors must meet certain Milestones throughout these chapter 11 cases, the failure of which would constitute an Event of Default. These Milestones were required by the Proposed DIP Lenders as a condition to providing the DIP Facility.

49. The DIP Facility, including the Milestones, serves as an important component of these chapter 11 cases because it will provide the Debtors with the stability and certainty they need to operate in the ordinary course of business while consummating the proposed sale, subject to identifying higher or better offers. The continued and viable operation of the Debtors' business would not be possible absent access to the DIP Facility. The DIP Facility, and the Debtors' ability to achieve the Milestones contemplated therein, will prevent interruptions to

the Debtors' operations, preserve the Debtors' ability to maintain ordinary course relationships with, among other parties in interest, employees, customers, and vendors, satisfy working capital needs in the ordinary course, and enable the Debtors to facilitate the proposed sale of all or substantially all of their assets to maximize the value of their estates.

VIII. Interim Approval of the DIP Facility.

50. Bankruptcy Rule 4001(b) and (c) provide that a final hearing on a motion to use cash collateral pursuant to Bankruptcy Code section 363 or to obtain credit under Bankruptcy Code section 364 be commenced no earlier than 14 days after the service of such motion. Upon request, however, a court is empowered to conduct a preliminary expedited hearing on the motion and to authorize the use of cash collateral and the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate.

51. As described in the First Day Declaration, denial of immediate use of Cash Collateral and access to the DIP Facility will cause immediate and irreparable harm to the value of the Debtors estates to the detriment of their creditors and other stakeholders. *See* First Day Decl. ¶ 38.

52. Accordingly, the Debtors respectfully request that the Court conduct an expedited hearing on the Motion and authorize the Debtors from the entry of the Interim DIP Order until the Final Hearing to use Cash Collateral and obtain credit under the terms of the DIP Loan Documents.

IX. Request for a Final Hearing.

53. Pursuant to Bankruptcy Rules 4001(b)(2), the Debtors request that the Court set a date for the Final Hearing that is no later than eighteen (18) days after the entry of the Interim DIP Order and fix the date and time prior to the Final Hearing for parties to file objections to the

relief requested by this Motion. The Debtors also request authority to serve a copy of the signed Interim DIP Order, which fixes the time and date for the filing of objections, if any, to entry of the Final DIP Order, by first class mail upon the notice parties listed below, and further requests that the Court deem service thereof sufficient notice of the hearing on the Final DIP Order under Bankruptcy Rule 4001(c)(2).

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

54. Bankruptcy Rule 6003 empowers the Court to issue an order, within 21 days after the Petition Date, granting a motion to “use . . . property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition” if such requested relief is “needed to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003(a)(2). The Third Circuit has interpreted the language “immediate and irreparable harm” in the context of preliminary injunctions. In that context, the court has instructed that irreparable harm is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation. *See e.g., Norfolk S. Ry. Co. v. City of Pittsburgh*, 235 Fed. App’x 907, 910 (3d Cir. 2007) (citing *Glasco Hills*, 558 F.2d 179, 181 (3d Cir. 1977)). Furthermore, the harm must be shown to be actual and imminent, not speculative or unsubstantiated. *See, e.g., Acierno v. New Castle Cnty.*, 40 F.3d 645, 653-55 (3d Cir. 1994). For the reasons discussed above, immediate and irreparable harm would result if the relief requested herein were not granted. Accordingly, the Debtors submit that it has satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

WAIVER OF BANKRUPTCY RULE 6004(h)

55. The Debtors request a waiver of any stay of the order granting the relief requested herein pursuant to Bankruptcy Rules 4001(a)(3) and 6004(h). As explained above and in the Ragano Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the 14-day stay imposed by Bankruptcy Rules 4001(a)(3) and 6004(h), to the extent such stay applies.

NOTICE

56. Notice of this Motion will be provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the Internal Revenue Service; (c) the parties included on the Debtors' consolidated list of their 30 largest unsecured creditors; (d) counsel to the Proposed DIP Lenders; (e) counsel to the ABL Lender (f) the Delaware Secretary of State; (g) the Delaware Secretary of the Treasury; (h) all parties known to hold or assert liens against the Debtors' assets; and (i) all parties requesting notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

WHEREFORE, the Debtors request entry of the Interim DIP Order and Final DIP Order, granting the relief requested herein and such other and further relief as is just and proper.

Dated: August 28, 2025
Wilmington, Delaware

Respectfully submitted,

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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*Proposed Counsel to the Debtors and
Debtors in Possession*

Exhibit A

Interim DIP Order

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

In re:

WALKER EDISON HOLDCO LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-11602 (TMH)

(Joint Administration Requested)

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN
POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II)
GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY
ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE
PROTECTION, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING
A FINAL HEARING AND (VI) GRANTING RELATED RELIEF**

Upon the motion (the “**DIP Motion**”)² of Walker Edison Furniture Company, LLC and its debtor affiliates, as debtors and debtors in possession (together, the “**Debtors**” and each a “**Debtor**”) in the above-captioned cases (the “**Chapter 11 Cases**”), 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.* (the “**Bankruptcy Code**”), Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2002-1(b), 4001-2, 9006-1, and 9013 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), seeking entry of this interim order (this “**Interim Order**”) among other things:

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal EIN, are as follows: Walker Edison Holdco LLC (8817); Walker Edison Intermediate, LLC (3363); Walker Edison Furniture Company LLC (6576); and EW Furniture, LLC (6288). The Debtors’ mailing address is 1553 W 9000 S West Jordan, UT 84088.

² Capitalized terms used but not defined herein are given the meanings ascribed thereto in the DIP Loan Agreement (as defined herein) or the DIP Motion, as applicable.

- (a) authorizing Walker Edison Furniture Company, LLC (the “**DIP Borrower**”) to obtain postpetition financing (“**DIP Financing**”) pursuant to a junior secured superpriority debtor in possession term loan facility (the “**DIP Facility**”) subject to the terms and conditions set forth in that certain term sheet attached hereto as **Exhibit 1** (as amended, restated, supplemented, or otherwise modified from time to time, the “**DIP Loan Agreement**”), by and among the DIP Borrower, the DIP Guarantors (as defined below), the DIP Lender (defined below) and Blue Owl Capital Corporation, as administrative agent (the “**DIP Agent**” and, collectively with the DIP Lender, the “**DIP Secured Parties**”), in an aggregate principal amount not to exceed \$13,000,000.00 (the commitments in respect thereof, the “**DIP Commitments**”), consisting of (i) a \$6,000,000.00 new money term loan tranche (the “**New Money DIP Loan Commitments**” and the term loans thereunder, the “**New Money DIP Loans**”), of which \$4,000,000.00 shall be available upon entry of this Interim Order approving the DIP Facility on an interim basis and \$2,000,000.00 will be in the form of a delayed draw term loan facility, which shall be available to be drawn after the entry of the order approving the DIP Facility on a final basis (the “**Final Order**,” and together with the Interim Order, the “**DIP Orders**”) subject to the satisfaction of conditions precedent, (ii) a \$7,000,000.00 new money term loan tranche (the “**Litigation DIP Loan Commitments**” and the term loans thereunder, the “**Litigation DIP Loans**”), of which \$1,500,000.00 shall be available upon entry of this Interim Order approving the DIP Facility on an interim basis and \$5,500,000.00 will be in the form of a delayed draw term loan facility, which shall be available to be drawn after the entry of the Final Order, to support the Debtors’ litigation expenses incurred in connection with the cases of *Blue Owl Capital Corporation v. Brad Bonham, et al.* (Case No. 240903251) and *Walker Edison Furniture Company v. Brad Bonham, et al.* (Case No. 230902160)³ each pending in the Third Judicial District, Salt Lake County District Court, Utah (together, the “**Utah Litigation**”), and (iii) upon entry of the Interim Order a deemed term loan “roll up” of the Prepetition Term Loans (as defined below) held by the DIP Lender (or their affiliates) on a one-to-one basis relative to the New Money DIP Loan Commitments and the Litigation DIP Loan Commitments advanced under the Interim Order (the “**Interim Roll-Up**”), to be deemed incurred as of the date of entry of the Interim Order and (iv) upon entry of the Final Order a deemed term loan “roll up” (the “**Final Roll-Up**”) of those loans outstanding under the DIP Borrower’s prepetition credit agreement (collectively, the “**Prepetition Term Loans**”) held by the Prepetition Term Loan Lenders (defined below) on an aggregate three-to-one basis (inclusive of the Interim Roll-Up) relative to the New Money DIP Loan Commitments (the “**New Money Roll-Up**”) and the Litigation DIP Loan Commitments (the “**Litigation Roll-Up**,” and the aggregate amount of the New Money Roll-Up and Litigation Roll-Up, the “**Roll-Up Amount**”), to be deemed incurred as of the date of entry of the Final Order (the Interim Roll-Up and the Final Roll-Up together the “**Roll-Up Loans**”; and the Roll-Up Loans together with the New Money DIP Loans and the Litigation DIP Loans, the “**DIP Loans**”); which DIP Facility and DIP Liens (as defined herein) on the Collateral (as defined

³ To the extent that any claims asserted in Case No. 240903251 are property of the Debtors’ bankruptcy estates.

in the DIP Loan Agreement) to secure the DIP Obligations (as defined herein) shall be junior and subordinate to the liens and replacement liens (the “**ABL Liens**”) granted under or in connection with the ABL Facility by and among the ABL Obligors and the ABL Lender (each term as defined herein), but rank senior to all other obligations of the Company; for the avoidance of doubt, the ABL Liens shall not extend to or include the Utah Litigation or any proceeds thereof, the Stalking Horse Deposit (defined below), or the Stalking Horse Claims (defined below);

- (b) authorizing all term loan lenders under the DIP Borrower’s *Amended and Restated Loan Agreement* dated as of March 1, 2023 (the “**Prepetition Term Loan Lenders**”) to be given the opportunity to (i) fund their pro rata share of the New Money DIP Loan Commitments, (ii) fund their pro rata share of the Litigation DIP Loan Commitments, (iii) upon entry of the Interim Order, participate in the Interim Roll-Up of such Prepetition Term Loan Lender’s outstanding Prepetition Term Loans on a one-to-one basis relative to the DIP Commitments funded by such Prepetition Term Loan Lender (*i.e.*, \$1.00 of Prepetition Term Loans for every \$1.00 of DIP Commitments provided by such Prepetition Term Loan Lender), and (iv) upon entry of the Final Order, participate in the Final Roll-Up of such Prepetition Term Loan Lender’s outstanding Prepetition Term Loans on an aggregate three-to-one basis (inclusive of the Interim Roll-Up) relative to the DIP Commitments funded by such Prepetition Term Loan Lender (*i.e.*, \$3.00 of Prepetition Term Loans for every \$1.00 of DIP Commitments provided by such Prepetition Term Loan Lender) (the opportunity to fund the DIP Commitments, the “**Roll-Up Opportunity**”); *provided, however*, that a Prepetition Term Loan Lender may only participate in the Roll-Up Opportunity if such Prepetition Term Loan Lender provides its pro rata share of the New Money DIP Loan Commitments and Litigation DIP Loan Commitments (all such participating Prepetition Term Loan Lenders shall be referred to herein, collectively, as the “**DIP Lender**”);
- (c) authorizing Walker Edison Holdco, LLC, Walker Edison Intermediate, LLC, and EW Furniture, LLC (the “**DIP Guarantors**”) to jointly and severally guarantee the DIP Loans and the other DIP Obligations (as defined below);
- (d) authorizing the Debtors to execute, deliver and perform under the DIP Loan Agreement and all other loan documentation related to the DIP Facility, including, without limitation, as applicable, security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, and such other documents that may be reasonably requested by the DIP Agent and the DIP Lender, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Loan Agreement and any other loan documents, the “**DIP Documents**”);
- (e) authorizing the Debtors to incur loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation,

commitment fees and any other fees payable pursuant to the DIP Documents), costs, expenses and other liabilities, and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable under the DIP Documents (collectively, the “**DIP Obligations**”), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

- (f) subject to the Carve-Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtors, which shall be payable from, among other sources, the proceeds of the Utah Litigation and, upon entry of the Final Order, from Avoidance Action Proceeds (as defined herein);
- (g) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code on all prepetition and postpetition property of the Debtors’ estates and all proceeds thereof as set forth in this Interim Order, including, the Utah Litigation and all claims and causes of action asserted therein and, upon entry of the Final Order, any Avoidance Action Proceeds, in each case subject to (1) the Carve-Out, and (2) the ABL Lender’s liens and replacement liens on the ABL Priority Collateral (defined below);
- (h) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected priming liens pursuant to section 364(d)(1) of the Bankruptcy Code on the Prepetition Term Loan Collateral (as defined herein), which priming liens shall only prime the Prepetition Term Loan Liens (as defined herein);
- (i) authorizing the DIP Agent, acting at the direction of the DIP Lender and the Prepetition Term Loan Secured Parties (as defined herein), to take all commercially reasonable actions to implement and effectuate the terms of this Interim Order;
- (j) authorizing the Debtors to waive, subject to entry of the Final Order granting such relief, (i) their right to surcharge the Prepetition Term Loan Collateral (as defined herein), ABL Priority Collateral (as defined herein), the DIP Collateral (as defined herein) pursuant to section 506(c) of the Bankruptcy Code and (ii) any “equities of the case” exception under section 552(b) of the Bankruptcy Code;
- (k) subject to entry of the Final Order granting such relief, waiving the equitable doctrine of “marshaling” and other similar doctrines (i) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties, (ii) with respect to any of the Prepetition Term Loan Collateral for the benefit of any party other than the Prepetition Term Loan Secured Parties, and (iii) with respect to the ABL Priority Collateral, for the benefit of any party other than the ABL Lender;

- (l) authorizing the Debtors to use proceeds of the DIP Facility and the Cash Collateral (as defined herein) solely in accordance with this Interim Order and/or the DIP Documents (for the avoidance of doubt, no proceeds of the DIP Facility or Cash Collateral shall be used to pay administrative expense claims under Section 503(b)(9) of the Bankruptcy Code);
- (m) authorizing the Debtors to pay (i) the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents, and (ii) the principal, interest, fees, expenses and other amounts payable under the ABL Documents as such become earned, due and payable to the extent provided in, and in accordance with this Interim Order;
- (n) subject to the restrictions set forth in the DIP Documents and this Interim Order, authorizing the Debtors to use ABL Priority Collateral (as defined herein) and the Prepetition Term Loan Collateral, including Cash Collateral (each term as defined herein), and provide adequate protection to the Prepetition Secured Parties (as defined herein) for any diminution in value of their respective interests in the applicable ABL Priority Collateral and Prepetition Term Loan Collateral, including, without limitation, any diminution in value resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the “**Automatic Stay**”), the Debtors’ use, sale, or lease of the ABL Priority Collateral and Prepetition Term Loan Collateral, and the priming of their interests in the ABL Priority Collateral and Prepetition Term Loan Collateral;
- (o) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the Debtors and their affiliates, the DIP Secured Parties, and the Prepetition Secured Parties to implement and effectuate the terms and provisions of this Interim Order, the DIP Documents and, upon entry, the Final Order and to deliver any notices of termination described below and as further set forth herein;
- (p) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order and, upon entry, the Final Order; and
- (q) scheduling a final hearing (the “**Final Hearing**”) to consider final approval of the DIP Facility and use of Cash Collateral pursuant to the “**Final Order**,” as set forth in the DIP Motion and the DIP Documents filed with this Court.

The Court having considered the interim relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Nate Brown in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “**First Day Declaration**”), the available DIP Documents, and the evidence

submitted and arguments made at the interim hearing held on [•] (the “**Interim Hearing**”); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, otherwise is fair and reasonable and in the best interests of the Debtors and their estates, and is essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ assets; and it appearing that the Debtors’ entry into the DIP Documents is a sound and prudent exercise of the Debtors’ business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

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

A. *Petition Date.* On August 28, 2025 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “**Court**”). On August [•], 2025, this Court entered an order approving the joint administration of the Chapter 11 Cases.

B. *Debtors in Possession.* The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

C. Jurisdiction and Venue. This Court has core jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334 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 DIP Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Committee Formation. As of the date hereof, the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) has not appointed an official committee of unsecured creditors in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (a “**Creditors’ Committee**”).

E. Notice. The Interim Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Notice of the Interim Hearing and the DIP Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice of the Interim Hearing was required.

F. Cash Collateral. As used herein, the term “**Cash Collateral**” shall mean all of the Debtors’ cash, wherever located and held, including cash in deposit accounts, that constitutes or will constitute “cash collateral” of the Prepetition Term Loan Secured Parties, the DIP Secured Parties, and/or the ABL Lender within the meaning of section 363(a) of the Bankruptcy Code. The term “**DIP Loan Proceeds**” as used herein shall mean all cash borrowed under and funds advanced pursuant to the DIP Facility, which monies (i) shall and hereby constitute or will constitute “cash collateral” of the DIP Secured Parties within the meaning of section 363(a) of the Bankruptcy

Code, (ii) shall be held in a segregated debtor in possession deposit account designated as the “**DIP Loan Account**,” and (iii) shall not otherwise be co-mingled with any other cash of the Debtors.

G. *Debtors’ Stipulations.* Subject only to the provisions contained in paragraph 18 hereof, and after consultation with their attorneys and financial advisors, the Debtors admit, and after entry of the Final Order, stipulate and agree that:

(i) *Prepetition Term Loans.* Pursuant to that certain *Amended and Restated Loan Agreement* dated as of March 1, 2023, as amended by that certain *Amendment No. 1*, dated as of March 14, 2023, *Amendment No. 2*, dated as of December 18, 2023, *Amendment No. 3*, dated as of December 4, 2024, *Amendment No. 4*, dated as a of March 26, 2025, 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 from time to time prior to the Petition Date (collectively, the “**Prepetition Term Loan Documents**,” and the loans issued pursuant thereto, the “**Prepetition Term Loans**” and the obligations thereunder, the “**Prepetition Term Loan Obligations**”), by and among (1) Walker Edison Furniture Company LLC as borrower (the “**Prepetition Term Loan Borrower**”), (2) Walker Edison Intermediate, LLC and EW Furniture, LLC as guarantors (each, a “**Prepetition Term Loan Guarantor(s)**” and together with the Prepetition Term Loan Borrower, the “**Prepetition Term Loan Obligors**”), (3) Prepetition Term Loan Lenders, and (4) Blue Owl Capital Corporation (f/k/a Owl Rock Capital Corporation), as administrative agent (in such capacity, the “**Prepetition Term Loan Agent**,” together with the Prepetition Term Loan Lenders, the “**Prepetition Term Loan Secured Parties**”), the Prepetition Term Loan Secured Parties extended the Prepetition Term Loans to and for the benefit of the Prepetition Term Loan Obligors.

(ii) Prepetition Term Loan Obligations. The Prepetition Term Loan Obligors are justly and lawfully indebted and liable to the Prepetition Term Loan Secured Parties without defense, challenge, objection, claim, counterclaim, or offset of any kind, in the aggregate principal amount as of the Petition Date of not less than \$214,097,528.56 under the Prepetition Term Loans, which loans were issued pursuant to, and in accordance with the Prepetition Term Loan Documents, plus accrued and unpaid interest thereon, premiums, reimbursement obligations (contingent or otherwise), fees, costs, expenses (including any attorneys', accountants', appraisers', and financial advisors' fees and expenses), charges, indemnities, and any other amounts, liabilities, or obligations of whatever nature, whenever arising or accruing (whether before or after the Petition Date), that may be due, owing, or chargeable in connection therewith, in each case, as and to the extent provided in the Prepetition Term Loan Documents.

(iii) Prepetition Term Loan Liens. As more fully set forth in the Prepetition Term Loan Documents, prior to the Petition Date, to secure the Prepetition Term Loan Obligations, the Prepetition Term Loan Obligors granted to the Prepetition Term Loan Agent for the benefit of the Prepetition Term Loan Secured Parties, valid, binding, non-avoidable, properly perfected and enforceable continuing liens on and security interests in (collectively, the “**Prepetition Term Loan Liens**”) the “Collateral” as defined in the Intercreditor Agreement (as defined herein) (collectively, the “**Prepetition Term Loan Collateral**”), which Prepetition Term Loan Liens are junior to the ABL Liens held by the ABL Lender, but rank senior to all other obligations of the Prepetition Term Loan Obligors and liens against the Prepetition Term Loan Collateral.

(iv) Validity, Perfection and Priority of Prepetition Term Loan Liens. The Debtors acknowledge and agree that as of the Petition Date (a) the Prepetition Term Loan Liens on the Prepetition Term Loan Collateral were and are valid, binding, enforceable, non-avoidable

and properly perfected and were granted to, or for the benefit of, the Prepetition Term Loan Secured Parties for fair consideration and reasonably equivalent value; (b) the Prepetition Term Loan Liens were and are senior in priority over any and all other liens on the Prepetition Term Loan Collateral, subject only to the ABL Liens, certain liens senior by operation of law, and liens in existence immediately prior to the Petition Date capable of being perfected under section 546(b) of the Bankruptcy Code, solely to the extent any such liens are valid, properly perfected, non-avoidable and senior in priority to the Prepetition Term Loan Liens and permitted under the Prepetition Term Loan Documents as of the Petition Date (the “**Term Loan Permitted Prior Liens**”); (c) the Prepetition Term Loan Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Term Loan Obligors enforceable in accordance with the applicable Prepetition Term Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations exist, and no portion of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations are subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action and/or choses in action, including, without limitation, “lender liability” causes of action, avoidance claims under Chapter 5 of the Bankruptcy Code (or any state law equivalent) whether arising under applicable state law or federal law (including, without limitation, any recharacterization, subordination, avoidance, disgorgement, recovery or other claims arising under or pursuant to sections 105, 510, or 542 through 552 of the Bankruptcy Code), against any of the Prepetition Term Loan Secured Parties or their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out

of, based upon or related to the Prepetition Term Loans, Prepetition Term Loan Liens or the Prepetition Term Loan Obligations; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Term Loan or the Prepetition Term Loan Obligations, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the Prepetition Term Loan Liens securing the Prepetition Term Loans.

