

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

In re:

HDC HOLDINGS II, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12307 (TMH)

(Jointly Administered)

Ref. Docket Nos. 11, 38

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363;
(II) GRANTING ADEQUATE PROTECTION TO THE PREPETITION
SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 105(A), 361, 362, 363, 503 AND 507;
AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (these “Chapter 11 Cases”) for entry of an Interim Order (as defined below) and this final order (this “Final Order”), pursuant to sections 105(a), 361, 362, 363, 503 and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and Local Rules 2002-1, 4001-2 and 9013-1:

- (a) authorizing the Debtors to continue to use Cash Collateral and all other Prepetition Collateral (each as defined below) in which any of the Prepetition Secured Parties (as defined below) have an interest in accordance with the terms and conditions of this Final Order, and the granting of adequate protection to the Prepetition Secured Parties with respect to, *inter alia*, such use of their Cash Collateral and the other Prepetition Collateral;

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: HDC Holdings II, LLC (2013); HDC Holdings III, LLC (3296); CCM Capital Assets, LLC (9451); Channel Control Merchants, LLC (3319); Dirt Cheap I, LLC (9433); CCM Support Services, LLC (2059); CCM Wholesale SE, LLC (7219); Channel Control Merchants of Texas, LLC (8091); Creative Sales Solutions, LLC (1691); Dirt Cheap Arkansas, LLC (0244); Dirt Cheap Building Supplies, LLC (0880); Dirt Cheap of Georgia, LLC (0269); Dirt Cheap of Louisiana, LLC (0067); Dirt Cheap SE, LLC (4928); Dirt Cheap Tennessee, LLC (1273); Treasure Hunt, LLC (9393); CCM Wholesale, LLC (7219); Channel Control Merchants of California, LLC (9011); and CAL Support Services, LLC (2859). The Debtors’ headquarters are located at 6892 US Hwy 49 North, Hattiesburg, Mississippi 39402.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

- (b) authorizing the Debtors to provide adequate protection to the Prepetition Secured Parties to the extent of any diminution in value of their interest in the Prepetition Collateral, including Cash Collateral, under or in connection with the Prepetition Loan Documents (as defined below);
- (d) subject to certain challenge rights of certain parties in interest (but subject to the limitations specified herein), approving certain stipulations by the Debtors with respect to (i) the Credit Documents (as defined in the ABL Credit Agreement), (ii) the Security Documents (as defined in the ABL Credit Agreement); (iii) the ABL Guarantee (as defined below) and (iv) the liens and security interests arising therefrom (collectively (i) through (iv) are hereinafter defined as the “Prepetition Loan Documents”);
- (e) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent set forth herein;
- (f) waiving the Debtors’ right to assert with respect to the Prepetition Collateral or the Adequate Protection Collateral (as defined below) (i) any claims to surcharge pursuant to section 506(c) of the Bankruptcy Code, (ii) any “equities of the case” exception pursuant to section 552(b) of the Bankruptcy Code, and (iii) the equitable doctrine of “marshalling” or any similar doctrine;
- (g) waiving any applicable stay with respect to the effectiveness and enforceability of this Final Order (including a waiver pursuant to Bankruptcy Rule 6004(h)); and
- (h) granting related relief;

and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (the “Standing Order”); and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having entered the interim order [docket no. 38] (the “Interim Order”) approving on an interim basis the relief sought in the Motion at the first-day hearing held before this Court on October 11, 2024

(the “Interim Hearing”); and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing held before this Court on November 14, 2024 (the “Final Hearing”); and all objections, if any, to the Motion having been withdrawn, resolved or overruled, including any raised at the Final Hearing; and the relief requested in the Motion being in the best interests of the Debtors, their estates, their creditors and other parties in interest; and this Court having determined that the legal and factual bases set forth in the Motion and raised at the Final Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

THE COURT HEREBY FINDS AND CONCLUDES AS FOLLOWS:³

A. Disposition. The relief requested in the Motion is granted on a final basis in accordance with the terms of this Final Order. Any and all objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived or resolved, and all reservations of rights, are hereby denied and overruled on the merits, except as may be set forth herein. This Final Order shall become effective immediately upon its entry.

B. Petition Date. On October 10, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court commencing these Chapter 11 Cases. On October 10, 2024, this Court entered an order approving the joint administration of these Chapter 11 Cases. The Debtors are continuing to operate their business and manage their affairs as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in these Chapter 11 Cases. On October 23,

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

2024, an official committee of unsecured creditors was appointed in these Chapter 11 Cases (the “Creditors’ Committee”).