(v) ABL Loans. Pursuant to that certain ABL Credit Agreement (the “**ABL Facility**”) dated as of September 26, 2018, (as amended, supplemented or otherwise modified from time to time, and together with any other agreements and documents executed or delivered in connection therewith, the “**ABL Documents**,” and together with the Prepetition Term Loan Documents, the “**Prepetition Loan Documents**” and the revolving loans issued pursuant thereto, the “**ABL Loans**,” together with the Prepetition Term Loans, the “**Prepetition Loans**,” and the obligations thereunder, the “**ABL Obligations**,” and together with the Prepetition Term Loan Obligations, the “**Prepetition Obligations**”), by and among (i) Debtors Walker Edison Furniture Company LLC, EW Furniture, LLC, and Walker Edison Intermediate, LLC (together, the “**ABL Obligors**”), and (ii) and Wells Fargo Bank, National Association (the “**ABL Lender**,” and together with the Prepetition Term Loan Secured Parties, the “**Prepetition Secured Parties**”), the ABL Lender extended the ABL Loans to and for the benefit of the ABL Obligors.

(vi) ABL Obligations. The ABL Obligors are justly and lawfully indebted and liable to the ABL Lender without defense, challenge, objection, claim, counterclaim, or offset of any kind, in the aggregate principal amount as of the Petition Date of not less than \$10,074,686.28 under the ABL Loans, which loans were issued pursuant to, and in accordance with the ABL Documents, plus accrued and unpaid interest thereon, premiums, reimbursement obligations (contingent or otherwise), fees, costs, expenses (including any attorneys', accountants',

appraisers', and financial advisors' fees and expenses), charges, indemnities, and any other amounts, liabilities, or obligations of whatever nature, whenever arising or accruing (whether before or after the Petition Date), that may be due, owing, or chargeable in connection therewith, in each case, as and to the extent provided in the ABL Documents.

(vii) *Prepetition ABL Liens.* As more fully set forth in the ABL Documents, prior to the Petition Date, to secure the ABL Obligations, the ABL Obligors granted to the ABL Lender valid, binding, non-avoidable, properly perfected and enforceable first priority lien on and security interests in (collectively, the “**Prepetition ABL Liens**,” and together with the Prepetition Term Loan Liens, the “**Prepetition Liens**”) all assets acquired prior to or after the petition date that are described under the definition of “Collateral” in that certain Intercreditor Agreement (as defined herein) (collectively, the “**ABL Priority Collateral**”), which Prepetition ABL Liens are senior to the Prepetition Term Loan Liens by the Prepetition Term Loan Secured Parties, and senior to all other obligations of the ABL Obligors and liens against the ABL Priority Collateral.

(viii) *Validity, Perfection and Priority of Prepetition ABL Liens.* The Debtors acknowledge and agree that as of the Petition Date (a) the Prepetition ABL Liens on the ABL Priority Collateral were and are valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the ABL Lender for fair consideration and reasonably equivalent value; (b) the Prepetition ABL Liens were and are senior in priority over any and all other liens on the ABL Priority Collateral, subject only to the Prepetition ABL Liens, certain liens senior by operation of law, and liens in existence immediately prior to the Petition Date capable of being perfected under section 546(b) of the Bankruptcy Code, solely to the extent any such liens are valid, properly perfected, non-avoidable and senior in priority to the Prepetition ABL Liens and permitted under the ABL Documents as of the Petition Date (the “**ABL Permitted Prior**”

Liens,” and together with the Term Loan Permitted Prior Liens, the “**Prepetition Permitted Prior Liens**”); (c) the ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the ABL Obligors enforceable in accordance with the applicable ABL Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition ABL Liens or ABL Obligations exist, and no portion of the Prepetition ABL Liens or ABL Obligations are subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action and/or choses in action, including, without limitation, “lender liability” causes of action, avoidance claims under Chapter 5 of the Bankruptcy Code (or any state law equivalent) whether arising under applicable state law or federal law (including, without limitation, any recharacterization, subordination, avoidance, disgorgement, recovery or other claims arising under or pursuant to sections 105, 510, or 542 through 552 of the Bankruptcy Code), against the ABL Lender or its respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Term Loans, Prepetition ABL Liens or the ABL Obligations; and (f) the Debtors waive, discharge, and release any right to challenge any of the ABL Loan or the ABL Obligations, the priority of the Debtors’ obligations thereunder, and the validity, extent, and priority of the Prepetition ABL Liens securing the ABL Loans.

(ix) Default by the Debtors. The Debtors acknowledge and stipulate that they have been and are in default of their obligations under the Prepetition Loan Documents, including as a result of commencing the Chapter 11 Cases, and that certain “Events of Default” (as defined in the Prepetition Term Loan Documents) have occurred thereunder.

(x) No Control. None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Prepetition Term Loan Documents.

(xi) No Claims or Causes of Action. No claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition Secured Parties (in their capacity as such) under or with respect to any agreements by and among the Debtors and any Prepetition Secured Parties that are in existence as of the Petition Date.

(xii) Release. Subject to the entry of the Final Order, each of the Debtors and (subject to paragraph 18) the Debtors' estates, on its and their own behalf and on behalf of its and their respective past, present and future predecessors, heirs, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the "**Released Parties**"), from any and all (a) obligations and liabilities to the Debtors (and their successors and assigns) and (b) claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action of any kind, nature or 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, upon contract or tort or under any state or federal law or otherwise, in each case arising out of or related to (as applicable) the Prepetition Loan Documents, the ABL Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the transactions and

agreements reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their predecessors, successors or assigns at any time had or hereafter can or may have against any of the Released Parties. For the avoidance of doubt, nothing in this release shall relieve the DIP Lender or the Debtors of their DIP Obligations under the DIP Documents from and after the date of this Interim Order.

H. Corporate Authority. Each Debtor has all requisite corporate power and authority to execute and deliver the DIP Documents to which it is a party and to perform its obligations thereunder.

I. Findings Regarding the DIP Financing and Use of Cash Collateral.

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

(ii) The Debtors have an immediate and critical need to obtain the DIP Financing and to use the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral) in order to, among other things (a) administer and preserve the value of their estates; (b) permit the orderly continuation of the operation of their business, (c) maintain business relationships with vendors, suppliers and customers, (d) make payroll, (e) satisfy other working capital and operational needs, (f) continue prosecuting the Debtors' claims in the Utah Litigation, and (g) fund expenses of the Chapter 11 Cases. In the absence of the DIP Facility and the use of Cash Collateral, the Debtors' business and estates would suffer immediate and irreparable harm. The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other ABL Priority Collateral and Prepetition Term Loan Collateral, the incurrence of new indebtedness under the DIP Documents and other financial accommodations

provided under the DIP Documents are necessary and vital to the preservation and maintenance of the value of the Debtors' going concern and to a successful sale of all or substantially all of the Debtors' assets.

(iii) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lender under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting to the DIP Lender, the DIP Liens and the DIP Superpriority Claims (each as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case subject to the Carve-Out to the extent set forth herein, under the terms and conditions set forth in this Interim Order and in the DIP Documents.

(iv) Based on the DIP Motion, the First Day Declaration and the record presented to the Court at the Interim Hearing, the extension of credit under the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 13 of this Interim Order (the "**Adequate Protection**"), and the terms on which the Debtors may use the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral) pursuant to this Interim Order and the DIP Documents are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(v) The DIP Financing, the Adequate Protection and the use of the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtors, the DIP Secured Parties, the ABL Lender, and the Prepetition Term Loan Secured Parties, and all of the Debtors' obligations and

indebtedness arising under, in respect of, or in connection with, the DIP Financing and the DIP Documents, including, without limitation: all loans made to and guarantees issued by the Debtors pursuant to the DIP Documents and any DIP Obligations shall be deemed to have been extended by the DIP Secured Parties and their respective affiliates 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 Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise, all to the maximum extent permitted by law.

(vi) The Prepetition Secured Parties have acted in good faith regarding the DIP Financing and the Debtors' use of the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral) to fund the administration of the Debtors' estates and continued operation of their businesses (including the incurrence and payment of and performance under the Adequate Protection Obligations and the granting of the Adequate Protection Liens (as defined herein)), in accordance with the terms hereof, and ABL Lender and the Prepetition Term Loan Secured Parties (and the successors and assigns thereof) each shall be entitled to the full protection of sections 363(m) and 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise, all to the maximum extent permitted by law.

(vii) The ABL Lender and the Prepetition Term Loan Secured Parties are entitled to the Adequate Protection provided in this Interim Order as and to the extent set forth herein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements

and of the use of the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral) is fair and reasonable, reflect the Debtors' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral); the Prepetition Term Loan Secured Parties have consented or are deemed hereby to have consented to the use of the Prepetition Term Loan Collateral (including Cash Collateral) and the priming of the Prepetition Term Loan Liens by the DIP Liens pursuant to the terms set forth in this Interim Order and the DIP Documents; and the ABL Lender has consented or is deemed hereby to have consented to the use of the ABL Priority Collateral (including Cash Collateral) and to the priming of the ABL Liens to the extent set forth in this Interim Order and the DIP Documents; provided that nothing in this Interim Order or the DIP Documents shall (x) be construed as the affirmative consent by the ABL Lender or Prepetition Term Loan Secured Parties for the use of Cash Collateral other than on the terms set forth in this Interim Order and in the context of the DIP Financing authorized by this Interim Order to the extent such consent has been or is deemed to have been given, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the ABL Priority Collateral or Prepetition Term Loan Collateral (whether senior or junior) other than as contemplated by the DIP Financing authorized by this Interim Order or (z) prejudice, limit or otherwise impair the rights of the ABL Lender or Prepetition Term Loan Secured Parties to seek new, different or additional adequate protection or assert any rights of the ABL Lender or Prepetition Term Loan Secured Parties (subject in all respects to the terms of this Interim Order), and the rights of any other party in interest, including the Debtors, to object to such relief are hereby preserved.

(viii) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties and the ABL Lender an initial budget (the “**Initial DIP Budget**”), attached hereto as **Exhibit 2**. The Initial DIP Budget reflects, among other things, the DIP Borrower’s and its subsidiaries’ anticipated sources and uses of cash for each calendar week, in form and substance satisfactory to the DIP Lender. The Initial DIP Budget may be modified, amended, extended and updated from time to time in accordance with the DIP Loan Agreement and this Interim Order, and once approved by the DIP Lender, shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent approved budget, shall constitute, without duplication, an “**Approved Budget**”). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances. The DIP Secured Parties and the ABL Lender are relying, in part, upon the Debtors’ agreement to comply with the Approved Budget (subject only to permitted variances), the other DIP Documents and this Interim Order in determining to enter into the postpetition financing arrangements provided for in this Interim Order and to consent to the use of Cash Collateral.

(ix) The Prepetition Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code. Subject to entry of the Final Order granting such relief, the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Term Loan Secured Parties with respect to proceeds, product, offspring, or profits with respect to any of the Prepetition Term Loan Collateral. As of the date hereof, there exist no claims or causes of action against the Prepetition Secured Parties, the DIP Agent, or the DIP Lender with respect to, in connection with, related to, or arising from this Interim Order or the DIP Loan Agreement that may be asserted by the Debtors or, to the Debtors’ knowledge, any other person or entity.

J. Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2), (c)(2) and 6003. Absent granting the relief set forth in this Interim Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Financing and the use of Cash Collateral in accordance with this Interim Order and the DIP Documents are therefore in the best interests of the Debtors' estates and consistent with the Debtors' exercise of their fiduciary duties.

K. Prepetition Permitted Prior Liens; Continuation of Prepetition Liens. Nothing herein shall constitute a finding or ruling by this Court that any alleged Prepetition Permitted Prior 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 Debtors, the DIP Secured Parties, or the Prepetition Secured Parties, to challenge the validity, priority, enforceability, seniority, avoidability, perfection, or extent of any alleged Prepetition Permitted Prior Lien and/or security interests. The right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code is not a Prepetition Permitted Prior Lien and is expressly subject to the DIP Liens and the Prepetition Liens. The Prepetition Liens, and the DIP Liens that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens until indefeasible payment in full of all Prepetition Obligations and all DIP Obligations, respectively, in light of the integrated nature of the DIP Facility, the DIP Documents, and the Prepetition Loan Documents.

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

IT IS HEREBY ORDERED THAT:

1. Motion Granted. The relief sought in the DIP Motion is granted as set forth herein, on an interim basis. The interim financing described herein is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case subject to the terms and conditions set forth in the DIP Documents and this Interim Order. All objections to entry of this Interim Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits.

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

(a) The Debtors are hereby authorized to execute, deliver, enter into and, as applicable, perform all of their obligations under the DIP Documents and such other and further acts as may be necessary, appropriate or desirable in connection therewith, and the DIP Loan Agreement is incorporated into this Interim Order as if set forth herein. The DIP Borrower is hereby authorized to borrow money pursuant to the DIP Loan Agreement and the DIP Guarantors are hereby authorized to provide a guaranty of payment in respect of the DIP Borrower's obligations with respect to such borrowings, subject to any limitations on borrowing under the DIP Documents, which shall be used for all purposes permitted under the DIP Documents (and subject to and in accordance with the Approved Budget) (subject to any permitted variances). Upon entry of this Interim Order, as provided in the Interim DIP Budget, the Debtors are authorized to use proceeds of the DIP Loans to pay the DIP Fees and Expenses (as defined below).

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized to perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages, financing statements and

other similar documents), and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable for the Debtors' performance of their obligations under or related to 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, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the Debtors and the DIP Agent (acting in accordance with the terms of the DIP Loan Agreement and at the direction of the DIP Lender) may agree, it being understood that no further approval of this Court shall be required for any authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees and other expenses (including attorneys', accountants', appraisers' and financial advisors' fees), amounts, charges, costs, indemnities and other like obligations paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments, the fees or the rate of interest payable thereunder; provided that, for the avoidance of doubt, updates and supplements to the Approved Budget required to be delivered by the Debtors under the DIP Documents shall not, for purposes of this Interim Order or any Final Order, be considered amendments or modifications to the Approved Budget or the DIP Documents that require further approval of this Court;

(iii) the non-refundable payment to the DIP Secured Parties of all fees, premiums and rights received as consideration under or in connection with the DIP Facility, including, but not limited to, the Upfront Fee, Exit Fee, Unused Fee, indemnities, and professional fees (subject to the terms of paragraph 17 below) (the payment of which fees shall be irrevocable,

and shall be, and shall be deemed to have been, approved upon entry of this Interim Order, whether any such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, 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, applicable non-bankruptcy law or otherwise by any person or entity) and any amounts due (or that may become due) in respect of any indemnification and expense reimbursement obligations, in each case referred to in the DIP Loan Agreement or DIP Documents (or in any separate letter agreements) and the costs and expenses as may be due from time to time, including, without limitation, the fees and expenses of the professionals retained by, or on behalf of, any of the DIP Agent or DIP Secured Parties (subject to the terms of paragraph 17 below) (including, without limitation, those of Whiteford, Taylor & Preston LLP and any other advisors as are permitted under the applicable DIP Documents), in each case, as provided for in the DIP Documents (collectively, the “**DIP Fees and Expenses**”), without the need to file retention motions or fee applications; and

(iv) the performance of all other acts required under or in connection with the DIP Documents, including the granting of the DIP Liens (as defined herein) and the DIP Superpriority Claims (as defined herein) and perfection of the DIP Liens and DIP Superpriority Claims as permitted herein and therein, and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith, in each case in accordance with the terms of the DIP Documents.

3. *DIP Obligations.* Upon execution and delivery of the DIP Documents, and entry of this Interim Order, the DIP Documents shall constitute legal, valid, binding and non-avoidable

obligations of the Debtors, enforceable against each Debtor and its estate in accordance with the terms of the DIP Documents and this Interim Order, and any successors thereto, including any trustee appointed in the Chapter 11 Cases or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the “Successor Cases”). Upon execution and delivery of the DIP Documents, and entry of this Interim Order, the DIP Obligations will include all loans and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to any of the DIP Agent or DIP Secured Parties, in each case, under, or secured by, the DIP Documents or this Interim Order, including all principal, interest, costs, fees, expenses, premiums, indemnities and other amounts under the DIP Documents (including this Interim Order). The Debtors shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the DIP Secured Parties (including their Representatives) shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 544, 547, 548, 549, and 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) Carve-Out. As used in this Interim Order, the term “**Carve-Out**” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate pursuant to 31 U.S.C. § 3717, (ii) reasonable fees and expenses incurred by a trustee and payable under section 726(b) of the Bankruptcy Code (without regard to the Carve-Out Trigger Notice (as defined below)) in an aggregate amount not to exceed \$25,000, (iii) to the extent allowed at any time, whether by interim order, final order, or other order, all accrued but unpaid fees and expenses (excluding any restructuring, sale, success, or other transaction fee of any investment bankers or financial advisors) (the “**Allowed Professional Fees**”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code and any Creditors’ Committee (the “**Estate Professionals**”) at any time on or before the first business day following delivery by the DIP Agent (acting at the direction of the DIP Lender) of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice up to but not in excess of the amount approved in the Approved Budget for each such Estate Professional (whether to be actually paid or to be accrued) through the date of the Carve-Out Trigger Notice (the amounts set forth in the foregoing clauses (i), (ii) and (iii), the “**Pre-Carve-Out Trigger Notice Amount**”), which amount shall be funded by the Debtors into a non-interest bearing account (the “**Professional Fee Account**”) on Wednesday of each week (or such other day of the week agreed to by the Debtors and the DIP Agent) for the next week’s fees and expenses set forth in the Approved Budget (the “**Weekly Carve-Out Funded Amount**”); and (iv) Allowed Professional Fees of the Estate Professionals incurred after the date of delivery by the DIP Agent (acting at the direction of the DIP Lender) of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim

order, final order or other court order, in an aggregate amount not to exceed \$75,000 for the Debtors' professionals and \$25,000 for professionals of the Creditors' Committee (the amount set forth in this clause (iv) being the "**Post-Carve-Out Trigger Notice Cap**"). For the avoidance of doubt, (x) for the purposes of the Carve-Out, each of the Estate Professionals included in the Approved Budget shall have the aggregate budget allocated to such professional therein, and any fees and expenses incurred by an Estate Professional in excess of their allocated Carve-Out budget shall not be payable from the Carve-Out; and (y) the Carve-Out shall be reduced dollar-for-dollar by any payments of fees and expenses to such Estate Professional. Nothing herein shall limit the ability of any Estate Professional to seek payment of any allowed fees and expenses as an administrative expense in these Bankruptcy Cases. For purposes of this Interim Order, the "**Carve-Out Trigger Notice**" shall mean a written notice (which may be made via electronic mail or other electronic means) delivered by the DIP Agent (acting at the direction of DIP Lender) to the Debtors and their counsel, Morris, Nichols, Arsht & Tunnell LLP, stating that the Trigger Notice Cap has been invoked. The Carve-Out Trigger Notice may only be delivered following the occurrence and during the continuation of an event of default under the DIP Facility.

(b) *Post-Carve-Out Trigger Notice.* On the date on which a Carve-Out Trigger Notice is delivered in accordance with this paragraph 4 (any such date, the "**Carve-Out Trigger Date**"), the Debtors shall utilize all available cash to fund a reserve in an amount equal to the Carve-Out (the "**Carve-Out Reserve**"). All funds in the Carve-Out Reserve shall be used first to pay the obligations set forth in clauses (a)(i)-(iv) in the above definition of "Carve-Out" until paid in full, and then as set forth in the DIP Loan Agreement. Notwithstanding anything to the contrary in this Interim Order or the DIP Documents, the failure of the Carve-Out Reserve to satisfy in full the fees of Estate Professionals shall not affect the priority of the Carve-Out.

(c) Payment of Carve-Out on or After the Carve-Out Trigger Date. Any payment or reimbursement made on or after the occurrence of the Carve-Out Trigger Date in respect of any Allowed Professional Fees incurred after the occurrence of the Carve-Out Trigger Date shall permanently reduce the Post-Carve-Out Trigger Notice Cap on a dollar-for-dollar basis.

(d) Priority of Carve-Out. Each of the DIP Liens, the ABL Liens, the Prepetition Term Loan Liens, the ABL Adequate Protection Liens, the Prepetition Term Loan Adequate Protection Liens, and the DIP Superpriority Claims (as defined below) shall be subject and subordinate to payment of the Carve-Out. The Carve-Out shall be senior to all claims and liens over all assets of the Debtors, including any DIP Collateral; provided that, upon the funding of the Weekly Carve-Out Funded Amount, the subordination of the liens of the Prepetition Secured Parties and the DIP Lender in respect of the Carve-Out amounts listed in subparagraph 4(a)(iii), shall be limited to the funds deposited into the Professional Fee Account for the Allowed Professional Fees covered by any such weekly Carve-Out Funded Amount(s).

(e) Professional Fee Account. Notwithstanding anything to the contrary contained in this Interim Order, until an Event of Default or the Termination Date has occurred, the Debtors shall be permitted to borrow under the DIP Facility on a weekly basis to fund the Professional Fee Account in the amount contemplated under paragraph 4(a)(iii) for the professional fees and expenses listed in the Approved Budget for the upcoming week. The Debtors shall be permitted to pay, from the Professional Fee Account, as and when the same may become due and payable the Allowed Professional Fees, in accordance with the Approved Budget, regardless of whether an Event of Default or the Termination Date has occurred. None of the provisions of this Interim Order or any DIP Loan Document shall prohibit or restrict the payment of fees and expenses to any Estate Professional from any retainer held by such Estate Professional.

Any amounts remaining in the Professional Fee Account after the payment of all Allowed Professional Fees of Estate Professionals up to amounts in the Approved Budget pursuant to final fee applications and orders shall be returned to the DIP Lenders.

(f) No Direct Obligation to Pay Allowed Professional Fees. Neither the DIP Lender, the ABL Lender nor the DIP Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Estate Professional incurred in connection with these Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code, regardless of whether such fees or expenses have been allowed by the Court. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Lender, the ABL Lender, or the DIP Secured Parties in any way to pay compensation to or to reimburse expenses of any Estate Professionals, to advance further funding after delivery of a Carve-Out Trigger Notice, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

5. DIP Superpriority Claims. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtors on a joint and several basis (without the need to file any proof of claim) with, to the fullest extent permitted under the Bankruptcy Code or other applicable law, priority over any and all claims against the Debtors, 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, including any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a) (other than section 507(a)(1)), 507(b), 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations)), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the “**DIP Superpriority**

Claims”) shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and shall be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof including the proceeds of the Utah Litigation and, upon entry of the Final Order, Avoidance Action Proceeds (as defined below). The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise, all to the maximum extent permitted by law. The DIP Superpriority Claims shall be *pari passu* in right of payment with one another, senior to the 507(b) Claims (as defined herein), and subordinated to (1) the Carve-Out, and (2) the ABL Lender’s liens and replacement liens on the ABL Priority Collateral.

6. DIP Liens. As security for the DIP Obligations, effective and automatically and properly perfected upon the date of this Interim Order, and without the necessity of the execution, recordation or filing by the Debtors or any of the DIP Secured Parties of mortgages, security agreements, control agreements, pledge agreements, financing statements, intellectual property filings or other similar documents, notation of certificates of title for titled goods or other similar documents, instruments, deeds, charges or certificates, or the possession or control by the DIP Agent of, or over, any Collateral, and without any further action by the DIP Agent, the DIP Agent for its own benefit and for the benefit of the DIP Secured Parties, is hereby granted, pursuant to sections 364(c)(2) and 364(c)(3) and 364(d)(1) of the Bankruptcy Code, continuing, valid, binding, enforceable, non-avoidable, automatically perfected, post-petition security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to this Interim Order and the DIP Documents, the “**DIP Liens**”) on all property identified in and according to the priority set forth in clauses (a) through (e) below

(collectively referred to as the “**DIP Collateral**”). Notwithstanding the foregoing, the DIP Liens shall not extend to and the DIP Collateral shall not consist of assets, contracts, leases and other licenses solely to the extent a DIP Lien is not permitted by law to attach to such property, in which case the proceeds of such assets, contracts, leases and other licenses shall be DIP Collateral. The DIP Collateral further (x) includes (i) the Utah Litigation and all claims and causes of action asserted therein and all proceeds thereof, and (ii) the Debtors’ interest in any deposit or down-payment paid by the Stalking Horse Purchaser (as defined in the DIP Loan Agreement) or other potential purchaser in connection with the Stalking Horse Purchase Agreement (as defined in the DIP Loan Agreement) (a “**Stalking Horse Deposit**”) and any claims or causes of action of the Debtors against any party in connection with any breach of or default under the Stalking Horse Purchase Agreement (the “**Stalking Horse Claims**”); and, (y) excludes claims and causes of action under sections 544, 545, 547, 548 and 550 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code (collectively, “**Avoidance Actions**”), but upon entry of the Final Order, includes any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions (“**Avoidance Action Proceeds**”) in accordance with the DIP Documents, this Interim Order, and the Final Order.

(a) *Collateral*. As used herein, the term “**Collateral**” means all tangible and intangible prepetition and postpetition property of the Debtors, whether existing on the Petition Date or thereafter acquired, and the proceeds, products, rents, and profits thereof, including, without limitation, accounts, chattel paper, commercial tort claims, deposit accounts, documents, equipment, general intangibles, goods (including fixtures), instruments, inventory, investment property, money, cash, cash equivalents, and all deposit accounts, securities accounts, commodities accounts and lockboxes together with all money, cash, securities and other investment property on

deposit from time to time therein, letters of credit, letter-of-credit rights and other supporting obligations, real property interests (whether fee, leasehold, easement or mixed), books and records, and to the extent not otherwise included, all substitutions, replacements, accessions, products and other proceeds and products (whether tangible or intangible and including, without limitation, insurance proceeds, licenses, royalties, income, payments, claims, damages and proceeds of suit) of any and all of the foregoing and all collateral security and guarantees given by any person with respect to any of the foregoing.

(b) Liens on DIP Loan Proceeds. Pursuant to section 364(c)(2) of the Bankruptcy Code, the DIP Liens shall include and the DIP Lender and DIP Secured Parties are hereby granted a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all DIP Loan Proceeds, subject only to the Carve-Out. The Debtor is hereby ordered to and shall (i) hold all DIP Loan Proceeds in the DIP Loan Account, and (ii) not otherwise co-mingle the DIP Loan Proceeds with any other cash of the Debtors.

(c) Liens on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, the DIP Liens shall include and the DIP Lender and DIP Secured Parties are hereby granted a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all Collateral that 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; whether arising under section 552(b) of the Bankruptcy Code or otherwise (the “**Unencumbered Property**”). Unencumbered Property (x) shall include (A) the Utah Litigation and all claims and causes of action asserted therein and all proceeds thereof, and (B) the Debtors’ interests in any Stalking Horse Deposit and Stalking Horse Claims; and (y) shall not upon entry of this Interim

Order include Avoidance Actions and Avoidance Action Proceeds, but upon entry of the Final Order shall include Avoidance Action Proceeds.

(d) Liens Junior to Certain Other Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, the DIP Liens shall include and the DIP Lender and DIP Secured Parties are hereby granted a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all Collateral that is junior and subject to Prepetition Prior Permitted Liens (including for the avoidance of doubt the ABL Liens), but excluding the Primed Liens (as defined below); provided that nothing in this subparagraph shall limit the rights of the DIP Secured Parties under the DIP Documents to the extent such liens are not permitted thereunder, provided further that the ABL Liens shall always be deemed a permitted lien under the DIP Documents.

(e) Liens Priming Prepetition Term Loan Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, the DIP Liens shall include and the DIP Lender and DIP Secured Parties are hereby granted a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all Prepetition Term Loan Collateral subject to the Prepetition Term Loans Liens (the “**Priming Liens**”), which Priming Liens shall prime in all respects the interests of the Prepetition Term Loan Secured Parties arising from the current and future liens of the Prepetition Term Loan Secured Parties (including, without limitation, the Adequate Protection Liens granted to the Prepetition Term Loan Secured Parties) (the “**Primed Liens**”). For the avoidance of doubt, the DIP Liens shall not prime, and are junior and subordinate to the ABL Lender’s liens and replacement liens on the ABL Priority Collateral, except as specifically provided for in this Interim Order.

(f) Liens Senior to Certain Other Liens. Subject to the terms of the Intercreditor Agreement (as defined herein) with respect to the ABL Lender’s liens and replacement liens on

the ABL Priority Collateral, 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 Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or in this Interim Order, 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 Debtors, or (C) any intercompany or affiliate liens of the Debtors or security interests of the Debtors; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code granted after the date hereof.

7. *Protection of Rights of DIP Lender, ABL Lender, and Prepetition Term Loan Secured Parties.*

(a) So long as there are any DIP Obligations outstanding or the DIP Lender has any outstanding DIP Commitments under the DIP Documents, the Prepetition Term Loan Secured Parties shall: (i) have no right to and shall take no action without the written consent of the DIP Lender to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Term Loan Documents, or this Interim Order, or otherwise seek to exercise or enforce any rights or remedies against the DIP Collateral, including in connection with the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, the DIP Collateral (but not any proceeds of such transfer, disposition or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments), to the extent such transfer, disposition, sale or release is authorized under the DIP Documents; (iii) not file any further financing statements, trademark filings, copyright filings,

mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral other than as necessary to give effect to this Interim Order other than, (A) solely as to this clause (iii), the DIP Agent filing financing statements or other documents to perfect the liens granted pursuant to this Interim Order, or (B) as may be required by applicable state law or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-avoidable liens or security interests existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the Debtors' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the DIP Collateral subject to any sale or disposition permitted by this Interim Order and the other DIP Documents.

(b) To the extent any Prepetition Term Loan Secured Party has possession of or has control with respect to any Prepetition Term Loan Collateral or DIP Collateral, or has been noted as a secured party on any certificate of title for a titled good constituting Prepetition Term Loan Collateral or DIP Collateral, then such Prepetition Term Loan Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee and/or gratuitous agent for perfection for the benefit of the DIP Secured Parties, and such Prepetition Term Loan Secured Party shall comply with the instructions of the DIP Agent, acting at the direction of the DIP Lender, with respect to the exercise of such control or possession.

(c) Any proceeds of Prepetition Term Loan Collateral received by the Prepetition Term Loan Secured Parties, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Term Loan Collateral or otherwise received by a Prepetition Term Loan Secured Party, shall be segregated and held in trust for the benefit of

and forthwith paid over to the DIP Agent for the benefit of the DIP Secured Parties in the same form as received by the Prepetition Term Loan Secured Parties, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The DIP Agent is hereby authorized to make any such endorsements as agent for the Prepetition Term Loan Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) Termination Date. On the Termination Date (as defined below) (i) all DIP Obligations shall be immediately due and payable and all DIP Commitments will terminate; (ii) the DIP Agent, on behalf of the DIP Lender, may terminate, reduce, or restrict the ability of the Debtors to use Cash Collateral other than ABL Priority Collateral or the proceeds thereof, and the ABL Lender may terminate, reduce, or restrict the ability of the Debtors to use Cash Collateral constituting ABL Priority Collateral; provided, however, that during the Remedies Notice Period (as defined below), the Debtors may use Cash Collateral solely to fund the Carve-Out and pay payroll and other expenses critical to the administration of the Debtors' estates strictly in accordance with the Approved Budget; and (iii) the ABL Lender, DIP Agent or the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the ABL Documents or DIP Documents respectively, in accordance with this Interim Order, and subject to the terms of the Intercreditor Agreement (as defined herein).

(e) Rights and Remedies Upon Event of Default.

(i) Upon an Event of Default, as set forth in the "Events of Default" section of the DIP Loan Agreement, notwithstanding the provisions of section 362 of the Bankruptcy Code and without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of the DIP Documents and this Interim Order: (A) the DIP Agent or DIP Secured Parties may declare, which declaration shall be in writing and delivered by email

or overnight mail to the Debtors, any Creditors' Committee, and the U.S. Trustee (any such declaration shall be referred to herein as a "**Termination Declaration**") (1) all DIP Loans (including principal of, and accrued interest on, any outstanding DIP Loans) to be immediately due and payable, (2) the termination of any further commitment to lend to the DIP Borrower without affecting any of the DIP Liens or the DIP Obligations, and/or (3) that any obligations to fund the Carve-Out Reserve shall be triggered through the delivery of the Carve-Out Trigger Notice to the DIP Borrower; (B) the DIP Agent, on behalf of the DIP Lender, may terminate, reduce, or restrict the ability of the Debtors to use Cash Collateral other than ABL Priority Collateral or the proceeds thereof, and the ABL Lender may terminate, reduce, or restrict the ability of the Debtors to use Cash Collateral constituting ABL Priority Collateral; and/or (C) subject to paragraph 7(b), the Prepetition Term Loan Secured Parties may terminate, reduce or restrict the ability of the Debtors to use the Prepetition Term Loan Collateral (the date on which a Termination Declaration is delivered, the "**Termination Date**").

(ii) The Automatic Stay in the Chapter 11 Cases otherwise applicable to the DIP Agent, the DIP Secured Parties, the ABL Lender, and the Prepetition Term Loan Secured Parties is hereby modified so that three (3) business days' after the Termination Date (the "**Remedies Notice Period**") (A) the DIP Agent, on behalf of the DIP Secured Parties, subject to the Intercreditor Agreement (as defined herein), shall be entitled to exercise all of its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations, DIP Superpriority Claims, and DIP Liens, including but not limited to (subject to the funding of the Carve-Out Reserve in accordance with paragraph 4(c) hereof and payment of all accrued but unpaid wages and benefits to the Debtors' employees) (1) freeze or sweep monies or balances in the Debtors' DIP Loan Account; (2) immediately set-off any and all amounts in

accounts maintained by the Debtors with the DIP Secured Parties against the DIP Obligations; (3) enforce any and all rights against DIP Collateral, including, without limitation, foreclosure on all or any portion of the DIP Collateral; and (4) take any other actions or exercise any other rights or remedies permitted under this Interim Order, the DIP Documents or applicable law; (B) subject to the foregoing clause (A), the ABL Lender shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable ABL Documents and this Interim Order (subject to the terms of and any limitations contained in this Interim Order) to satisfy the ABL Obligations, the ABL 507(b) Claim, and the ABL Liens, including, but not limited to, freeze or sweep money balances and/or any and all amounts in accounts maintained by the Debtors with the ABL Lender, and take any and all other actions permitted by this Interim Order, the ABL Documents, or this Interim Order, provided however that the ABL Lender shall not without the written consent of the DIP Lender freeze, sweep, or otherwise obtain possession or restrict the use of funds constituting proceeds of the DIP Loans; (C) subject to the foregoing clauses (A) and (B), the Prepetition Term Loan Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Term Loan Documents and this Interim Order (subject to the terms of and any limitations contained in this Interim Order) to satisfy the Prepetition Term Loan Obligations, the Prepetition Term Loan 507(b) Claims, and the Prepetition Term Loan Liens, and take any and all other actions permitted by this Interim Order, the ABL Documents, or this Interim Order. Notwithstanding anything to the contrary herein, the disbursement, transfer and/or payment of funds or proceeds derived from the DIP Collateral, the ABL Priority Collateral and/or the Prepetition Term Loan Collateral (including Cash Collateral) shall be subject to the “Application of Payments” and “Priority of Payments” provisions of the DIP Loan Agreement governing the priority of payment between the DIP Lender, ABL Lender,

and the Prepetition Term Loan Secured Parties. During the Remedies Notice Period, the Debtors or any other party in interest with standing shall be entitled to seek an emergency hearing with the Court to be held within the Remedies Notice Period for the purpose of determining whether an Event of Default has occurred or is continuing, and with respect to such other matters determined to be relevant by the Court. Unless the Court orders otherwise prior to the expiration of the Remedies Notice Period, the Automatic Stay, as to the DIP Agent, the DIP Secured Parties, and Prepetition Secured Parties, shall automatically be terminated at the end of the Remedies Notice Period without further notice or order. Upon expiration of the Remedies Notice Period, absent order of the Court to the contrary, the DIP Agent, the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties shall be permitted to exercise all remedies set forth herein, and in the DIP Documents, and as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order. Notwithstanding the foregoing, if the Debtors request an emergency hearing during the Remedies Notice Period, but such hearing is scheduled for a later date by the Court (not requested by the Debtors), then the Remedies Notice Period shall be automatically extended to the date of such hearing.

(f) No rights, protections or remedies of the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties granted by the provisions of this Interim Order or the other DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral; (ii) any actual or purported termination of the Debtors' authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtors' continued use of Cash Collateral or the provision of adequate protection to any party.

8. Limitation on Charging Expenses Against Collateral. Except to the extent of the Carve-Out, no costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral, ABL Priority Collateral, or Prepetition Term Loan Collateral (including Cash Collateral) pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent, ABL Lender, or the Prepetition Term Loan Secured Parties, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties. Nothing contained in this Interim Order shall be deemed to be a consent by the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties to any charge, lien, assessment or claims against the DIP Collateral under section 506(c) of the Bankruptcy Code or otherwise.

9. No Marshaling. In no event shall the DIP Secured Parties or the Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, ABL Loans, the ABL Priority Collateral, the Prepetition Term Loans, or the Prepetition Term Loan Collateral. Further, in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Term Loan Secured Parties or the ABL Lender with respect to proceeds, products, offspring or profits of any Prepetition Term Loan Collateral or ABL Priority Collateral.

10. Payments Free and Clear. Any and all payments or proceeds remitted to the DIP Agent by, through or on behalf of the DIP Secured Parties pursuant to the provisions of this Interim Order or the DIP Documents shall be irrevocable, received free and clear of any claim, charge,

assessment or other liability, whether asserted or assessed by through or on behalf of the Debtors, subject to the ABL Lender's liens and replacements liens on the ABL Priority Collateral and the Carve-Out in all respects.

11. Use of Cash Collateral. The Debtors are hereby authorized, subject to the terms and conditions of this Interim Order, to use Cash Collateral in accordance with the DIP Documents and the Approved Budget; provided that (a) the Prepetition Secured Parties are granted the Adequate Protection as hereinafter set forth; (b) except on the terms and conditions of this Interim Order, the Debtors shall be enjoined and prohibited from at any times using Cash Collateral absent further order of the Court; and (c) the Debtors' authority to use Cash Collateral shall be conditioned on the following:

(i) The Debtors shall deliver to the ABL Lender no later than Wednesday of each week, starting on the first Wednesday that is at least three (3) calendar days following the Petition Date (the "**Borrowing Base Certificate Date**"), a Borrowing Base Certificate (as defined in the ABL Credit Agreement) showing the Borrowing Base as of the close of business as of the last day of the immediately preceding week.

(ii) The Debtors shall maintain Excess Availability (determined, for the avoidance of doubt, after giving effect to the Availability Block) (as defined in the ABL Credit Agreement) for each of the preceding five (5) consecutive Business Days of no less than \$1,000,000.

(iii) If Excess Availability (determined, for the avoidance of doubt, after giving effect to the Availability Block) (as defined in the ABL Credit Agreement) for each of the preceding five (5) consecutive Business Days is less than \$1,000,000, the Debtors' authorization to use Cash Collateral shall terminate unless the Debtors cure any failure to maintain such Excess

Availability by payment in cash to ABL Lender by no later than the end of business on the day immediately prior to the next Borrowing Base Certificate Date; provided, however, that the ABL Lender may waive, in writing, such termination.

(iv) Notwithstanding anything to the contrary in the Intercreditor Agreement by and between Wells Fargo Bank, National Association, as ABL Agent, and Owl Rock Capital Corporation, as Term Agent, dated as of March 31, 2021 (as amended, the “**Intercreditor Agreement**”), payments and proceeds of Collateral subject to the ABL Liens will be applied in the following order of priority (the “**ABL Payment Priority**”):

1. first, to pay the Carve Out;
2. second, to pay an amount equal to the amount due and owing under the ABL Facility minus up to \$500,000 (as agreed to by and among the Debtors, the DIP Lender, and the ABL Lender) (the “**ABL Subordinated Claim**”);
3. third, to pay an amount equal to the amount due and owing on the New Money DIP Loans;
4. fourth, to pay the ABL Subordinated Claim;
5. fifth, to pay the Litigation DIP Loans;
6. sixth, to pay the Roll-Up Loans; and
7. last, the balance, if any, after all of the DIP Obligations have been paid in full, to the Debtors subject in all respects to the rights, liens and claims of other creditors in the Chapter 11 Cases.
8. Notwithstanding anything to the contrary in this Interim Order and solely with respect to a Stalking Horse Deposit, (i) if the Sale Transaction (as defined in the DIP Loan Agreement) with the Stalking Horse Bidder (as defined in the DIP Loan Agreement) or any other winning bidder selected in accordance with the order approving the Stalking Horse Purchase Agreement closes, then the Stalking Horse Deposit shall be applied in accordance with the ABL Payment Priority; (ii) if the Sale Transaction to the Stalking Horse Bidder or such other winning bidder does not close and upon any forfeiture of a Stalking Horse Deposit to the Debtors pursuant to the

Stalking Horse Purchase Agreement (as defined in the DIP Loan Agreement), the Stalking Horse Deposit shall be applied solely to the DIP Obligations pursuant to the DIP Application of Payments (as defined in the DIP Loan Agreement); and (iii) in the event the Stalking Horse Bidder or such other winning bidder is entitled to the return of a Stalking Horse Deposit pursuant to the terms of the Stalking Horse Purchase Agreement, then the Stalking Horse Deposit shall be released and returned to the Stalking Horse Bidder or such other winning bidder, as applicable.

12. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as otherwise provided for in the DIP Documents or an order of the Court.