C. Jurisdiction. This Court has core jurisdiction over these Chapter 11 Cases, this Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334 and the Standing Order. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Notice. Under the circumstances of these Chapter 11 Cases, proper, timely, adequate and sufficient notice of the Motion, the Final Hearing and this Final Order has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. The relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates.

E. Debtors’ Stipulations. In requesting use of Cash Collateral and other Prepetition Collateral, and in exchange for and as a material inducement to the Prepetition Secured Parties to permit consensual use of their Cash Collateral and other Prepetition Collateral, the Debtors acknowledge, represent, stipulate, and agree, subject to the challenge rights set forth in Paragraph 21 below (but subject to the limitations thereon contained herein), as follows (Paragraphs E(i) through E(xv) are collectively hereinafter defined as the “Debtors’ Stipulations”):

(i) HDC Holdings III, LLC (“Borrower”) and HDC Holdings II, LLC (“Holdings”) are parties to that certain Amended and Restated ABL Credit Agreement, dated as of April 21, 2023 (as amended, restated, supplemented, or otherwise modified from time to time, the “ABL Credit Agreement”), pursuant to which, among other things, BMO Bank N.A.

(f/k/a BMO Harris Bank N.A.) (“BMO”), as Agent⁴ and Lender (each as defined therein), together with the other Lenders⁵ from time to time parties thereto, extended credit from time to time to Borrower in the form of Revolving Credit Loans (as defined therein) in the aggregate amount of up to \$36,500,000 for working capital and other general corporate purposes, comprised of (a) a first-in, last-out commitment from Hilco Trading in the amount of \$5,000,000 (the “FILO Loan”), (b) a \$26,500,000 commitment from BMO, and (c) a \$5,000,000 commitment from Hancock;

(ii) Holdings and each Guarantor (as defined therein)⁶ are parties to that certain ABL Guarantee, dated as of July 19, 2017, in each case in favor of Agent, for the benefit of the Prepetition Secured Parties (as the same may be amended, restated, amended and restated, supplemented, reaffirmed or otherwise supplemented from time to time, the “ABL Guarantee”), which guaranties were issued to support, among other things, the transfers made by Borrower to the Guarantors in connection with the operation of the Guarantors’ businesses;

(iii) Borrower, the Guarantors and Agent, for the benefit of the Prepetition Secured Parties, are parties to that certain ABL Security Agreement, dated as of July 19, 2017 (as the same may be amended, restated, amended and restated, supplemented, reaffirmed or otherwise modified from time to time, the “ABL Security Agreement”);

(iv) as of the Petition Date, the Debtors were liable to the Prepetition Secured Parties pursuant to the Prepetition Loan Documents (a) in the aggregate principal amount of not

⁴ Pursuant to the ABL Credit Agreement, BMO serves as the Administrative Agent, the Collateral Agent and the Joint Lead Arrangers and Bookrunners (each as defined therein).

⁵ As of the Petition Date, the Lenders parties to the Prepetition Loan Documents are BMO, Hancock Whitney Bank (“Hancock”) and Hilco Trading, LLC (“Hilco Trading”, and, collectively, the “Prepetition Secured Parties”)

⁶ Each of the Guarantors and Borrower are Debtors in these Chapter 11 Cases.

less than \$27,861,681.86⁷ in respect of Revolving Credit Loans made to the Borrower and (b) for accrued and unpaid interest, fees, expenses (including advisors fees and expenses, in each case, that are chargeable or reimbursable under the Prepetition Loan Documents), disbursements, charges, claims, indemnities and other costs and obligations of whatever nature incurred in connection therewith which are chargeable or otherwise reimbursable under the Prepetition Loan Documents or applicable law, whether arising before or after the Petition Date, including any “Obligations” (as defined in the Prepetition Loan Documents), of any kind or nature, whether or not evidenced by any note, agreement or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors’ obligations under the Prepetition Loan Documents ((a) and (b) are collectively defined as the “Prepetition Obligations”);

(v) all of the Prepetition Obligations constitute the legal, valid, binding and unconditional obligations of the Debtors to the Prepetition Secured Parties, enforceable in accordance with their terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code);

(vi) no portion of the Prepetition Obligations or any payments made to the Prepetition Secured Parties or applied to or paid on account of the obligations owing under the Prepetition Loan Documents prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or

⁷ Amount in this paragraph is as of October 8, 2024.

any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition Obligations;