13. Adequate Protection.

(a) Adequate Protection of the ABL Lender. The ABL Lender is entitled, pursuant to sections 361, 362, 363(e), 364, and 507 of the Bankruptcy Code, to adequate protection of its interests in the ABL Priority Collateral to the extent of any diminution in the value of ABL Lender's liens on the prepetition ABL Priority Collateral, including from the use of all Cash Collateral constituting ABL Priority Collateral, from and after the Petition Date ("**Diminution**") (with, upon the assertion of any ABL Adequate Protection Claims (as defined below), the presumption being that diminution in value has occurred and the burden being on any party opposing the assertion of any ABL Adequate Protection Claims to show that such diminution has not occurred), for any reason provided for under the Bankruptcy Code, including, without limitation, any Diminution resulting from the sale, lease or use by the Debtors of the ABL Priority Collateral, any priming of the ABL Liens as a result of the Carve-Out and this Interim Order, the grant of any other lien under section 364 of the Bankruptcy Code or the stay of the ABL Lender's rights under the ABL Documents, the payment of any amounts under the Carve-Out or pursuant to this Interim Order, the Final Order or any other order of the Court or provision of the Bankruptcy

Code or otherwise, and the imposition of the Automatic Stay (the “**ABL Adequate Protection Claims**”). In consideration of the foregoing, the ABL Lender is hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such ABL Adequate Protection Claims, and as an inducement to the ABL Lender to consent to any priming of the ABL Liens and use of the ABL Priority Collateral, as applicable (collectively, the “**ABL Adequate Protection Obligations**”):

(i) *Prepetition Adequate Protection Liens.* The ABL Lender is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the ABL Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the ABL Priority Collateral (the “**ABL Adequate Protection Liens**”), in each case senior to all other liens but subject and subordinate only to the Carve-Out. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the ABL Adequate Protection Liens and ABL Liens shall not extend to or include the Utah Litigation or any proceeds thereof, the Stalking Horse Claims, or, subject to paragraph 11 of this Interim Order, a Stalking Horse Deposit.

(ii) *ABL Section 507(b) Claims.* The ABL Lender is hereby granted, subject to the Carve-Out, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases as provided for in section 507(b) of the Bankruptcy Code in the amount of the ABL Adequate Protection Claims, with, to the fullest extent permitted under the Bankruptcy Code, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “**ABL 507(b) Claims**”), which ABL 507(b) Claims shall be payable from all prepetition and postpetition property of the Debtors and all

proceeds thereof (including, upon entry of the Final Order, Avoidance Action Proceeds). The ABL 507(b) Claims shall be subject and subordinate only to the Carve-Out and the DIP Superpriority Claims, and shall be *pari passu* with the Prepetition Term Loan 507(b) Claims (defined below).

(iii) ABL Lender Payments. Interest shall continue to accrue on the ABL Loans at the applicable non-default rate of interest under the ABL Documents, which shall be paid in cash when due in accordance with the ABL Documents pursuant to the Approved Budget.

(iv) ABL Lender Fees and Expenses. The Debtors shall provide the ABL Lender cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses relating to the exercise of remedies in connection with the ABL Documents and incurred by primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the ABL Lender, and any other advisor retained by or on behalf of the ABL Lender (subject to all applicable limitations herein, the “**ABL Adequate Protection Fees and Expenses**”), up to an aggregate maximum amount of \$250,000.00, which includes an on-account balance of \$75,000.00 that was charged to the ABL Facility prior to the Petition Date (the “**ABL Adequate Protection Fees and Expenses Cap**”) (and such counsel and advisors, the “**ABL Advisors**”), subject to the review procedures set forth in paragraph 17 of this Interim Order. Upon entry of this Interim Order, as provided in the Interim DIP Budget, the Debtors are authorized to use proceeds of the DIP Loans to pay the ABL Adequate Protection Fees and Expenses, including but not limited to, making payments to the ABL Advisors; provided that the ABL Adequate Protection Fees and Expenses Cap shall be of no force or effect and shall not limit the extent or amount of legal fees and expenses the ABL Lender shall be entitled to be paid by the Debtors in the event that the sale to the Stalking

Horse Bidder or another winning bidder pursuant to the Stalking Horse Purchase Agreement fails to close.

(v) ABL Lender Adequate Protection Information Rights. Unless otherwise agreed by the ABL Lender, the Debtors shall promptly provide the ABL Lender and, to the extent applicable, counsel to such party, with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under the “Reporting Requirements” section of the DIP Loan Agreement (the “**Adequate Protection Reporting Requirements**”). Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the ABL Lender shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement. In addition, the Debtors shall provide the ABL Lender, the Prepetition Term Loan Secured Parties, and the DIP Lender with all reporting that the Debtors were responsible to provide the ABL Lender under the ABL Facility immediately prior to the Petition Date.

(vi) Maintenance of Collateral. The Debtors shall maintain and insure the ABL Priority Collateral in amounts and for the risks, and by the entities, to any extent required under the ABL Documents.

(vii) Exercise of Remedies. In consideration of the adequate protection and other rights and entitlements provided herein, and notwithstanding anything else herein to the contrary, the ABL Lender shall forbear from exercising any remedies available to it upon an event of default under the ABL Documents, charging default interest under the ABL Documents, asserting cash dominion, implementing reserves, or make any modifications to the ABL Facility, until the earlier of (w) the New Money DIP Loan Commitments Maturity Date (as defined in the

DIP Loan Agreement), and (x) that date which is sixty (60) days after the Petition Date, (y) upon the Termination Date, and (z) the expiration of the Remedies Notice Period resulting from the Debtors' failure to comply with any material term or provision of this Interim Order that materially affects the ABL Lender's rights, liens, or claims, including Debtors' failure to comply with paragraphs 11 and 13 of this Interim Order.

(b) Adequate Protection of the Prepetition Term Loan Secured Parties. The Prepetition Term Loan Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Term Loan Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Term Loan Secured Parties' interests in the Prepetition Term Loan Collateral from and after the Petition Date (with, upon the assertion of any Prepetition Term Loan Adequate Protection Claims (as defined below), the presumption being that diminution in value has occurred and the burden being on any party opposing the assertion of any Prepetition Term Loan Adequate Protection Claims to show that such diminution has not occurred), for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Term Loan Collateral (including Cash Collateral), the priming of the Prepetition Term Loan Liens by the DIP Liens pursuant to the DIP Documents and this Interim Order, the grant of any other lien under section 364 of the Bankruptcy Code or the stay of the Prepetition Term Loan Secured Parties' rights under the Prepetition Term Loans, the payment of any amounts under the Carve-Out or pursuant to this Interim Order, the Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "**Prepetition Term Loan Adequate Protection Claims**," and together with the ABL Adequate Protection Claims, the "**Adequate**

Protection Claims”). In consideration of the foregoing, the Prepetition Term Loan Secured Parties are hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such Prepetition Term Loan Adequate Protection Claims, and as an inducement to the Prepetition Term Loan Secured Parties to consent to the priming of the Prepetition Term Loan Liens and use of the Prepetition Term Loan Collateral (including Cash Collateral), as applicable (collectively, the “**Prepetition Term Loan Adequate Protection Obligations**,” and together with the ABL Adequate Protection Obligations, the “**Adequate Protection Obligations**”):

(i) *Prepetition Adequate Protection Liens*. The Prepetition Term Loan Agent, for itself and for the benefit of the other Prepetition Term Loan Secured Parties, is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Term Loan Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the “**Prepetition Term Loan Adequate Protection Liens**,” and together with the ABL Adequate Protection Liens, the “**Adequate Protection Liens**”), in each case senior to all other liens but subject and subordinate only to (i) the DIP Liens, (ii) the Carve-Out, and (iii) the ABL Liens.

(ii) *Prepetition Term Loan Section 507(b) Claims*. The Prepetition Term Loan Secured Parties are hereby granted, subject to the Carve-Out, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Term Loan Adequate Protection Claims, with, to the fullest extent permitted under the Bankruptcy Code, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “**Prepetition Term Loan 507(b) Claims**,” and together with the ABL

507(b) Claims, the “**507(b) Claims**”), which Prepetition Term Loan 507(b) Claims shall be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (including, upon entry of the Final Order, Avoidance Action Proceeds). The Prepetition Term Loan 507(b) Claims shall be subject and subordinate only to the Carve-Out and the DIP Superpriority Claims, and shall be *pari passu* with the ABL 507(b) Claims. Except to the extent expressly set forth in this Interim Order, the Final Order or the DIP Documents, no party shall receive or retain any payments, property, or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(iii) *Prepetition Term Loan Secured Parties’ Fees and Expenses.* The Debtors shall provide the Prepetition Term Loan Secured Parties cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses relating to the exercise of remedies in connection with the Prepetition Term Loan Obligations and incurred by primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Term Loan Secured Parties, including without limitation, Whiteford, Taylor & Preston LLC, and any other advisor retained by or on behalf of the Prepetition Term Loan Secured Parties (the “**Prepetition Term Loan Adequate Protection Fees and Expenses**,” and with the ABL Adequate Protection Fees and Expenses, the “**Adequate Protection Fees and Expenses**”) (and such counsel and advisors, the “**Prepetition Term Loan Secured Parties Advisors**”), subject to the review procedures set forth in paragraph 17 of this Interim Order. Upon entry of this Interim Order, as provided in the Interim DIP Budget, the Debtors are authorized to use proceeds of the DIP Loans

to pay the Adequate Protection Fees and Expenses, including but not limited to making payments to the Prepetition Term Loan Secured Parties Advisors.

(iv) Prepetition Term Loan Secured Parties' Payments. To the extent allowed pursuant to section 506(b) of the Bankruptcy Code, interest shall continue to accrue on the Prepetition Term Loans at the applicable default rate of interest under the Prepetition Term Loan Documents, paid in kind by capitalizing such interest and adding it to the outstanding principal balance of the Prepetition Term Loans in accordance with the Prepetition Term Loan Documents.

(v) Milestones. Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the Prepetition Term Loan Secured Parties are hereby entitled to performance of those certain case milestones set forth in the "Milestones" section of the DIP Loan Agreement (for such purposes, the "**Adequate Protection Milestones**").

(vi) Budget and Financial Covenants. Until indefeasible payment in full of all DIP Obligations and all other obligations under the DIP Facility, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Loan Agreement (for such purposes, the "**Adequate Protection Budget Requirement**"), and (ii) the Prepetition Term Loan Secured Parties are hereby entitled to performance of those certain financial and other covenants set forth in the "Affirmative Covenants" and "Negative Covenants" sections of the DIP Loan Agreement (for such purposes, the "**Adequate Protection Covenants**").

(vii) Prepetition Term Loan Secured Parties' Adequate Protection Information Rights. Unless otherwise agreed by the Prepetition Term Loan Secured Parties, the Debtors shall promptly provide the Prepetition Term Loan Secured Parties and, to the extent applicable, counsel to such party (and subject to applicable confidentiality restrictions contained

in any of the Prepetition Term Loan Documents), with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the Adequate Protection Reporting Requirements. Until indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, the Prepetition Term Loan Secured Parties shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement. In addition, the Debtors shall provide the ABL Lender, the Prepetition Term Loan Secured Parties, and the DIP Lender with all reporting that the Debtors were responsible to provide the ABL Lender under the ABL Facility immediately prior to the Petition Date.

(viii) Maintenance of Collateral. The Debtors shall continue to maintain and insure the Prepetition Term Loan Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Term Loan Documents and the DIP Documents.

14. Reservation of Rights of ABL Lender and Prepetition Term Loan Secured Parties. Under the circumstances and given that the above-described Adequate Protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the Adequate Protection provided herein is reasonable and sufficient to protect the interests of the ABL Lender and Prepetition Term Loan Secured Parties and any other parties' holding interests that are secured by liens primed by the DIP Financing or otherwise affected by the Debtors' authorized use of the ABL Priority Collateral and the Prepetition Term Loan Collateral (including Cash Collateral).

15. Perfection of DIP Liens and Adequate Protection Liens.

(a) Without in any way limiting the automatic validity and effective perfection of the DIP Liens granted pursuant to paragraph 6 hereof and the Adequate Protection Liens granted pursuant to paragraph 13 hereof, the DIP Secured Parties, ABL Lender, and Prepetition Term Loan

Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the Debtors, ABL Lender, and Prepetition Term Loan Secured Parties (as applicable), as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be reasonably required or deemed appropriate by the DIP Agent, acting at the direction of the DIP Lender, or take possession of or control over cash or securities, or to amend or modify security documents, or enter into, amend or modify intercreditor agreements, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to document, validate and perfect the liens and security interests granted to them hereunder the (“**Perfection Actions**”). Whether or not the DIP Agent (on behalf of the DIP Secured Parties and acting at the direction of the DIP Lender), the ABL Lender, or the Prepetition Term Loan Secured Parties shall take such Perfection Actions, the liens and security interests 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 this Interim Order. Upon the request of the DIP Agent (acting at the direction of the DIP Lender), the Prepetition Term Loan Secured Parties and the Debtors, without any further consent of any party and at the sole cost of the Debtors as set forth herein, are authorized and such direction is hereby deemed to constitute required direction under the applicable DIP Documents or Prepetition Term Loan Documents, to take, execute, deliver and file such actions, instruments and agreements (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens in all jurisdictions required under the DIP Loan Agreement, including all local law documentation therefor determined to be reasonably necessary by the DIP Agent, acting at the direction of the DIP Lender; *provided*,

however; that no action need be taken in a foreign jurisdiction that would jeopardize the validity and enforceability of the Prepetition Term Loan Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. To the extent necessary to effectuate the terms of this Interim Order and the DIP Documents, each of the DIP Agent and the Prepetition Term Loan Secured Parties hereby is deemed to appoint the other (and deemed to have accepted such appointment) to act as its agent with respect to the DIP Collateral), with such powers as are expressly delegated thereto under the DIP Documents and Prepetition Term Loan Documents, (and even if it involves self-contracting and multiple representation to the extent legally possible), together with such other powers as are reasonably incidental thereto.

(b) A certified copy of this Interim Order may, in the discretion of the DIP Agent, ABL Lender, or the Prepetition Term Loan Secured Parties, as applicable, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept a certified copy of this Interim Order for filing and/or recording, as applicable. The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent, the ABL Lender, and the Prepetition Term Loan Secured Parties to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

16. Preservation of Rights Granted Under this Interim Order.

(a) Other than the Carve-Out and the Prepetition Permitted Prior Liens, no claim or lien having a priority superior to or *pari passu* with those granted by this Interim Order to the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties shall be permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in or permitted under this Interim Order,

the DIP Liens and the Adequate Protection Liens shall not be: (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates 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 Debtors; or (iv) subject or junior to any intercompany or affiliate liens or security interests of the Debtors.

(b) Unless the DIP Agent (at the direction of the DIP Lender) and the ABL Agent shall have provided their prior written consent, or all DIP Obligations, all ABL Loans, and all Prepetition Term Loans (excluding contingent indemnification obligations for which no claim has been asserted) have been indefeasibly paid in full and the DIP Commitments have terminated, there shall not be entered in these Chapter 11 Cases or any potential successor case any order (including any order confirming any plan of reorganization or liquidation) that authorizes any of the following: (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral, ABL Priority Collateral, or Prepetition Term Loan Collateral and/or that is entitled to administrative priority status, in each case that is superior to or *pari passu* with the DIP Liens, the DIP Superpriority Claims, the ABL Liens, the Prepetition Term Loan Liens, the Adequate Protection Liens, and/or the Adequate Protection Claims; (ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iii) the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of

any prepetition indebtedness) to any creditor of the Debtors or any creditor's taking any setoff or recoupment against any of its prepetition indebtedness based upon any such return of goods pursuant to section 553 of the Bankruptcy Code or otherwise; or (iv) any modification of any of the DIP Secured Parties' or the Prepetition Term Loan Secured Parties' rights under this Interim Order, the DIP Documents or the Prepetition Secured Note Documents, as applicable, with respect any DIP Obligations or Prepetition Secured Note Obligations.

(c) Interest, including default interest where applicable upon the occurrence of any Event of Default, shall accrue and be paid as set forth in the DIP Loan Agreement. Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code: (i) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full (and that such DIP Superpriority Claims, 507(b) Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest); (ii) the other rights granted by this Interim Order, including with respect to the Carve-Out, shall not be affected and (iii) this Court shall, to the fullest extent permitted under applicable law, retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in this Interim Order.

(d) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, then, to the maximum extent permitted by law, such reversal, modification, vacatur or stay shall not affect: (i) the validity, priority or enforceability of any DIP Obligations or Adequate Protection Obligations incurred prior to actual receipt by the DIP Agent,

ABL Lender, or the Prepetition Term Loan Secured Parties, as applicable, of written notice of the effective date of such reversal, modification, vacatur, or stay; or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens (with such protections applying as and to the extent afforded in accordance with and consistent with sections 364(e) and 363(m) of the Bankruptcy Code (as applicable)). Notwithstanding any such reversal, modification, vacatur or stay of any use of Cash Collateral, any DIP Obligations, DIP Liens, Adequate Protection Claims, Adequate Protection Liens, or other Adequate Protection Obligations incurred by the Debtors and granted to the DIP Secured Parties, the ABL Lender, or the Prepetition Term Loan Secured Parties, as the case may be, prior to actual receipt by the DIP Agent, ABL Lender, or Prepetition Term Loan Secured Parties, as applicable, of written notice of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Interim Order, and the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties shall be entitled to, and are hereby granted, all the rights, remedies, privileges and benefits arising under sections 364(e) and 363(m) of the Bankruptcy Code, this Interim Order and the other DIP Documents with respect to all uses of Cash Collateral, DIP Obligations, and Adequate Protection Obligations.

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, the 507(b) Claims, and all other rights and remedies of the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties granted by the provisions of this Interim Order and the DIP Documents and the Carve-Out shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases

or terminating the joint administration of the Chapter 11 Cases or by any other act or omission; (ii) the entry of an order 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); (iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in the Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any subsequent chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, and all other rights and remedies of the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall continue in full force and effect until the DIP Obligations and Adequate Protection Obligations are indefeasibly paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated (and in the case of rights and remedies of the Prepetition Term Loan Secured Parties, shall remain in full force and effect thereafter, subject to the terms of this Interim Order), and the Carve-Out shall continue in full force and effect.

17. Payment of Fees and Expenses. The Debtors are authorized to and shall pay the DIP Fees and Expenses and the Adequate Protection Fees and Expenses. Subject to the review procedures set forth in this paragraph 17, payment of all DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties, ABL Lender, and the Prepetition Term Loan Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines nor to submit invoices

in any particular format, however, any time that such professionals seek payment of fees and expenses from the Debtors prior to the effective date of a chapter 11 plan, each professional shall provide summary copies of its invoices with aggregate amounts of fees and expenses and total time on a per-professional basis (which shall include a general description of the nature of the matters worked on, but shall not be required to contain time detail and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of attorney-client privilege or of any benefits of the attorney work product doctrine or any other evidentiary privilege or protection recognized under applicable law) to the Debtors, the U.S. Trustee, and counsel to any statutory committee appointed in the Chapter 11 Cases, including the Creditors' Committee (if any) (together, the "**Review Parties**"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after the receipt of any such invoice by the Review Parties (the "**Review Period**"). If no written objection is received by 12:00 p.m. prevailing Eastern Time on the end date of the Review Period, the Debtors shall promptly pay such invoices within five (5) calendar days. If an objection to a professional's invoice is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice (without further order of, or application to, the Court or notice to any other party) and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the closing date of the DIP Facility, the DIP Fees and Expenses and Adequate Protection Fees and Expenses incurred on or prior to such date without the need for any professional engaged

by, or on behalf of, the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties to first deliver a copy of its invoice or other supporting documentation to the Review Parties (other than the Debtors). No attorney or advisor to the DIP Secured Parties, ABL Lender, or the Prepetition Term Loan Secured Parties shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) the DIP Secured Parties in connection with or with respect to the DIP Facility, (ii) ABL Lender in connection with the ABL Facility, and (iii) the Prepetition Term Loan Secured Parties in connection with or with respect to these matters, shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtors or any other person.

18. *Effect of Stipulations on Third Parties.*

(a) Upon entry of the Final Order, the Debtors' stipulations, admissions, agreements and releases contained in paragraph H of this Interim Order (the "**Stipulations**") shall be binding upon the Debtors and any successor thereto in all circumstances and for all purposes.

(b) Between entry of this Interim Order and entry of the Final Order, and subject to paragraph 19 of this Interim Order, only the Debtors shall have the right to initiate, prosecute, compromise, settle, or otherwise resolve any potential claims relating to the proposed Stipulations, including asserting or prosecuting any Challenge (as defined below). No other party shall have standing to pursue or commence any Challenge during this period.

(c) Subject to the limitations set forth in paragraph 18(b), the Debtors' Stipulations contained in Paragraph H of this Interim Order, once approved in the Final Order, and unless the claims related to the Stipulations have been settled by the Debtors at or prior to the entry of the Final Order, shall be binding upon all other parties in interest, including, without limitation,

any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases including the Creditor's Committee (if any), and any other person or entity acting or seeking to act on behalf of the Debtors' estates including without limitation any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors, in all circumstances and for all purposes, unless:

(i) a Creditors' Committee (if any) or another party in interest with requisite standing (in each case, to the extent requisite standing is obtained pursuant to an order of this Court entered prior to the expiration of the Challenge Period (as defined herein)) timely files an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by no later than (A) the earlier of 75 calendar days after entry of this Interim Order or (B) any such later date agreed to in writing by the applicable Prepetition Secured Party(ies) (the time period established by the foregoing clauses (A) and (B), the "**Challenge Period**"), either (X) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Term Loans or the Prepetition Term Loan Liens, or (Y) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, a "**Challenge**" or the "**Challenges**") against the Prepetition Term Loan Secured Parties or their 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 (each, a "**Representative**" and, collectively, the "**Representatives**") in connection with matters related to the Prepetition Term Loan Documents, the Prepetition Term Loans, the Prepetition Term Loan Liens and the Prepetition Term Loan Collateral; *provided, however*, in the event the Debtors compromise or settle the

potential claims relating to the Stipulations prior to the entry of the Final Order, such settlement shall be binding on the Debtors' estates and all parties in interest, and no statutory committee or other party in interest shall thereafter have any right to pursue a Challenge relating to such settled matters; and

(ii) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; provided, however, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim, and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred, including any amended or additional claims that may or could have been asserted thereafter through an amended complaint under Fed. R. Civ. P. 15 or otherwise.