(vii) pursuant to and in connection with the Prepetition Loan Documents, each Debtor granted to BMO, in its capacity as Agent and for the benefit of the Prepetition Secured Parties, continuing, legal, valid, binding, properly perfected, enforceable, non-avoidable first priority liens on and security interests in (the “Prepetition Liens”) all of the “Collateral” (as defined in the Prepetition Loan Documents) (the “Prepetition Collateral”), which Prepetition Liens (a) secure all of the Prepetition Obligations, (b) are not subject to any contest, avoidance, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, attachment, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, challenge, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any nature under the Bankruptcy Code or any other applicable law or regulation or otherwise, and (c) are and remain senior in priority over any and all other liens on and security interests in the Prepetition Collateral, subject only to valid, perfected and unavoidable liens permitted under the Prepetition Loan Documents to the extent that such liens or security interests are senior to or *pari passu* with the Prepetition Liens or liens that are perfected subsequent to the Petition Date only in accordance with section 546(b) of the Bankruptcy Code (a “Permitted Encumbrance”);

(viii) the Prepetition Secured Parties duly perfected the Prepetition Liens in the Prepetition Collateral by, among other things, filing financing statements and, where necessary, possessing the relevant instruments, certificates, or other property;

(ix) as of the Petition Date, other than as expressly permitted under the Prepetition Loan Documents, there were no liens on or security interests in the Prepetition Collateral that are senior to the Prepetition Liens;

(x) the Debtors have waived, discharged and released any right they may have (a) to challenge the Prepetition Obligations, the Prepetition Loan Documents and the Prepetition Liens on the Prepetition Collateral and (b) to assert any offsets, set-offs, recoupments, defenses, claims, objections, challenges of any kind, causes of action and/or choses of action against the Prepetition Secured Parties with respect to the Prepetition Obligations, the Prepetition Loan Documents, the Prepetition Liens or the Prepetition Collateral;

(xi) any payments made on account of the Prepetition Obligations before the Petition Date were (a) payments out of the Prepetition Collateral, including the Cash Collateral, and/or (b) made in the ordinary course of business and did not diminish any property otherwise available for distribution to unsecured creditors;

(xii) all of the Debtors' cash, including the cash in their deposit accounts and other accounts, wherever located, to the extent Collateral (as defined in the Prepetition Loan Documents) or proceeds thereof, constitutes Cash Collateral and is Prepetition Collateral of the Prepetition Secured Parties;

(xiii) none of the Prepetition Secured Parties (including Agent, but excluding Hilco Trading and any of its affiliates) constitutes a control person or insider of the Debtors by virtue of any of the actions taken by any of them in respect of or in connection with (a) making the decision to consent to the use of Cash Collateral, (b) extending other financial accommodations to the Debtors under this Final Order, (c) making the decision to make the loans and financial accommodations under the Prepetition Loan Documents, (d) administering the loans and financial

accommodations extended under the Prepetition Loan Documents, (e) extending other financial accommodations to the Debtors under the Prepetition Loan Documents, and (f) making the decision to collect the indebtedness and obligations of the Debtors, and the Prepetition Secured Parties (including Agent) shall not be considered to be exercising control over any operations of the Debtors or acting in any way as a responsible person or as an owner or operator under any applicable law;

(xiv) the Debtors admit, stipulate, acknowledge and agree that the Prepetition Secured Parties may credit bid the full amount of (or any portion of) the Prepetition Obligations, subject to section 363(k) of the Bankruptcy Code; and

(xv) the Prepetition Secured Parties are entitled, pursuant to sections 361, 362(c)(2), 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their respective interests in the Prepetition Collateral, including the Cash Collateral, to the extent of any diminution in the value of the Prepetition Collateral occurring from and after the Petition Date in exchange for (a) the Debtors' use of Cash Collateral, (b) the subordination of the Prepetition Obligations to the Carve-Out (as defined below), and (c) the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code.

F. Cash Collateral. For purposes of this Final Order, the term "Cash Collateral" shall mean and include all "cash collateral," as defined in section 363 of the Bankruptcy Code, in or on which the Prepetition Secured Parties have a lien, security interest or other interest (including, without limitation, any adequate protection liens or security interests) and shall include, without limitation:

(i) all cash proceeds arising from the collection, sale, lease or other disposition, use or conversion of any property, insurance policies, or in or on which the Prepetition Secured

Parties have a lien or a replacement lien, whether as part of the Prepetition Collateral or pursuant to an order of the Court or applicable law or otherwise, and whether such property has been converted to cash, existed as of the commencement of these Chapter 11 Cases, or arose or was generated thereafter;

(ii) all of the respective deposits, refund claims and rights in retainers of the Debtors on which the Prepetition Secured Parties have a lien or replacement lien, whether as part of the Prepetition Collateral or pursuant to an order of the Court or applicable law or otherwise; and

(iii) the proceeds of any sale of Prepetition Collateral in connection with any sale consummated prior to entry of this Final Order.