(d) In the event that a chapter 7 or chapter 11 trustee is appointed prior to the end of the Challenge Period, the Challenge Period solely for such chapter 7 or chapter 11 trustee shall be extended (unless and until an order confirming a plan is entered by the Court) to the longer of (i) the remaining Challenge Period or (ii) the date that is twenty-one (21) calendar days following the appointment of such trustee.

(e) If no such 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 proceeding then, upon entry of the Final Order: (i) the Debtors' Stipulations contained in this Interim Order shall be binding on all parties in interest; (ii) the obligations of the Debtors under the Prepetition Term Loan Documents, including the Prepetition Term Loans, shall constitute allowed claims not subject to defense, claim, counterclaim, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, recoupment, offset or avoidance, for all purposes in the Chapter 11

Cases, and any subsequent chapter 7 case(s); (iii) the Prepetition Term Loan Liens on the Prepetition Term Loan Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected, security interests and liens, not subject to recharacterization, subordination (whether equitable, contractual or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, avoidance or other defense; and (iv) the Prepetition Term Loans and the Prepetition Term Loan Liens on the Prepetition Term Loan Collateral shall not be subject to any other or further claim or challenge by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party in interest acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against the Prepetition Term Loan Secured Parties and their Representatives arising out of or relating to any of the Prepetition Term Loan Documents, the Prepetition Term Loans, the Prepetition Term Loan Liens and the Prepetition Term Loan Collateral shall be deemed forever waived, released and barred.

(f) Upon entry of the Final Order, if any such Challenge is timely filed during the Challenge Period, the Stipulations contained in this Interim Order shall nonetheless remain binding and preclusive (as provided in subparagraph (c)) on any statutory or non-statutory committee appointed or formed in the Chapter 11 Cases and on any other 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.

(g) The timely filing of a motion seeking standing to file a Challenge Action before the expiration of the Challenge Period, which attaches a proposed Challenge Action, shall extend the Challenge Period with respect to that party (and only that party) and only with respect to those causes of action and/or claims specifically identified in the Challenge Action, until two business days after the Court approves the standing motion, or such other time period ordered by the Court in approving the standing motion, provided that the Challenge Period shall immediately expire if the Court denies such standing motion.

(h) Nothing in this Interim Order vests or confers on any Person (as defined in the Bankruptcy Code), including any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition Loan Documents, the Prepetition Loans or the Prepetition Liens, and any ruling on standing, if appealed, shall not stay or otherwise delay the Chapter 11 Cases, confirmation of any plan of reorganization or consummation of any sale of all or substantially all assets of the Debtors.

19. *Limitation on Use of Cash Collateral and DIP Collateral.*

(a) Notwithstanding any other provision of this Interim Order or any other order entered by the Court, no DIP Loans, DIP Collateral, Cash Collateral (including the DIP Loan Proceeds), or Prepetition Term Loan 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:

(i) in connection with the investigation, threatened initiation, or prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against any of the DIP Secured Parties, the Prepetition Term Loan Secured Parties, the ABL Lender, or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, in each case in their respective capacity as such, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Loans, and/or the Adequate Protection Obligations and Adequate Protection Liens granted to the Prepetition Secured Parties, as applicable, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the DIP Obligations, Prepetition Obligations and/or the liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under this Interim Order, the Final Order, the DIP Documents or Prepetition Loan Documents in respect of the Prepetition Loans, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 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/or DIP Collateral (including Cash Collateral and the DIP Loan Proceeds) may be used by the Creditors' Committee to investigate (but not to prosecute or initiate the prosecution of, including the preparation of any complaint or motion on account of) (A) the claims and liens (including the validity and priority thereof whether by legal, equitable or other means) of the Prepetition Term Loan Secured Parties and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Term Loan Secured Parties, up to an aggregate cap of no more than \$10,000;

(ii) to prevent, hinder, or otherwise delay or interfere with the Prepetition Secured Parties' or the DIP Secured Parties', as applicable, enforcement or realization

on the Prepetition Loans, Prepetition Term Loan Collateral, ABL Priority Collateral, DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or Final Order, as applicable, each in accordance with the DIP Documents, the Prepetition Loan Documents or this Interim Order;

(iii) to seek to modify any of the rights and remedies granted to the Prepetition Term Loan Secured Parties, the ABL Lender, or the DIP Secured Parties under this Interim Order, the Prepetition Term Loan Documents or the DIP Documents, as applicable;

(iv) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to 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 507(b) Claims;

(v) to pay administrative expense claims under section 503(b)(9) of the Bankruptcy Code except as specifically approved in writing by the DIP Agent; or

(vi) to pay or to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved or authorized by the Court, agreed to in writing by the DIP Lender, expressly permitted under this Interim Order, or permitted under the DIP Documents (including the Approved Budget, subject to permitted variances), in each case unless all DIP Obligations, ABL Obligations, Prepetition Term Loans, Adequate Protection Obligations, and claims granted to the DIP Secured Parties and Prepetition Term Loan Secured Parties under this Interim Order have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit).

(b) No proceeds of the New Money DIP Loans, or Cash Collateral constituting ABL Priority Collateral, shall be used to pay costs, fees, and expenses incurred in connection with

the Utah Litigation, which shall be paid with proceeds of the Litigation DIP Loans. Costs, fees, and expenses incurred in connection with the Utah Litigation shall be funded through the proceeds of the Litigation DIP Loan.

(c) For the avoidance of doubt, (i) the Debtors' consensual use of the ABL Lender's cash collateral shall terminate upon the earlier of a New Money DIP Loan Commitments Maturity Date and a Cash Collateral Termination Date (as defined in the DIP Loan Agreement); and (ii) this paragraph 19 shall not limit the Debtors' right to use DIP Collateral to contest whether an Event of Default has occurred hereunder pursuant to and consistent with paragraph 7 of this Interim Order.

20. Indemnification. The Prepetition Secured Parties and the DIP Secured Parties 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 Facility and the use of the Cash Collateral, including in respect of the granting of the DIP Liens and the Adequate Protection Liens, any challenges or objections to the DIP Facility or the use of Cash Collateral, the DIP Documents, and all other documents related to and all transactions contemplated by the foregoing. Accordingly, without limitation to any other right to indemnification, the Prepetition Secured Parties, and the DIP Secured Parties shall be and hereby are indemnified (as applicable) as provided in the Prepetition Loan Documents and DIP Documents, as applicable, including, without limitation, the "Indemnity" section of the DIP Loan Agreement, subject only to the Carve-Out. The Debtors agree that no exception or defense in contract, law, or equity exists as of the date of this Interim Order to any obligation set forth, as the case may be, in this paragraph 20 or otherwise in the DIP Documents, or in the Prepetition Loan Documents to indemnify and/or hold harmless

the DIP Secured Parties or any Prepetition Secured Party, as the case may be, and any such defenses that may be in existence as of the date of this Interim Order are hereby waived.

21. Interim Order Governs. In the event of any inconsistency between the provisions of this Interim Order and the DIP Documents (including, but not limited to, with respect to the Adequate Protection Obligations and any provisions of the DIP Loan Agreement) or any other order entered by this Court, the provisions of this Interim Order shall govern. Notwithstanding the relief granted in any other order by this Court, (a) all payments and actions by any of the Debtors pursuant to the authority granted therein shall be subject to this Interim Order, including compliance with the Approved Budget (subject to permitted variances) and all other terms and conditions hereof, and (b) to the extent there is any inconsistency between the terms of such other order and this Interim Order, this Interim Order shall control, in each case, except to the extent expressly provided otherwise in such other order.

22. Binding Effect; Successors and Assigns. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in the Chapter 11 Cases, including, without limitation, the DIP Secured Parties, the ABL Lender, the Prepetition Term Loan Secured Parties, any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors), and shall inure to the benefit of the DIP Secured Parties, the ABL Lender, the Prepetition Term Loan Secured Parties, and the Debtors and their respective successors and assigns; provided that the DIP Secured Parties, ABL Lender, and the

Prepetition Term Loan Secured Parties shall have no obligation to permit the use of the DIP Collateral, ABL Priority Collateral, or the Prepetition Term Loan Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

23. Limitation on Liability. Nothing in this Interim Order, 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 Secured Parties, the Prepetition Secured Parties any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts. The DIP Secured Parties and Prepetition Secured Parties shall not, in any way or manner, be liable or responsible for (a) the safekeeping of the DIP Collateral, the ABL Priority Collateral, or Prepetition Term Loan Collateral, (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (c) any diminution in the value thereof or (d) 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, ABL Priority Collateral or Prepetition Term Loan Collateral shall be borne by the Debtors. By virtue of making any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or the Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents or the Prepetition Loan Documents, none of the DIP Secured Parties or the Prepetition Secured Parties shall (x) have any liability to any third party or be deemed to be in “control” of the operations of the Debtors; (y) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (z) be deemed to be acting as a “Responsible Person” or “Owner” or “Operator” or “managing agent” with respect to the

operation or management of any of the Debtors (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 this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Secured Parties, or the Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

24. Master Proof of Claim. The Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Cases or any Successor Case in order to assert claims on behalf of themselves for payment of the Prepetition Loans arising under the Prepetition Loan Documents, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts owing under the Prepetition Loan Documents. The statements of claim in respect of such indebtedness set forth in this Interim Order are deemed sufficient to and shall hereby constitute proofs of claim in respect of such debt and such secured status. Any order entered by this Court in relation to the establishment of a bar date for any claim (including, without limitation, administrative claims) in any of the Chapter 11 Cases or any Successor Cases shall not apply to the Prepetition Secured Parties with respect to the Prepetition Term Loans (or with respect to the Adequate Protection Obligations). However, in order to facilitate the processing of claims, the Prepetition Secured Parties are authorized, but not directed or required, to file in the Debtors' lead chapter 11 case, Case No. 25-[], a single master proof of claim on account of any and all of their respective claims against any of the Debtors arising under the applicable Prepetition Loan Documents and hereunder (each, a "**Master Proof of Claim**"). Upon the filing of a Master Proof

of Claim by any Prepetition Secured Party, they shall be deemed to have filed a proof of claim in the amount set forth therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Loan Documents, and the claim of each applicable Prepetition Secured Party (and each of its respective successors and assigns) specified in a Master Proof of Claim shall be treated as if it had filed a separate proof of claim in each of these Chapter 11 Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party or the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among the holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 24 and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Chapter 11 Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the applicable Prepetition Secured Parties. The DIP Secured Parties shall similarly not be required to file proofs of claim with respect to their DIP Obligations under the DIP Documents, and the evidence presented with the DIP Motion and the record established at the Interim Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

25. Insurance. To the extent that the Prepetition Term Loan Secured Parties are listed as loss payee under the DIP Borrower's or DIP Guarantors' insurance policies, the DIP Agent is also deemed to be the loss payee under the insurance policies (in any such case with the same

priority of liens and claims thereunder relative to the priority of the Prepetition Term Loan Liens and Adequate Protection Liens as set forth herein), and shall act in that capacity and distribute any proceeds recovered or received in respect of the insurance policies, to the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments, and to the payment of the applicable Prepetition Term Loans and Prepetition Term Loan Obligations.

26. Credit Bidding. (a) The DIP Agent (acting at the direction of the DIP Lender) shall be permitted, but not obligated, to credit bid in accordance with the DIP Documents up to the full amount of the DIP Obligations in connection with any sale of the DIP Collateral (or any portion thereof), and (b) subject to paragraph 18, the Prepetition Term Loan Secured Parties shall have the right, consistent with the Prepetition Term Loan Documents (and providing for the DIP Obligations to be indefeasibly repaid in full in cash and the termination of the DIP Commitments), to credit bid up to the full amount of the DIP Obligations (including DIP Superpriority Claims) and the Prepetition Term Loans (including any Adequate Protection Obligations); in each case including any accrued interest, fees, and expenses in the sale of the DIP Collateral or the Prepetition Term Loan Collateral (or any portion thereof), and also in each case (i) without the need for further Court order authorizing the same, (ii) subject, as applicable, to section 363(k) of the Bankruptcy Code, and (iii) whether any such sale is effectuated through section 363(k), 1123 or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise. No Debtor shall object to any DIP Secured Party or any Prepetition Secured Party credit bidding up to the full amount of the applicable outstanding DIP Obligations or Prepetition Secured Note Obligations (including any DIP Superpriority Claims and Adequate Protection Obligations), in each case including any accrued interest, fees, and expenses, in any sale of any DIP Collateral or

Prepetition Term Loan Collateral, as applicable, whether such sale is effectuated through sections 363 or 1129 of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise. For the avoidance of doubt, any such credit bid with respect to ABL Priority Collateral must pay in cash at the closing of such sale all Obligations under the ABL Facility, including without limitation the ABL Subordinated Claim.

27. Effectiveness. This Interim Order shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Rules, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

28. Modification of DIP Documents and Approved Budget. The Debtors are hereby authorized, without further order of this Court, to enter into agreements with the DIP Secured Parties, and the ABL Lender to any extent its consent is required by this Interim Order or the DIP Loan Agreement, providing for any consensual non-material modifications to the Approved Budget or the DIP Documents, or of any other modifications to the DIP Documents necessary to conform the terms of the DIP Documents to this Interim Order, in each case consistent with the amendment provisions of the DIP Documents; provided, however, that notice of any material modification or amendment to the DIP Documents shall be filed on the docket and also provided to the U.S. Trustee, any statutory committee, and parties in interest requesting notice pursuant to Rule 2002, which shall have three (3) business days from the date of receipt of such notice within which to object, in writing, to the modification or amendment. If the U.S. Trustee, any statutory

committee, or any party in interest timely objects to any material modification or amendment to the DIP Documents, the modification or amendment shall only be permitted pursuant to an order of the Court. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a material modification on an expedited basis. The Debtors will provide notice to the U.S. Trustee and any statutory committee of any other amendment or modification as soon as reasonably practicable.

29. Headings. Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Interim Order.

30. Payments Held in Trust. Except as expressly permitted in this Interim Order or the DIP Documents and except with respect to the Debtors, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the benefit of the DIP Secured Parties and shall immediately turn over the proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Interim Order.

31. 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 DIP Motion.

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

33. Necessary Action. The Debtors, the DIP Secured Parties and the Prepetition Term Loan Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of this Interim Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in the Chapter 11 Cases to take all actions as are necessary or appropriate to implement the terms of this Interim Order.

34. Retention of Jurisdiction. The Court shall retain jurisdiction to enforce the provisions of this Interim Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

35. Final Hearing. A final hearing to consider the relief requested in the DIP Motion shall be held on **September [•], 2025 at [] (prevailing Eastern Time)**. Any objections or responses to the DIP Motion shall be filed on or prior to **September [•], 2025 at [] (prevailing Eastern Time)** and served on the following parties: (a) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Malcolm M. Bates, Esq. (Malcolm.M.Bates@usdoj.gov@usdoj.gov); (b) the Debtors Walker Edison Holdco LLC, 1553 W 9000 S, West Jordan, UT 84088, Attn: Nate Brown (nate.brown@walkerredison.com); (c) proposed counsel to the Debtors, Morris, Nichols, Arsht & Tunnell LLP, 1201 N Market St # 1600, Wilmington, DE 19801, Attn: Robert J. Dehney Sr. (rdehney@morrisnichols.com); (d) counsel to the DIP Secured Parties, Whiteford, Taylor & Preston LLP, 3190 Fairview Park Dr, Suite 800, Falls Church, VA 22042, Attn: David W. Gaffey (dgaffey@whitefordlaw.com) and Brandy Rapp (brapp@whitefordlaw.com); (e) counsel to the ABL Lender, Otterbourg P.C., 230 Park Avenue, New York, NY 10169, Attn: Daniel F. Fiorillo (dfiorillo@otterbourg.com) and Matthew J. Stockl (mstockl@otterbourg.com); (f) counsel to any committee appointed in these Chapter 11 Cases; (g)

the Securities and Exchange Commission; (h) the U.S. Attorney's Office for the District of Delaware; and (i) Delaware Attorney General.

Exhibit 1

DIP Term Sheet

FOR DISCUSSION PURPOSES ONLY AND NOT A COMMITMENT**WALKER EDISON FURNITURE COMPANY, LLC****Junior Secured Super Priority Debtor in Possession Credit Facility
Summary of Principal Terms and Conditions**

This Term Sheet (including all exhibits hereto, as may be amended, amended and restated, supplemented or otherwise modified from time to time, this “DIP Term Sheet”), describes the terms and conditions of the junior secured superpriority debtor in possession term loan facility defined below, to be provided by **BLUE OWL CAPITAL CORPORATION**, as administrative agent for the Prepetition Lenders (defined below) (the “DIP Agent”), to **WALKER EDISON FURNITURE COMPANY, LLC**, a Utah limited liability company (the “DIP Borrower”), in connection with cases (collectively, the “Bankruptcy Cases”) filed by **WALKER EDISON INTERMEDIATE, LLC**, a Delaware limited liability company, and the DIP Borrower (individually, a “Debtor” and collectively, the “Debtors”), in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), pursuant to chapter 11 of title 11 of the United States Code (as amended, the “Bankruptcy Code”). Capitalized terms used but not defined herein have the meanings assigned to them in the Interim DIP Order (as defined below).

Petition Date:	August 28, 2025, being the date upon which the DIP Borrower filed its petition for relief under the Bankruptcy Code
DIP Borrower:	Walker Edison Furniture Company, LLC
Guarantors:	Walker Edison Holdco, LLC Walker Edison Intermediate, LLC EW Furniture, LLC
DIP Agent:	Blue Owl Capital Corporation
DIP Credit Facility:	A junior secured debtor in possession term loan facility (the “ DIP Credit Facility ”) consisting of (i) a \$6,000,000.00 new money term loan tranche (the “ New Money DIP Loan Commitments ” and the term loans thereunder, the “ New Money DIP Loans ”), of which \$4,000,000.00 shall be available upon entry of the order (the “ Interim DIP Order ”) approving the DIP Credit Facility on an interim basis and \$2,000,000.00 will be in the form of a delayed draw term loan facility, which shall be available to be drawn after the entry of the order approving the DIP Credit Facility on a final basis (the “ Final DIP Order ,” and together with the Interim DIP Order, the “ DIP Orders ”) subject to the satisfaction of conditions precedent to be mutually agreed, (ii) a \$7,000,000.00 new money term loan tranche (the “ Litigation DIP Loan Commitments ” and the term loans thereunder, the “ Litigation DIP Loans ”), of which \$1,500,000.00 shall be available upon entry of the Interim DIP Order and \$5,500,000.00 will be in the form of a delayed draw term loan facility, which shall be available to be drawn after the entry of the Final DIP Order, to support the Debtors’

	litigation expenses incurred in connection with the cases of <i>Blue Owl Capital Corporation v. Brad Bonham, et al.</i> (Case No. 240903251) and <i>Walker Edison Furniture Company v. Brad Bonham, et al.</i> (Case No. 230902160)¹ each pending in the Third Judicial District, Salt Lake County District Court, Utah (together, the “Utah Litigation”), and (iii) upon entry of the Interim DIP Order a deemed term loan “roll up” of the Prepetition Loans (as defined below) held by the DIP Lenders (or their affiliates) on a one-to-one basis relative to the New Money DIP Loan Commitments and the Litigation DIP Loan Commitments advanced under the Interim DIP Order (the “Interim Roll-Up”), to be deemed incurred as of the date of entry of the Interim DIP Order and (iv) upon entry of the Final DIP Order a deemed term loan “roll up” of the Prepetition Loans (as defined below) held by the DIP Lenders (or their affiliates) in an amount equal to the Roll-Up Amount (as defined below) (the “Final Roll-Up”), to be deemed incurred as of the date of entry of the Final DIP Order (the Interim Roll-Up and the Final Roll-Up together the “Roll-Up Loans”; and the Roll-Up Loans together with the New Money DIP Loans and the Litigation DIP Loans, the “DIP Loans,” and the obligations under such DIP Loans, the “DIP Obligations”). The DIP Credit Facility’s liens on the Collateral (as defined below) to secure the DIP Obligations will be junior and subordinate to any liens and replacement liens (the “ABL Liens”) granted under or in connection with the ABL Credit Agreement dated as of September 26, 2018, as amended (the “ABL Facility”) by and among the DIP Borrower, Guarantors and Wells Fargo Bank, National Association (the “ABL Lender”), but rank senior to all other obligations of the Company. For the avoidance of doubt, the ABL Liens will not extend to or include the Utah Litigation or any proceeds thereof, a Stalking Horse Deposit (defined below), or the Stalking Horse Claims (defined below), subject to the terms and conditions provided herein.
Prepetition Lenders:	All term loan lenders (the “Prepetition Lenders”) under the DIP Borrower’s Amended and Restated Loan Agreement dated as of March 1, 2023 (as amended from time to time and together with all documents executed in connection therewith, the “Prepetition Loan Agreement”) will be given the opportunity to (i) fund their pro rata share of the New Money DIP Loans, (ii) fund their pro rata share of the Litigation DIP Loan, (iii) upon entry of the Interim DIP Order, roll-up, on a one-to-one basis relative to the New Money DIP Loan Commitments and the Litigation DIP Loan Commitments loans outstanding under the DIP Borrower’s Prepetition Loan Agreement (“Prepetition Loans”) held by such Prepetition Lender (i.e., \$1.00 of Prepetition Loans for every \$1.00 of New Money DIP Loan Commitments and Litigation DIP Loan Commitments provided by such Prepetition Lender), and (iv) upon entry of the Final DIP Order, roll-up, on a three-to-one basis relative to the New Money DIP Loan Commitments (the “New Money Roll-Up”) and the Litigation DIP Loan Commitments (the “Litigation Roll-Up”), Prepetition Loans held by such Prepetition Lender (i.e., \$3.00 of Prepetition Loans for every \$1.00 of New Money DIP Loan Commitments and Litigation DIP Loan Commitments

¹ To the extent that any claims asserted in Case No. 240903251 become property of the Debtors’ bankruptcy estate.

	provided by such Prepetition Lender) (collectively, the “Roll-Up Opportunity”) and such amount of Prepetition Loans participating in the Roll-Up Opportunity, the “Roll-Up Amount”). A Prepetition Lender may only participate in the Roll-Up Opportunity if such Prepetition Lender provides its pro rata share of the New Money DIP Loan Commitments and Litigation DIP Loan Commitments. Notwithstanding anything to the contrary in the Prepetition Loan Agreement, any Prepetition Lender that does not provide its pro rata share of the New Money DIP Loan Commitments and Litigation DIP Loan Commitments shall not be entitled to receive and shall not be paid any amounts payable on account of or related to the DIP Loans or the Roll-Up Opportunity, including as a result of the actual or deemed repayment of Prepetition Loans held by participating Prepetition Lenders. All such participating Prepetition Lenders shall be referred to herein as “DIP Lenders” and are identified on <u>Exhibit 1</u> attached hereto along with the pro rata amounts to be funded by each such participating DIP Lenders.
Purpose:	Proceeds of the DIP Credit Facility will be used in compliance with the terms of the Approved Budget (as defined below), (a) to pay transaction costs, fees, and expenses which are incurred in connection with the DIP Credit Facility, including (i) all fees and costs incurred by professionals employed by the DIP Lenders and Prepetition Lenders, and (ii) those fees and costs incurred by professionals employed by the ABL Lender (subject to all applicable limitations herein, the “ABL Adequate Protection Fees and Expenses”) up to a cap of \$250,000.00, which amount includes an on-account balance of \$75,000.00 that was charged to the ABL Facility prior to the Petition Date (the “ABL Adequate Protection Fees and Expenses Cap”), provided that the ABL Adequate Protection Fees and Expenses Cap shall be of no force or effect and shall not limit the extent or amount of legal fees and expenses the ABL Lender shall be entitled to be paid by the Debtors in the event that the sale to the Stalking Horse Bidder (as defined below) or another winning bidder pursuant to the Stalking Horse Purchase Agreement (as defined below) fails to close, (b) to pay professional fees of the Debtors and their estates and any official committee of unsecured creditors appointed in the Chapter 11 Cases (the “UCC”), and (c) for working capital and other general corporate purposes of the Debtors, all subject to the Approved Budget (as defined below) and certain restrictions to be set forth in the Interim DIP Order and/or Final DIP Order, as applicable, and the documents governing the DIP Credit Facility. Neither proceeds of the DIP Credit Facility nor cash collateral shall be used to pay administrative expense claims under section 503(b)(9) of the Bankruptcy Code. No proceeds of the New Money DIP Loans shall be used to pay costs, fees, and expenses incurred in connection with the Utah Litigation, which shall be paid with proceeds of the Litigation DIP Loans. The deemed proceeds of the Roll-Up Loans shall be used to refinance an equal amount of the Prepetition Loans held by the DIP Lenders (or their affiliates) reducing the amount of the prepetition obligations by such amount.

	No proceeds of the DIP Loans or cash collateral shall be used to fund any investigation or pursuit of claims or actions against the DIP Agent, the DIP Lenders, the Prepetition Lenders, or the ABL Lender; provided, that up to \$10,000 of such proceeds may be used to cover the costs of an investigation by the Official Committee of Unsecured Creditors into the prepetition liens and claims of the Prepetition Lenders and the ABL Lender. No proceeds of the DIP Loans or cash collateral shall be used to fund any claims or actions against the DIP Agent, the DIP Lenders, the Prepetition Lenders, or the ABL Lender.
Interest:	10.00% per annum on the New Money DIP Loans and New Money Roll-Up, payable in kind, which shall be paid in cash on the date on which any New Money DIP Loans or New Money Roll-Up are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility. 10.00% per annum on the Litigation DIP Loans and the Litigation Roll-Up, payable in kind, which shall be paid in cash on the date on which any Litigation DIP Loans or Litigation Roll-Up are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility. All interest shall be calculated as simple interest on the basis of a 360-day year for the actual number of days elapsed.
Default Rate:	Following the occurrence and during the continuance of an Event of Default (as defined below, and after giving effect to any applicable notice or grace periods), all amounts due in respect of the DIP Obligations shall bear interest at the rate of twelve percent (12.00%) per annum
Upfront Fee:	2.00% of the New Money DIP Loan Commitments, payable in-kind on the entry of the Interim DIP Order
Exit Fee:	2.00% in respect of the New Money DIP Loan Commitment payable (without duplication) on the date on which any New Money DIP Loans are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility. 4.00% in respect of the Litigation DIP Loan Commitments, payable (without duplication) on the date on which any Litigation DIP Loan Commitments are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility.
Unused Fee:	0.50% per annum on the undrawn New Money DIP Loan Commitments, payable in cash on the date on which the New Money Loans are repaid or prepaid, at the New Money DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility.

	0.50% per annum on the undrawn Litigation DIP Loan Commitments, payable in cash on the date on which the Litigation DIP Loans are repaid or prepaid, at the Litigation DIP Loan Commitments Maturity Date, and/or upon the acceleration of the DIP Credit Facility.
Maturity Date:	New Money DIP Loan Commitments Maturity Date: The New Money DIP Loans and New Money Roll-Up shall be due and payable upon the earliest of (i) the date that is five months after the Petition Date, (ii) the closing date of a sale of substantially all of the Debtors' assets, (iii) the chapter 11 plan effective date, (iv) the date of dismissal of the chapter 11 cases or conversion to chapter 7, (v) the acceleration of the DIP Credit Facility following an Event of Default, (vi) at DIP Lenders' option, the failure of Debtors timely to satisfy any Milestone, and (vii) the filing of any Unapproved Plan. The Debtors' consensual use of the ABL Lender's cash collateral shall terminate upon the earlier of a New Money DIP Loan Commitments Maturity Date, and a Cash Collateral Termination Date (as defined below). Litigation DIP Loan Commitments Maturity Date: The Litigation DIP Loans and Litigation Roll-Up shall be due and payable upon earlier of (i) the date that is five months after the petition date, (ii) the chapter 11 plan effective date, (iii) the date of dismissal of the chapter 11 cases or conversion to chapter 7, (iv) the acceleration of the DIP Credit Facility following an Event of Default, (v) at DIP Lenders' option, the failure of Debtors timely to satisfy any Milestone, and (vi) the filing of any Unapproved Plan.
Mandatory Prepayments:	Until such time as all DIP Obligations have been indefeasibly paid in full in cash, the Debtors shall remit to DIP Lenders 100% of the net cash proceeds (after any required payment of any liens, claims or encumbrances having priority over the DIP Liens, as defined below, including the ABL Liens) derived from: (a) any sale or other disposition of any DIP Collateral, as defined below, approved by the Bankruptcy Court, including any sale or disposition of all or substantially all of Debtors' assets pursuant to section 363 of the Bankruptcy Code, simultaneously with the consummation thereof; (b) any indemnity payments and insurance proceeds not included as proceeds of asset dispositions; and (c) the proceeds received from the incurrence or issuance of indebtedness by any Debtor without the prior written consent of DIP Lenders. Any amounts so paid or prepaid may not be reborrowed. No reinvestment of the proceeds of any insurance proceeds, asset sales or other proceeds described above shall be permitted without the prior written consent of the DIP Lenders.

Voluntary Prepayments:	None.
Approved Budget	Attached hereto as Exhibit 2 is a thirteen-week operating budget for the Debtors outlining actual and anticipated expenses for which DIP Lenders have agreed to provide funding, subject to the terms of this DIP Term Sheet and the DIP Orders (the “Approved Budget”). Upon entry of the Interim DIP Order, DIP Lenders will advance the sum of \$3,568,000 to the Debtors solely for application against those expenses denominated as “First Day Expenses” in the Approved Budget. Thereafter, DIP Lenders shall make additional DIP Loans available from time to time, but not more frequently than once during any calendar week, upon the Debtors’ written request, which shall be accompanied by (i) an itemization of all expenses set forth in the Approved Budget for which funding is then sought, and (ii) a reconciliation of the Approved Budget showing the application of all amounts previously disbursed and any actual or anticipated changes in budgeted expenses (collectively, a “Draw Request”). The Debtors shall give written notice to the DIP Agent of each Draw Request at least seventy two (72) hours prior to the proposed date of funding, and shall submit separate Draw Requests for the New Money DIP Loan and the Litigation DIP Loan. The Approved Budget may be revised from time to time in the sole discretion of DIP Lenders, provided that the DIP Lenders shall at no time be obligated to consent to any change in the Approved Budget requested by the Debtors. Proceeds of the DIP Loans shall be maintained in a segregated bank account over which the DIP Lenders shall retain control, and which shall be subject to the DIP Liens (as hereinafter defined) in favor of the DIP Lenders (the “DIP Loan Account”). Funds on deposit in the DIP Loan Account shall be available to the Debtors from time to time to be applied directly to the payment of amounts permitted to be paid under the Approved Budget as and when the same shall become due and payable, subject to the terms and conditions of this DIP Term Sheet and the DIP Orders.
Reporting Requirements:	All of the Debtors’ operating and capital expenditures and cash flow shall be set forth in the Approved Budget, as may be modified from time to time with the consent of the DIP Lenders. The Approved Budget shall set forth all of the operating and capital expenditures to be made during each calendar week and in the aggregate for the period of time covered by the Approved Budget. Measured at the end of each week starting with the week of September 8, 2025, and the end of each week thereafter, the Debtors’ total disbursements may exceed the total disbursements set forth in the Approved Budget by no more than 15% in the aggregate. The Debtors shall provide a weekly variance report to the DIP Lenders in form and substance reasonably acceptable to the DIP Lenders and the ABL Lender. In addition, the Debtors shall provide the ABL Lender and the DIP Lenders with all reporting that the Debtors were responsible to provide the ABL Lender under the ABL Facility immediately prior to the Petition Date.
Milestones:	The Debtors shall be required to achieve the following milestones (collectively, the “Milestones”) which may be extended or waived in writing by the DIP Lenders, in their sole and absolute discretion:

	• No later than 1 business day following the Petition Date, the Debtors shall have executed an asset purchase agreement, in form and substance satisfactory to the DIP Lenders and the ABL Lender, with a third-party purchaser (the “Stalking Horse Purchaser”) for the purchase of substantially all assets of the operating assets of the Debtors (the “Stalking Horse Purchase Agreement”), with any financing required by the Stalking Horse Purchaser in connection with the Stalking Horse Purchase Agreement not conditioned upon the occurrence of any further or future event other than the entry of an order by the Bankruptcy Court approving the sale; • No later than 2 business days after the Petition Date, the Interim DIP Order approving the DIP Credit Facility on an interim basis, in form and substance acceptable to the DIP Lenders and the ABL Lender, shall be entered by the Bankruptcy Court; • No later than 2 business days after the Petition Date, the Debtors shall file with the Bankruptcy Court one or more motions, each in form and substance reasonably acceptable to the DIP Lenders and the ABL Lender, seeking approval of the Stalking Horse Purchase Agreement (the “Sale Motion” and, the transaction in respect thereof, the “Sale Transaction”) and (ii) bidding procedures (which are in form and substance satisfactory to the DIP Lenders) in connection with approval of the Sale Transaction (the “Bid Procedures Motion”); • No later than 18 days after the Petition Date, the Bankruptcy Court shall have entered an order establishing bidding procedures consistent with the Bidding Procedures Motion (the “Bidding Procedures Order”), which order shall in form and substance be reasonably acceptable to the DIP Lenders and the ABL Lender; • No later than 18 days after the Petition Date, the Final DIP Order approving the DIP Credit Facility on a final basis, in form and substance acceptable to the DIP Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, to the ABL Lender, shall be entered by the Bankruptcy Court; • No later than 25 days after the Petition Date, unless the DIP Lenders and otherwise agree, submission of qualified bids in respect of the Sale Transaction; • No later than 28 days after the Petition Date, the Debtors shall have held an auction in connection with the Sale Transaction; • No later than 30 days after the Petition Date, the Bankruptcy Court shall have entered an order approving the Sale Transaction (the
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	“Sale Order”), which order shall be in form and substance reasonably acceptable to the DIP Lenders and the ABL Lender; • No later than 31 days after the Petition Date, the DIP Borrower shall have consummated the Sale Transaction in accordance with the Sale Order; • No later than 45 days after the Petition Date, unless the DIP Lenders otherwise agree, the DIP Borrower shall have filed a chapter 11 plan (the “Chapter 11 Plan”) and disclosure statement, which shall be acceptable in form and substance to the DIP Lenders and (if applicable) the ABL Lender; and • No later than 90 days after the Petition Date, unless the DIP Lenders otherwise agree, the Bankruptcy Court shall have entered an order (the “Confirmation Order”) confirming the Chapter 11 Plan, which Confirmation Order shall be in form and substance acceptable to the DIP Lenders and (if applicable) the ABL Lender.
Application of Payments	Mandatory payments or prepayments and proceeds of DIP Collateral received by the DIP Lenders will be applied in the following order of priority (the “DIP Application of Payments”) (unless otherwise determined by the DIP Lenders), after giving effect to the Carve Out and any other payments required pursuant to the DIP Orders (including any required payment of any liens, claims or encumbrances having priority over the DIP Liens, as defined below, including the ABL Liens), subject to the terms and conditions contained herein: <u>first</u>, to pay all documented out-of-pocket expenses of the DIP Lenders (including, without limitation, fees and expenses of counsel and external advisors); <u>second</u>, to pay the Exit Fee and Upfront Fee to DIP Lenders; <u>third</u>, to pay an amount equal to all accrued and unpaid interest and fees, if any, owing to the DIP Lenders; <u>fourth</u>, to repay any principal amounts outstanding in respect of the DIP Loans (including any interest or other amounts that have been paid in kind and added to the principal balance thereof); <u>fifth</u>, to pay all other DIP Obligations; and <u>last</u>, the balance, if any, after all of the DIP Obligations have been paid in full, to the Debtors subject in all respects to the rights, liens and claims of other creditors in the Bankruptcy Cases.
Priority of Payments – Collateral Subject to ABL Liens	Notwithstanding anything to the contrary in the Intercreditor Agreement by and between Wells Fargo Bank, National Association, as ABL Agent, and Owl Rock Capital Corporation, as Term Agent, dated as of March 31,

	2021 (as amended, the “Intercreditor Agreement”), payments and proceeds of Collateral subject to the ABL Liens will be applied in the following order of priority (the “ABL Payment Priority”): first, to pay the Carve Out; second, to pay an amount equal to the amount due and owing under the ABL Facility minus up to \$500,000 (as agreed to by and among the Debtors, the DIP Lenders and the ABL Lender) (“ABL Subordinated Claim”); third, to pay an amount equal to the amount due and owing on the New Money DIP Loans; fourth, to pay the ABL Subordinated Claim; fifth, to pay the Litigation DIP Loans; sixth, to pay the Roll-Up Loans; and last, the balance, if any, after all of the DIP Obligations have been paid in full, to the Debtors subject in all respects to the rights, liens and claims of other creditors in the Bankruptcy Cases. Notwithstanding anything to the contrary in this Term Sheet and solely with respect to a Stalking Horse Deposit (defined below), (i) if the Sale Transaction with the Stalking Horse Bidder or any other winning bidder closes, then the Stalking Horse Deposit shall be applied pursuant to the ABL Payment Priority; (ii) if the Sale Transaction to the Stalking Horse Bidder or such other winning bidder does not close and upon any forfeiture of a Stalking Horse Deposit to the Debtors pursuant to the Stalking Horse Agreement, the Stalking Horse Deposit shall be applied solely to the DIP Obligations pursuant to the DIP Application of Payments; and (iii) in the event the Stalking Horse Bidder or another bidder is entitled to the return of the Stalking Horse Deposit pursuant to the terms of the Stalking Horse Agreement, then the Stalking Horse Deposit shall be released and returned to the Stalking Horse Bidder or such other winning bidder, as applicable.
The DIP Orders:	The Interim DIP Order shall be in form and substance satisfactory to the DIP Lenders and the ABL Lender in their sole discretion; and the Final DIP Order shall be in form and substance satisfactory to the DIP Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, to the ABL Lender, and shall include the following provisions: (a) modifying the automatic stay to permit the creation and perfection of the DIP Lenders’ liens on the DIP Collateral and the ABL Lender’s replacement liens on the Collateral, subject only to the Carve Out, and in the case of the DIP Lenders’ liens, the ABL Liens;

	(b) authorizing and approving the DIP Credit Facility and the transactions contemplated thereby, including the granting of the superpriority status, security interests and liens and the payment of all premiums, payments and fees referred to herein; (c) providing that the DIP Lenders and their counsel, advisors, and consultants shall be entitled to the benefit of a “good faith” finding pursuant to section 364(e) of the Bankruptcy Code; (d) subject to and upon entry of the Final DIP Order, providing that in no event shall any of the DIP Lenders or the ABL Lender be subject to surcharge under section 506(c) of the Bankruptcy Code, the “equities of the case” exception of section 552(b) of the Bankruptcy Code, the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral; (e) providing for customary releases and exculpations for the DIP Agent, each DIP Lender (in any capacity), the Prepetition Lenders, and the ABL Lender in form and substance satisfactory to such party, respectively, including without limitation, releases from any avoidance actions; (f) permitting the DIP Lenders, or one or more of their affiliates, to apply the DIP Obligations in whole or in part as a credit bid in any sale or other disposition of the Debtors’ assets; provided, that any such credit bid with respect to Collateral securing the ABL Facility must pay in cash at the closing of such sale all Obligations under the ABL Facility, including without limitation the ABL Subordinated Claim; (g) providing for cash collateral use rights, liens, claims and protections, including, without limitation, (i) replacement liens on all prepetition Collateral securing the ABL Facility to the extent of any diminution in the value of ABL Lender’s liens on the prepetition Collateral, including from the use of the ABL Lender’s cash collateral (“Diminution”), (ii) superpriority administrative expense claims under Section 507(b) of the Bankruptcy Code to the extent of any Diminution, which claims shall be <i>pari passu</i> with any Section 507(b) claims of the Prepetition Lenders, (iii) adequate protection principal payments for permanent application against the Obligations arising under the ABL Facility made in accordance with the Approved Budget, (iv) payment of the ABL Adequate Protection Fees and Expenses subject to the ABL Adequate Protection Fees and Expenses Cap, (v) Debtors’ covenant to maintain at all times during the Chapter 11 cases Excess Availability (as defined in the ABL Facility, and which shall be determined, for the avoidance of doubt, after giving effect to the Availability Block (as defined in the ABL Facility)) of at least \$1,000,000, which shall be tested on Wednesday each week, starting on the first Wednesday that is at least three (3) calendar days following the Petition Date, upon the Debtors’ delivery to ABL Lender their borrowing base certificate, with any failure to maintain such Excess Availability shall be cured by payment in cash to ABL Lender by no later than the end of business on the day immediately prior to the next borrowing base certificate delivery date, (vi) providing for the termination of the use of
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	cash collateral upon the occurrence of any Event of Default (as defined below) (“Cash Collateral Termination Events”); and (h) providing that, to the extent of any material conflict or inconsistency between the terms of this DIP Term Sheet and the terms of any DIP Order, such DIP Order shall govern.
Events of Default:	The occurrence of any of the following shall constitute an “Event of Default”: (a) the entry of an Interim DIP Order in form or substance that is not reasonably acceptable to the DIP Lenders and the ABL Lender in their sole discretion; or entry of a Final DIP Order that is not reasonably acceptable to the DIP Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, the ABL Lender, each in their sole discretion; (b) failure to pay principal DIP Obligations in full when due, including without limitation, on the Maturity Date; (c) failure to pay interest, fees or other amounts in full within three (3) business days after the date due following written notice, including without limitation, on the Maturity Date; (d) failure of any representation, warranty or certification to be true and correct in all material respects (or, to the extent qualified by materiality or Material Adverse Change (as defined below), in all respects) when made; (e) failure by any Debtor to be in compliance in all material respects with the provisions of this DIP Term Sheet, any DIP Order or any other order of the Bankruptcy Court following five (5) business days’ written notice and an opportunity to cure; (f) dismissal of any of the Bankruptcy Cases; (g) the appointment in any of the Bankruptcy Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code) relating to the operation of the business of any Debtor, without the prior written consent of the DIP Lenders and the ABL Lender; (h) failure of any Milestones to be satisfied by the specified deadline therefor; (i) any exercise of remedies by or on behalf of the ABL Lender upon a default under the ABL Facility, assertion of cash dominion by or on behalf of the ABL Lender, implement reserves or make any modifications to the ABL Facility negatively impacting the borrowing base availability, or violation of any term of any DIP Order by the ABL Lender;

	(j) the filing of any application by any Debtor for the approval of (or an order is entered by the Bankruptcy Court approving) any claim arising under section 507(b) of the Bankruptcy Code, other than for ABL Lender's Section 507(b) claim for any Diminution or other Section 507(b) claims granted by or permitted in the DIP Orders; (k) the granting of relief from the automatic stay by the Bankruptcy Court to any other creditor or party in interest in the Bankruptcy Cases with respect to any portion of the DIP Collateral with an aggregate value exceeding \$25,000 without the prior written consent of the DIP Lenders and the ABL Lender; (l) the filing of a plan of reorganization or liquidation by any Debtor without the written consent of the DIP Lenders and (if applicable) the ABL Lender, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of DIP Lenders and (if applicable) the ABL Lender (any such plan an "Unapproved Plan"); (m) the entry of a Final DIP Order that fails to contain (i) stipulations binding on the Debtors as to the validity, extent, and priority of the liens securing the Prepetition Loans and the ABL Facility, and (ii) waivers and releases of all claims by the Debtors against the Prepetition Lenders and the ABL Lender, each in a form satisfactory to the DIP Lenders and Prepetition Lenders and, solely to the extent such Final DIP Order contains provisions materially less favorable to the ABL Lender than those contained in the Interim DIP Order, to the ABL Lender; (n) the existence of any unexpired "Challenge Period" available to a official committee appointed in the Debtors' bankruptcy cases or other party-in-interest following the conclusion of the final hearing to consider approval of the Sale Transaction; (o) any creditor or party in interest commences (or supports) any action against the DIP Agent, the DIP Lenders, or the ABL Lender to subordinate or avoid any liens granted hereunder or under any DIP Order in favor of the DIP Agent, the DIP Lenders, or the ABL Lender; (p) any Debtor files a pleading in any court seeking or supporting an order to revoke, reverse, stay, vacate, amend, supplement or otherwise modify this DIP Term Sheet, or any DIP Order, or to disallow any DIP Obligations or obligations under the ABL Facility, in whole or in part; (q) any material provision of this DIP Term Sheet or any DIP Order shall for any reason cease to be valid and binding, and the consequence of which shall have a material negative effect on the DIP Lenders and/or ABL Lender, without the prior written consent of the affected DIP Lenders and/or ABL Lender; (r) any DIP Lien shall for any reason cease to be valid and binding, without the prior written consent of the DIP Lenders;
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	(s) failure by the DIP Borrower or Guarantor to comply in any material respect with the DIP Orders or any other order of the Bankruptcy Court following five (5) business days' written notice and an opportunity to cure; (t) conversion of any of the Bankruptcy Cases to a case under chapter 7 of the Bankruptcy Code; (u) any request is made by any Debtor, or is supported by any Debtor, for the reversal, modification, amendment, stay, reconsideration or vacation of any DIP Order without the prior written consent of the DIP Lenders and the ABL Lender; (v) the entry of an order amending, modifying, staying, revoking, reversing, vacating or terminating any DIP Order without the express written consent of the DIP Lenders and the ABL Lender; (w) the termination of any of the Debtors' exclusive right to propose a plan of reorganization under chapter 11 of the Bankruptcy Code without the prior written consent of the DIP Lenders and the ABL Lender; (x) without the prior written consent of the DIP Lenders, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of DIP Lenders, the filing with the Bankruptcy Court of a motion seeking approval of a sale of all or substantially all assets of the Debtors under section 363 of the Bankruptcy Code that, in either case, does not provide for indefeasible payment in full in cash to the DIP Lenders of all DIP Obligations upon closing of such sale or the effective date of a plan pursuant to which such sale is made, unless otherwise agreed to by the DIP Lenders; (y) the filing of any motion seeking approval of a sale of any DIP Collateral without the consent of DIP Lenders, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of DIP Lenders (other than any sale permitted by the Final DIP Order or permitted under "Negative Covenants" below), or any sale or other disposition of all or a material portion of the DIP Collateral other than as permitted by the Final DIP Order and any sale permitted under "Negative Covenants" below; and (z) entry of any judgment for the payment of money by Debtors in an amount greater than \$50,000 that would be enforceable on a post-Petition Date basis. Subject to the terms of the DIP Orders, the DIP Lenders shall be permitted to accelerate the DIP Obligations and exercise all rights and remedies available to them at law, in equity or under the terms of the DIP Orders, in their sole discretion, upon the occurrence of an Event of Default.
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Collateral	“Collateral” means, collectively, all assets of the DIP Borrower and its bankruptcy estate of any nature whatsoever and wherever located, whether first arising prior to or following the Petition Date, now owned or hereafter acquired, including all accounts, chattel paper, commercial tort claims, deposit accounts, documents, equipment, general intangibles, goods (including fixtures), instruments, inventory, investment property, money, cash, cash equivalents, and all deposit accounts, securities accounts, commodities accounts and lockboxes together with all money, cash, securities and other investment property on deposit from time to time therein, letters of credit, letter-of-credit rights and other supporting obligations, real property interests (whether fee, leasehold, easement or mixed), books and records, and to the extent not otherwise included, all substitutions, replacements, accessions, products and other proceeds and products (whether tangible or intangible and including, without limitation, insurance proceeds, licenses, royalties, income, payments, claims, damages and proceeds of suit) of any and all of the foregoing and all collateral security and guarantees given by any person with respect to any of the foregoing. For the avoidance of doubt, upon entry of the Interim DIP Order the DIP Collateral shall include an automatically perfected and unavoidable first-priority security interest in, and liens on (x) all claims and causes of action in the Utah Litigation and the proceeds of the Utah Litigation, and (y) any deposit or down-payment paid by the Stalking Horse Purchaser or the winning bidder in connection with the Stalking Horse Purchase Agreement (a “Stalking Horse Deposit”) and any claims or causes of action against any party in connection with any breach of or default under the Stalking Horse Purchase Agreement (the “Stalking Horse Claims”). The DIP Collateral shall not include actions for preferences, fraudulent conveyances, and other avoidance power claims under sections 544, 545, 547, 548, 550 and 553 of the Bankruptcy Code (the “Avoidance Actions”), but, subject to and upon entry of the Final DIP Order, shall include the proceeds of Avoidance Actions (“Avoidance Action Proceeds”). All of the DIP Liens (as defined below) with respect to the Collateral shall be effective and perfected by the Interim DIP Order and the Final DIP Order without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements. Notwithstanding the foregoing, the Debtors shall take all action that may be reasonably necessary or desirable, or that the DIP Lenders may reasonably request, to at all times maintain the validity, perfection, enforceability and priority of the DIP Liens, or to enable the DIP Lenders to protect, exercise or enforce its rights hereunder and under the Interim DIP Order and the Final DIP Order.
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Priority of DIP Liens	The DIP Orders shall grant and approve, among other things, the liens, claims and security interests of DIP Lenders (the “DIP Liens”), in the order of priority described below: (a) pursuant to section 364(c)(1) of the Bankruptcy Code, a superpriority administrative expense claim in the Bankruptcy Cases in respect of all DIP Obligations (the “DIP Superpriority Claim”) with priority over all other administrative expenses and claims; provided, however, that the DIP Superpriority Claims shall be junior to a customary “Carve Out” (to the extent agreed upon by the DIP Lenders and set forth in the DIP Orders); (b) pursuant to section 364(c)(2) of the Bankruptcy Code, but subject and junior to the Carve Out, all DIP Obligations shall be secured by automatically perfected and unavoidable first priority security interests in, and liens on, (i) all cash borrowed under the DIP Credit Facility (which shall constitute cash collateral of the DIP Lenders), which cash shall be held in the segregated DIP Loan Account and not otherwise co-mingled with any other cash of the Debtors, and (ii) all unencumbered Collateral of the Debtors, whether now existing or hereafter arising and wherever located, tangible and intangible, including without limitation the claims and causes of action in the Utah Litigation and the proceeds of the Utah Litigation, the Stalking Horse Deposit, and the Stalking Horse Claims, subject to the terms and conditions contained in this Term Sheet; and (c) pursuant to section 364(c)(3) of the Bankruptcy Code, but subject and junior to the Carve Out, all DIP Obligations shall be secured by automatically perfected and unavoidable junior security interests in and liens on, all Collateral of the Debtors, whether now existing or hereafter arising and wherever located, tangible and intangible (clauses (b) and (c), collectively, the “DIP Collateral”). The DIP Liens shall be subject only to any validly perfected and non-avoidable liens, which as of the Petition Date were senior to liens securing obligations under the Prepetition Loans. For the avoidance of doubt, the DIP Liens shall prime and be senior to the liens securing the obligations under the Prepetition Loans.
Superpriority Claims	All of the DIP Obligations shall be entitled to the benefits of section 364(c)(1) of the Bankruptcy Code, having superpriority over any and all customary administrative expenses a debtor-in-possession loan would have priority over, subject only the Carve Out. For the avoidance of doubt, the DIP Superiority Claim shall, subject to and upon entry of the Final DIP Order, be payable from Avoidance Action Proceeds.

Conditions Precedent	The obligation of the DIP Lenders to advance DIP Loans hereunder will be subject to satisfaction, or written waiver by the DIP Lenders, of each of the following conditions precedent as of the date of each such advance (each a “Funding Date”): (a) Debtors and each of the Prepetition Lenders shall each have delivered to the DIP Lenders an executed counterpart of this DIP Term Sheet and any other document requested by DIP Lenders; (b) the Interim DIP Order and the Final DIP Order, as applicable, shall have been entered by the Bankruptcy Court and be in full force and effect and not have been vacated, reversed, modified, amended or stayed and not be subject to a pending appeal or motion or motion for leave to appeal or other proceeding to set aside any such order or to challenge the relief therein provided; (c) the Bankruptcy Court shall have entered orders, interim and final, authorizing the Debtors to use the ABL Lender’s cash collateral and such orders shall be in full force and effect and not have been vacated, reversed, modified, amended or stayed and not be subject to a pending appeal or motion or motion for leave to appeal or other proceeding to set aside any such order or to challenge the relief therein provided; (d) DIP Lenders shall have received a Draw Request in form and content acceptable to DIP Lenders no later than 2:00 p.m. prevailing Eastern time at least seventy two (72) hours before the applicable Funding Date; (e) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects on and as of the applicable Funding Date; (f) no Event of Default under the DIP Credit Facility or the under any DIP Order shall have occurred and be continuing as of the applicable Funding Date, or shall exist after giving effect to the requested disbursement; (g) no Event of Default under the ABL Facility shall have occurred and be continuing as of the applicable Funding Date, or shall exist after giving effect to the requested disbursement; (h) the DIP Lenders shall be satisfied that the liens and security interests of the DIP Lenders in the DIP Collateral have been perfected by the DIP Orders and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements with the priority set forth in this Term Sheet; (i) the Bankruptcy Court shall have ruled upon all such motions (whether made by DIP Lenders or others), and issued all such orders in the Bankruptcy Cases as the DIP Lenders may deem necessary or appropriate as a condition to funding of any DIP Loans;
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	(j) no condition, event or circumstance arising subsequent to the Petition Date shall then exist which would be expected to have a material adverse effect on (i) the DIP Collateral or the DIP Lenders' liens on the DIP Collateral or the priority of such liens, or (ii) the DIP Lenders' rights and remedies under this DIP Term Sheet or any DIP Order; and (k) DIP Lenders shall then be satisfied, in its sole discretion, that the continued funding of DIP Loans is reasonably likely to preserve and enhance the value of all Collateral for the purpose of facilitating an orderly disposition thereof.
Representations and Warranties:	The Debtors represent and warrant to the DIP Lenders on and as of the date of execution of this DIP Term Sheet and each Funding Date that: (a) such Debtor is a limited liability company duly organized, validly existing and in good standing under the laws of its state of organization; (b) such Debtor has all requisite power and authority and full legal right to carry on the business in which it is presently engaged and will be engaged upon consummation of the transactions contemplated hereby; (c) all necessary action has been taken by such Debtor to authorize the commencement of the Bankruptcy Cases and the execution, delivery and performance of this DIP Term Sheet ; (d) this DIP Term Sheet constitutes, or will upon execution constitute, the legal, valid and binding obligation of such Debtor, enforceable against such Debtor in accordance with its terms; (e) the execution, delivery and performance by such Debtor of this DIP Term Sheet does not and will not conflict with (i) any provision of applicable law, (ii) the certificate of formation, operating agreement or other organizational documents of such Debtor, or (iii) any contract or other agreement, indenture, instrument or other document to which such Debtor is a party or by which its assets are bound, other than conflicts which have been waived by the applicable third party thereto or resolved through the DIP Orders; (f) such Debtor is not an "investment company" or a company "controlled by an "investment company" or a "subsidiary" of an "investment company", within the meaning of the Investment Company Act of 1940, in each case, required to be registered as such in accordance with the Investment Company Act of 1940; (g) the provisions of this DIP Term Sheet and the DIP Orders, as applicable, are effective to create in favor of the DIP Lenders a legal, valid, perfected, nonavoidable and enforceable security interest in all right, title and interest of such Debtor in the DIP Collateral described herein (having the priority provided for herein and in the DIP Orders, as applicable); and

	(h) no statement or information concerning such Debtor contained in this DIP Term Sheet or any other document, certificate or statement furnished by or on behalf of such Debtor for use in connection with the transactions contemplated by this DIP Term Sheet contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not materially misleading.
Affirmative Covenants:	Until the date the DIP Obligations have been indefeasibly paid in full in cash, the Debtors hereby covenant and agree that the Debtors shall: (a) maintain their limited liability company existence in good standing, and not allow themselves to be involuntarily or administratively dissolved; (b) comply with the terms of the DIP Orders and all other orders of the Bankruptcy Court entered in the Bankruptcy Cases; (c) utilize proceeds of the DIP Loans and cash collateral of the ABL Lender only for the purposes authorized by the terms of this DIP Term Sheet, the DIP Orders, the Approved Budget and any Draw Request approved by DIP Lenders unless approved by the DIP Lenders, the ABL Lender, and Bankruptcy Court; (d) maintain proper records and books of account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of such Debtor; (e) cooperate, consult with, and provide to the DIP Lenders all such information as may be required under this DIP Term Sheet or the DIP Orders or as reasonably requested by the DIP Lenders, and permit representatives and independent contractors of the DIP Lenders to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of the DIP Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the DIP Borrower; (f) take, or cause to be taken, all reasonably appropriate action, and do or cause to be done all things necessary, proper or advisable under applicable law, and execute and deliver all such documents and other papers, in each case as may be required or reasonably requested by the DIP Lenders to carry out the provisions of this DIP Term Sheet and the DIP Orders; (g) take, or cause to be taken, all appropriate action to comply with all material laws applicable to the Debtors or the DIP Collateral;

	(h) subject to the Approved Budget, pay when due all taxes prior to the date on which penalties attach, except where such tax is being contested in good faith and adequate reserves have been established in accordance with GAAP or to the extent payment and/or enforcement thereof is stayed as a result of the Bankruptcy Cases; (i) provide copies of all material pleadings, motions, applications, judicial information, financial information and other documents intended to be filed by or on behalf of any Debtor with the Bankruptcy Court in the Bankruptcy Cases to counsel to the DIP Lenders and the ABL Lender at least two (2) days in advance of such filing or as promptly as practicable, which documents shall be satisfactory to the DIP Lenders in their reasonable discretion prior to filing; and (j) maintain the DIP Loan Account in a manner reasonably acceptable to the DIP Lenders, and maintain proceeds of the DIP Loans in the DIP Loan Account solely for the benefit of the DIP Lenders until disbursed by the DIP Borrower as permitted by this DIP Term Sheet.
Negative Covenants:	Until the date the DIP Obligations have been indefeasibly paid in full in cash, the Debtors hereby covenant and agree that no Debtor shall, without the express, prior written consent of the DIP Lenders, which consent may be granted or refused in the reasonable business judgment (considered from the point of view of a junior secured creditor) of DIP Lenders, do, cause to be done, or agree to do or cause to be done, any of the following: (a) other than the DIP Liens, create, incur, assume or suffer to exist any lien upon any of its property, assets, income or profits, whether now owned or hereafter acquired, except (a) the Carve Out, (b) perfected and non-avoidable liens existing on the Petition Date, and (c) other liens authorized, granted or confirmed by order of the Bankruptcy Court; (b) convey, sell, lease, assign, transfer or otherwise dispose of (including through a transaction of merger or consolidation) any of its property, business or assets, whether now owned or hereafter acquired, other than asset sales approved by an order of the Bankruptcy Court that is in form and substance reasonably acceptable to the DIP Lenders; (c) create, incur assume or permit to exist any indebtedness outside of the ordinary course of business, other than the DIP Obligations; (d) amend, modify or compromise any material term or material amount owed under a real property lease or material contract without the prior written consent of the DIP Lenders; (e) assume or reject any executory contract or lease pursuant to section 365 of the Bankruptcy Code without the prior written consent of the DIP Lenders;

	(f) incur or make any material expenditure, investment, loan or other payment without the prior written consent of the DIP Lenders, other than in accordance with the Approved Budget; (g) create or acquire any ownership interest in any subsidiaries (whether direct or indirect) other than those existing on the Petition Date; (h) modify or alter its organizational documents, except as required by the Bankruptcy Code or in a manner that is not materially adverse to the interests of the DIP Lenders (in their capacity as such) without the prior written consent of the DIP Lenders; (i) pay pre-petition indebtedness, except (i) payments contemplated by this DIP Term Sheet and the DIP Orders, and (ii) payments authorized by an order of the Bankruptcy Court; (j) make, commit to make, or permit to be made any compensation, bonus or other payments to executive officers of the Debtors and their subsidiaries in excess of the amounts set forth in the Approved Budget; and (k) permit the Debtors to seek authorization for, and not permit the existence of, any claims other than that of the DIP Lenders entitled to a superpriority under section 364(c)(1) of the Bankruptcy Code that is senior or pari passu with the DIP Lenders' section 364(c)(1) claim, except for the Carve Out or as otherwise acceptable to the DIP Lenders in writing.
Expenses:	The Debtors shall jointly and severally pay all reasonable and documented out-of-pocket costs and expenses incurred by the DIP Lenders in connection with the Bankruptcy Cases including, without limitation (i) the administration of the DIP Credit Facility, (ii) the negotiation and preparation of all pleadings or documents, (iii) the attendance by the DIP Lenders at all hearings in the Bankruptcy Cases, (iv) all reasonable fees and expenses of DIP Lenders' legal counsel and other professional advisors, and (v) all reasonable costs and expenses incurred in the enforcement of the DIP Obligations.
Release:	Subject to, and upon entry of, the Final DIP Order, each of the Debtors, for and on behalf of themselves and all those claiming by, through or under them including, without limitation, their estates and their current and former direct and indirect subsidiaries, and each such entity's current and former directors, officers, managers, members, employees, equity holders, successors and assigns, in each case to the extent permitted by applicable law and solely in such parties' capacities as such (collectively, the "<u>Releasing Parties</u>"), hereby unconditionally and irrevocably releases, acquits, absolves, forever discharges and covenants not to sue the Prepetition Lenders, the DIP Agent, the DIP Lenders, the ABL Lender, their respective current and former parents, subsidiaries and affiliates, and each such entity's current and former officers, directors, members, managers, employees, equity holders, successors and assigns (collectively, the "<u>Released Parties</u>"), and their respective properties and assets, from any and all acts and omissions of the Released Parties, and from any and

	all claims, interests, causes of action, avoidance actions, counterclaims, defenses, setoffs, demands, controversies, suits, judgments, costs, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, objections, legal proceedings, equitable proceedings, executions of any nature, type, or description and liabilities whatsoever (including any derivative claims asserted or assertable on behalf of the Debtors, their estates, or such entities' successors or assigns, whether individually or collectively), which the Releasing Parties now have, may claim to have or may come to have against the Released Parties through the date of the Final DIP Order, at law or in equity, by statute or common law, in contract or in tort, including, without limitation, (a) any so-called "lender liability" or equitable subordination claims or defenses, (b) any and all "claims" (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether liquidated or unliquidated, fixed or contingent, known or unknown, suspected or unsuspected, disputed or undisputed, whether arising at law or in equity, including any recharacterization, recoupment, subordination, disallowance, avoidance, challenge, or other claim or cause of action arising under or pursuant to section 105, chapter 5, or section 724(a) of the Bankruptcy Code or under other similar provisions of applicable state, federal, or foreign laws, including without limitation, any right to assert any disgorgement or recovery, but excluding obligations of the DIP Agent and the DIP Lenders under the DIP Credit Facility arising after the date of the Final DIP Order (collectively, the "Released Claims"). Notwithstanding the releases and covenants in favor of the Released Parties contained above in this paragraph, such releases and covenants in favor of the Released Parties shall be deemed acknowledged and reaffirmed by the Debtors each time there is an advance of funds, extension of credit, or financial accommodation under this DIP Term Sheet, the Interim DIP Order or the Final DIP Order. As of the date hereof, there exist no claims or causes of action against the Prepetition Lenders, the DIP Agent, the DIP Lenders, or the ABL Agent with respect to, in connection with, related to, or arising from this DIP Term Sheet, the Interim DIP Order or the Final DIP Order that may be asserted by the Debtors or, to the Debtors' knowledge, any other person or entity.
Indemnity:	Subject to and upon entry of a Final DIP Order, the Debtors hereby absolutely and unconditionally and jointly and severally agree to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless the DIP Lenders and their officers, directors, employees, agents, advisors, attorneys and affiliates (collectively, the "Indemnitees"), from and against any and all Indemnified Liabilities (as hereinafter defined); provided that the Debtors shall not have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise solely from the gross negligence or willful misconduct of that Indemnitee as determined by a final and non-appealable judgment of a court of competent jurisdiction. As used herein, "Indemnified Liabilities" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages),

	penalties, actions, judgments, suits, claims, costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any hazardous materials activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel (including allocated costs of internal counsel) for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any person, whether or not any such Indemnatee shall be designated as a party or a potential party thereto, but solely relating to the DIP Credit Facility or the Bankruptcy Cases, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and environmental laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnatee, in any manner relating to or arising out of (i) this DIP Term Sheet or the Bankruptcy Cases or the transactions contemplated hereby or thereby (including the DIP Lenders' agreement to make the DIP Loans hereunder or the use or intended use of the proceeds thereof), or any enforcement of any term of this DIP Term Sheet (including any sale of, collection from, or other realization upon any of the Collateral), or (ii) any environmental claim or any hazardous materials activity relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of Debtors and their subsidiaries. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this paragraph may be unenforceable in whole or in part because they are violative of any law or public policy, the Debtors shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. Notwithstanding anything in this DIP Term Sheet to the contrary, the agreements in this paragraph shall survive the termination of the DIP Credit Facility and the repayment, satisfaction or discharge of all the other DIP Obligations. All amounts due under this paragraph shall be payable on written demand by the DIP Lenders. Any such amounts not paid when due shall, if due prior to the maturity of the DIP Loans, be charged to the DIP Borrower and shall thereafter constitute DIP Loans hereunder and shall accrue interest at the rate then applicable to DIP Loans hereunder.
Amendments:	No provision of this DIP Term Sheet or any DIP Order may be amended or waived other than by an instrument in writing signed by the DIP Lenders, and the ABL Lender only to the extent any such amendment materially modifies the rights of the ABL Lender hereunder.
Assignments:	The DIP Lender may assign all or any part of the DIP Loans or its commitments hereunder from time to time with the consent of the DIP Borrower; provided that no consent of the DIP Borrower shall be required (i) so long as an Event of Default has occurred and is continuing after

	giving effect to any applicable grace period, or (ii) for any assignment to any of the DIP Lenders' affiliates.
Governing Law:	Except as governed by the Bankruptcy Code, the laws of the State of New York shall govern this DIP Term Sheet. The Debtors will submit to the exclusive jurisdiction and venue of the Bankruptcy Court.
Execution:	This DIP Term Sheet may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this DIP Term Sheet shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. As used herein, " Electronic Signature " means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.
Notices:	Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail, or sent by email, as follows: To DIP Lenders: Blue Owl Capital Corporation 399 Park Avenue, 37th Floor New York, NY 10022 Attention: Bryan Cole E-mail: adminagent@blueowl.com; DealExecution@blueowl.com; drew.murphy@blueowl.com; adam.xie@blueowl.com with a copy to: David W. Gaffey, Esq. Brandy M. Rapp, Esq. Whiteford, Taylor & Preston, LLP 3190 Fairview Park Drive, Suite 800 Falls Church, VA 22042 Email: dgaffey@whitefordlaw.com brapp@whitefordlaw.com

	To Debtors: Nate Brown 1553 W 9000 S West Jordan, UT 84088 Email: nate.brown@walkeredison.com with a copy to: Robert J. Dehney, Esq. Daniel Butz, Esq. Morris, Nichols, Arsht & Tunnell LLP 1201 North Market Street P.O. Box 1347 Wilmington, DE 19899-1347 Email: rdehney@morrisnichols.com dbutz@morrisnichols.com To ABL Lender: Wes Takeuchi Wells Fargo Bank, National Association 333 South Grand Avenue, 8th Floor Los Angeles, CA 90071 Email: Wes.Takeuchi@wellsfargo.com With a copy to: Daniel F. Fiorillo, Esq. Otterbourg P.C. 230 Park Avenue New York, NY 10169 Email: dfiorillo@otterbourg.com Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by email shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient).
Carve-Out:	The Carve-Out shall be, collectively, (a) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee (the “U.S. Trustee”) pursuant to 28 U.S.C. §1930(a), (b) reasonable fees and expenses incurred by a trustee and payable under section 726(b) of the Bankruptcy Code in an aggregate amount not to exceed \$25,000, (c) all fees and expenses of the professionals retained by the Debtors and the UCC (each an “Estate Professional”) up to but not in excess of the amount approved in the Approved Budget for each such Estate Professional (whether to be paid or to be accrued) that are allowed or become allowed at any time, that (i) are incurred on or prior to the

	business day first succeeding the date of delivery of the Carve-Out Trigger Notice (as defined below) applicable through and including the date of the Carve-Out Trigger Notice, or (ii) are incurred after the business day first succeeding the date of delivery of a Carve-Out Trigger Notice, subject to an aggregate cap of \$75,000 for the Debtors' professionals and \$25,000 for professionals of the UCC (the "Carve-Out"). For the avoidance of doubt, (x) for the purposes of the Carve-Out, each of the Estate Professionals identified in the Approved Budget shall have the aggregate budget allocated to such professional therein, and any fees and expenses incurred by an Estate Professional in excess of their allocated Carve-Out budget shall not be payable from the Carve-Out; and (y) the Carve-Out shall be reduced dollar-for-dollar by any payments of fees and expenses to such Estate Professional and by any retainer or advance held by such Estate Professional. "Carve-Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent to Debtors' counsel, the U.S. Trustee, and counsel to the UCC, which notice may only be delivered following the occurrence and during the continuation of an event of default under the DIP Credit Facility and acceleration of the DIP Loans stating that the cap on professionals' fees described above has been invoked.
--	---

[Signatures to appear on following page]

IN WITNESS WHEREOF, each of the undersigned has caused this DIP Term Sheet to be duly executed and duly delivered by its duly authorized officer as of the day and year first above written.

DIP AGENT:

BLUE OWL CAPITAL CORPORATION

By: _____

Print Name: Adam Forchheimer

Title: Authorized Signatory

DIP BORROWER:

WALKER EDISON FURNITURE COMPANY, LLC

By: _____

Print Name: _____

Title: _____

GUARANTORS:

WALKER EDISON HOLDCO LLC

By: _____

Print Name: _____

Title: _____

WALKER EDISON INTERMEDIATE LLC

By: _____

Print Name: _____

Title: _____

EW FURNITURE LLC

By: _____

Print Name: _____

Title: _____

IN WITNESS WHEREOF, each of the undersigned has caused this DIP Term Sheet to be duly executed and duly delivered by its duly authorized officer as of the day and year first above written.

DIP AGENT:

BLUE OWL CAPITAL CORPORATION

By: _____

Print Name: _____

Title: _____

DIP BORROWER:

WALKER EDISON FURNITURE COMPANY, LLC

By: _____
Docusigned by: Nate Brown
A69B95F5E0A84A0...

Print Name: Nate Brown

Title: Chief Financial Officer

GUARANTORS:

WALKER EDISON HOLDCO LLC

By: _____
Docusigned by: Nate Brown
A69B95F5E0A84A0...

Print Name: Nate Brown

Title: Chief Financial Officer

WALKER EDISON INTERMEDIATE LLC

By: _____
Docusigned by: Nate Brown
A69B95F5E0A84A0...

Print Name: Nate Brown

Title: Chief Financial Officer

EW FURNITURE LLC

By: _____
Docusigned by: Nate Brown
A69B95F5E0A84A0...

Print Name: Nate Brown

Title: Chief Financial Officer

ABL LENDER:

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: 

Print Name: Wes Takeuchi

Title: Executive Director

PREPETITION LENDERS:

BLUE OWL CAPITAL CORPORATION

By: _____

Print Name: _____

Title: _____

BLUE OWL CAPITAL CORPORATION II

By: _____

Print Name: _____

Title: _____

BLUE OWL CREDIT INCOME CORP.

By: _____

Print Name: _____

Title: _____

**BLUE OWL DIVERSIFIED LENDING 2020
MASTER FUND LP**

By: _____

Print Name: _____

Title: _____

ABL LENDER:

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: _____

Print Name: _____

Title: _____

PREPETITION LENDERS:

BLUE OWL CAPITAL CORPORATION

By:  _____

Print Name: Adam Forchheimer

Title: Authorized Signatory

BLUE OWL CAPITAL CORPORATION II

By:  _____

Print Name: Adam Forchheimer

Title: Authorized Signatory

BLUE OWL CREDIT INCOME CORP.

By:  _____

Print Name: Adam Forchheimer

Title: Authorized Signatory

**BLUE OWL DIVERSIFIED LENDING 2020
MASTER FUND LP**

By:  _____

Print Name: Adam Forchheimer

Title: Authorized Signatory

**BLUE OWL OPPORTUNISTIC LENDING DL (C)
LP**

By: 

Print Name: Adam Forchheimer

Title: Authorized Signatory

BLUE OWL TECHNOLOGY FINANCE CORP.

By: 

Print Name: Adam Forchheimer

Title: Authorized Signatory

BAIN CAPITAL SPECIALTY FINANCE, INC.

By: _____

Print Name: _____

Title: _____

**BAIN CAPITAL GLOBAL DIRECT LENDING (E),
L.P.**

By: _____

Print Name: _____

Title: _____

**BCC CAMBRIDGE NEW FINANCING
SOLUTION (REVOLVERS), LP**

By: _____

Print Name: _____

Title: _____

EAF COMPLAN II - PRIVATE DEBT

By: _____

Print Name: _____

Title: _____

**BLUE OWL OPPORTUNISTIC LENDING DL (C)
LP**

By: _____

Print Name: _____

Title: _____

BLUE OWL TECHNOLOGY FINANCE CORP.

By: _____

Print Name: _____

Title: _____

BAIN CAPITAL SPECIALTY FINANCE, INC.

By: BCSF Advisors, L.P., its Advisor

By: _____

7A392CAC4860442...

Print Name: Andrew S. Viens

Title: Partner

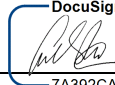
**BAIN CAPITAL GLOBAL DIRECT LENDING (E),
L.P.**

By: Bain Capital Global Direct Lending (E) General
Partner, LLC

its general partner

By: Bain Capital Credit Member, LLC

its manager

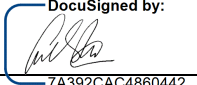
By: _____

7A392CAC4860442...

Print Name: Andrew S. Viens

Title: Partner

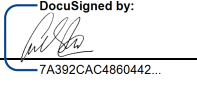
**BCC CAMBRIDGE NEW FINANCING
SOLUTION (REVOLVERS), LP**

By: Bain Capital Credit, LP
its investment manager

By:  _____
Print Name: Andrew S. Viens
Title: Partner

EAF COMPLAN II - PRIVATE DEBT

By: Bain Capital Credit, LP, as Asset Manager

By:  _____
Print Name: Andrew S. Viens
Title: Partner

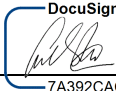
**BAIN CAPITAL GLOBAL DIRECT LENDING
2021 (L MASTER), L.P**

By: Bain Capital Global Direct Lending 2021 (L)
General Partner, LLC

its general partner

By: Bain Capital Credit Member II, Ltd.

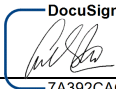
its manager

By:  _____
Print Name: Andrew S. Viens
Title: Partner

**BAIN CAPITAL CREDIT MANAGED ACCOUNT
(G), SCSP**

By: Bain Capital Credit Managed Account (G)
General Partner, SARL

its general partner

By:  _____
Print Name: Andrew S. Viens
Title: Partner

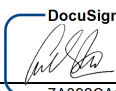
BCC PRIVATE CREDIT ISSUER I, L.P.

By: BCC Private Credit Issuer General Partner, LLC

its general partner

By: Bain Capital Credit, LP

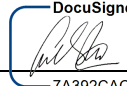
its sole member

By:  _____
Print Name: Andrew S. Viens
Title: Partner

BAIN CAPITAL DIRECT LENDING 2015 (U) , L.P

By: Bain Capital Direct Lending 2015 Investors (L), L.P.,
its general partner

By: Bain Capital Credit Member, LLC, its general partner

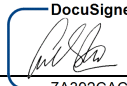
By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

**BAIN CAPITAL CREDIT MANAGED ACCOUNT
(FSS), L.P.**

By: Bain Capital Credit Managed Account Investors
(FSS), L.P.

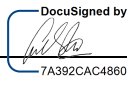
its general partner

By: Bain Capital Credit Member, LLC
its general partner

By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

**BCC CAMBRIDGE NEW FINANCING
SOLUTION (TL), LP**

By: Bain Capital Credit, LP
its investment manager

By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

BCC GDL21, LLC

By: Bain Capital Global Direct Lending 2021 (L Master),
L.P.

its member

By: Bain Capital Global Direct Lending 2021 (L) General
Partner, LLC

its general partner

By: Bain Capital Credit Member II, Ltd.

its manager

By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

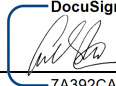
CMAC FUND 1, L.P.

By: Bain Capital Credit Managed Account Investors
(CMAC Fund 1), LLC

its general partner

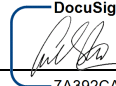
By: Bain Capital Credit Member II, Ltd.

its manager

By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

**LOS ANGELES COUNTY EMPLOYEES
RETIREMENT ASSOCIATION**

By: Bain Capital Credit, LP, as Manager

By:  _____
7A392CAC4860442...
Print Name: Andrew S. Viens
Title: Partner

BCC GDL21, LLC

By: _____

Print Name: _____

Title: _____

CMAC FUND 1, L.P.

By: _____

Print Name: _____

Title: _____

**LOS ANGELES COUNTY EMPLOYEES
RETIREMENT ASSOCIATION**

By: _____

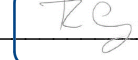
Print Name: _____

Title: _____

EVOLUTION CREDIT PARTNERS I, L.P.

By: _____

DocuSigned by:



C4589A2E3577422...

Print Name: Rene Canezin

Title: Managing Partner

PENNANTPARK INVESTMENT CORPORATION

By: _____

Print Name: _____

Title: _____

**PENNANTPARK FLOATING RATE CAPITAL
LTD.**

By: _____

Print Name: _____

Title: _____

PENNANTPARK INVESTMENT CORPORATION

By: _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

PENNANTPARK FLOATING RATE CAPITAL LTD.

By: _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

PENNANTPARK FLOATING RATE FUNDING I, LLC

By: PennantPark Floating Rate Capital Ltd., as
Designated Manager

By: _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

PENNANTPARK SENIOR SECURED LOAN FACILITY II LLC

By: PennantPark Senior Secured Loan Fund I LLC, its
Designated Manager

By: PennantPark Investment Administration, LLC, as
Administrative Agent

By: _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

**PENNANTPARK SENIOR SECURED LOAN
FUND I LLC**

By: PennantPark Investment Administration, LLC, as
Administrative Agent

By:  _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

**PENNANTPARK SENIOR SECURED LOAN
FACILITY LLC**

By: PennantPark Senior Secured Loan Fund I LLC, its
Designated Manager

By: PennantPark Investment Administration, LLC, as
Administrative Agent

By:  _____

Print Name: Jeffrey S. Sion

Title: Authorized Signatory

Exhibit 2

Initial DIP Budget

WALKER EDISON FURNITURE COMPANY, LLC

Weekly Cash Flow Forecast

\$ in 000's

Beginning of Period		8/23/2025													
Actual (A)/ Forecast (F)		F	F	F	F	F	F	F	F	F	F	F	F		
Start Date		8/23	8/30	9/6	9/13	9/20	9/27	10/4	10/11	10/18	10/25	11/1	11/8	11/15	Total
End Date		8/29	9/5	9/12	9/19	9/26	10/3	10/10	10/17	10/24	10/31	11/7	11/14	11/21	
Week Number		1	2	3	4	5	6	7	8	9	10	11	12	13	
Cash Receipts															
Debtor Generator Funds															
Net Sales Receipts- (A/R Cash Collection)		1,226	1,145	1,227	1,165	1,374	1,254	-	-	-	-	-	-	-	7,390
Recovery of Rejected Inventory		-	-	-	-	-	235	-	-	-	-	-	-	-	235
Cash Proceeds from Sales Transaction		-	-	-	-	-	19,773	-	-	-	-	-	-	-	19,773
Total Operating Cash Receipts		1,226	1,145	1,227	1,165	1,374	21,262	-	-	-	-	-	-	-	27,399
(-) Operating Cash Disbursements															
Payroll & Benefits		(82)	(457)	(19)	(440)	(54)	(20)	(594)	(18)	-	-	-	-	-	(1,684)
Customs & Freight		(209)	(134)	(192)	(192)	(292)	(192)	-	-	-	-	-	-	-	(1,211)
Other Operating Disbursements		(466)	(622)	(438)	(298)	(791)	(3,499)	-	-	-	-	-	-	-	(6,114)
Taxes		(100)	(20)	(20)	(20)	(200)	(80)	(20)	(20)	(100)	(20)	(20)	(20)	-	(640)
ABL Interest & Fees		-	(95)	-	-	-	(103)	-	-	-	-	-	-	-	(198)
Litigation Expenses		-	(1,500)	(50)	(50)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	-	(1,800)
Total Operating Cash Disbursements		(856)	(2,828)	(719)	(1,000)	(1,363)	(3,919)	(639)	(63)	(125)	(45)	(45)	(45)	-	(11,646)
Net Cash Receipts		370	(1,683)	508	164	11	17,344	(639)	(63)	(125)	(45)	(45)	(45)	-	15,752
(-) Non-Operating Disbursements															
Financing Activity															
ABL Draws / (Paydowns)		(722)	(538)	(608)	(555)	(733)	(746)	-	-	-	-	-	-	-	(3,904)
Litigation Funding - DIP		-	1,500	50	50	25	25	25	25	25	25	25	25	-	1,800
Total Financing Activity		(722)	962	(558)	(505)	(708)	(721)	25	25	25	25	25	25	-	(2,104)
Bankruptcy / Restructuring Expenses															
Legal Counsel		(400)	(100)	(100)	(100)	(100)	(100)	(50)	(50)	(25)	-	-	-	-	(1,025)
WF Legal Counsel		(250)	(50)	(50)	(40)	(35)	-	-	-	-	-	-	-	-	(425)
Term Loan Counsel		-	(150)	(25)	(25)	(25)	(25)	-	-	-	-	-	-	-	(250)
Independent Director		(35)	-	-	-	-	(35)	-	-	-	-	-	-	-	(70)
Financial Advisor		(60)	(25)	(25)	(10)	-	-	-	-	-	-	-	-	-	(120)
Investment Banking Services		-	-	-	(100)	-	-	-	(100)	(1,100)	-	-	-	-	(1,300)
Claims Agent		-	-	-	(105)	-	-	-	(105)	(70)	-	-	-	-	(280)
Committee Professionals		-	(38)	(38)	(33)	(30)	(30)	(15)	(15)	(8)	-	-	-	-	(206)
Estimated US Trustee Fees		-	-	-	-	-	-	-	-	-	-	-	(139)	-	(139)
Contingencies		-	(1,500)	(175)	(175)	(175)	(475)	(50)	(50)	(50)	(50)	(50)	-	-	(2,750)
Total Bankruptcy / Restructuring Expenses		(745)	(1,863)	(413)	(588)	(365)	(665)	(115)	(320)	(1,253)	(50)	(50)	(139)	-	(6,565)
Total Non-Operating Cash Disbursements		(1,467)	(901)	(971)	(1,093)	(1,073)	(1,386)	(90)	(295)	(1,228)	(25)	(25)	(114)	-	(8,669)
Net Cash Flow		(1,097)	(2,584)	(463)	(929)	(1,062)	15,957	(729)	(358)	(1,353)	(70)	(70)	(159)	-	7,084
DIP Budget															

WALKER EDISON FURNITURE COMPANY, LLC

Weekly Cash Flow Forecast

\$ in 000's

Beginning of Period	8/23/2025													
Actual (A)/ Forecast (F)	F	F	F	F	F	F	F	F	F	F	F	F	F	
Start Date	8/23	8/30	9/6	9/13	9/20	9/27	10/4	10/11	10/18	10/25	11/1	11/8	11/15	Total
End Date	8/29	9/5	9/12	9/19	9/26	10/3	10/10	10/17	10/24	10/31	11/7	11/14	11/21	
Week Number	1	2	3	4	5	6	7	8	9	10	11	12	13	
Beginning Cash Balance	113	(984)	-	-	-	(22)	9,293	8,564	8,206	6,854	6,784	6,714	6,554	113
Net Cash Flow	(1,097)	(2,584)	(463)	(929)	(1,062)	15,957	(729)	(358)	(1,353)	(70)	(70)	(159)	-	7,084
Cash Available (Needed)	(984)	(3,568)	(463)	(929)	(1,062)	15,935	8,564	8,206	6,854	6,784	6,714	6,554	6,554	7,196
Maximum DIP	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
DIP Availability	6,000	6,000	2,432	1,969	1,040	-	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
DIP Balance- BOP	-	-	3,568	4,031	4,960	6,000	-	-	-	-	-	-	-	-
DIP Draw (Paydown)	-	3,568	463	929	1,040	(6,000)	-	-	-	-	-	-	-	-
DIP Balance- EOP	-	3,568	4,031	4,960	6,000	-	-	-	-	-	-	-	-	-
Max DIP Draw	-	-	-	-	-	-	-	-	-	-	-	-	-	(6,000)
Post Liquidation Payments														
DIP Interest Payable (10%)	-	-	-	-	-	(600)	-	-	-	-	-	-	-	(600)
Inventory Subject to 503(b)(9)	-	-	-	-	-	(42)	-	-	-	-	-	-	-	(42)
Ending Cash Balance	(984)	-	-	-	(22)	9,293	8,564	8,206	6,854	6,784	6,714	6,554	6,554	6,554
Wells Fargo- Line of Credit Ending Balance	8,994	8,455	7,847	7,292	6,558	5,812	5,812	5,812	5,812	5,812	5,812	5,812	5,812	5,812
Over (Under) Wells Fargo- Line of Credit	(9,978)	(8,455)	(7,847)	(7,292)	(6,580)	3,481	2,752	2,394	1,042	972	902	742	742	742