G. Findings Regarding the Prepetition Secured Parties' Consent to Use of Cash Collateral. The Prepetition Secured Parties have consented to the adequate protection and the subordination of their liens and superpriority claims to the Carve-Out expressly provided for in this Final Order; provided, however, that the respective consents of the Prepetition Secured Parties to subordinate their liens and superpriority claims to the Carve-Out, the use of the Prepetition Collateral (including Cash Collateral), and the sufficiency of the respective adequate protection provided for herein are expressly conditioned upon the entry of this Final Order (as consented to by the Prepetition Secured Parties); provided, further, that such consents shall be of no further force and effect in the event this Final Order is not entered (or is entered and subsequently vacated).

H. Necessity of Relief Requested. The Debtors have an immediate and critical need to continue to use the Prepetition Collateral (including Cash Collateral) in order to permit, among other things, the orderly liquidation of their operations, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, and to satisfy

other working capital and operational needs, in each such case in accordance with the terms of this Final Order, including in accordance with the Budget (as defined below). The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral is necessary to preserve and maximize the value of the Debtors' estates. Without the use of Cash Collateral, the Debtors would likely not have sufficient liquidity to continue to operate their organization. Entry of this Final Order will preserve the assets of each Debtor's estate and its value and is in the best interests of the Debtors, their creditors and their estates. The Adequate Protection Liens, the Adequate Protection Superpriority Claims and the Adequate Protection Payments (each as defined below) provided herein are consistent with and authorized by the Bankruptcy Code. Absent authorization to immediately access and use Cash Collateral, the Debtors, the estates and their creditors would suffer immediate and irreparable harm.

I. Sections 506(c) and 552(b) Waivers. In light of (i) the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the Carve-Out, (ii) the Prepetition Secured Parties' consent to use of their Cash Collateral and (iii) the Budget covering administrative costs projected by the Debtors, the Prepetition Secured Parties are entitled to a waiver of (a) any "equities of the case" claims under section 552(b) of the Bankruptcy Code, (b) the provisions of section 506(c) of the Bankruptcy Code, and (c) the equitable doctrine of "marshalling" or any similar doctrine.

J. Exercise of Debtors' Business Judgment. Based on the Motion, the First Day Declaration and the record presented to this Court at the Interim Hearing and the Final Hearing, the terms on which the Debtors may continue to use the Prepetition Collateral (including Cash

Collateral) pursuant to this Final Order are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

K. Immediate and Irreparable Harm. Good cause has been shown for immediate entry of this Final Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and the Local Rules. Absent granting the relief set forth in this Final Order, the Debtors and their estates will be immediately and irreparably harmed. Entry of this Final Order and the use of Prepetition Collateral, including Cash Collateral, in accordance with this Final Order are in the best interests of the Debtors, their estates and their creditors. The terms of this Final Order are fair and reasonable under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with fiduciary duties and are supported by reasonably equivalent value and fair consideration.

Based on the foregoing, the Motion, the First Day Declaration and the record made before the Court at the Interim Hearing and the Final Hearing, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. Motion Granted. The Motion is GRANTED, and the Debtors' use of Cash Collateral and other Prepetition Collateral is authorized, subject to the terms and conditions of this Final Order.

2. Authorization to Use Cash Collateral. The Debtors are hereby authorized, subject to the terms and conditions of this Final Order and compliance with the Budget, to use Cash Collateral; provided that (a) the Prepetition Secured Parties are granted the adequate protection as hereinafter set forth and (b) except on the terms, conditions and limitations of this Final Order, the

Debtors shall be enjoined and prohibited from at any time using the Cash Collateral absent further order of this Court.

3. Budget. The Debtors and the Prepetition Secured Parties have agreed to an amended budget attached hereto as **Exhibit 1**, including a 13-week cash flow forecast setting forth all projected cash receipts and cash disbursements on a weekly basis (the “Budget”). The Budget includes and contains the Debtors’ reasonable estimate of all operational receipts and all operational disbursements, fees, costs, and other expenses that will be payable, incurred, and/or accrued by any of the Debtors during the period covered by the Budget. The Debtors’ use of Cash Collateral is subject to and governed by the terms of the Budget and this Final Order, and subject to a further order of this Court, the Agent (on behalf of the Prepetition Secured Parties) shall have no obligation to permit the use of Cash Collateral and the Debtors shall have no authority to use Cash Collateral other than in accordance with the Budget, subject to the Permitted Variance or Cumulative Permitted Variance (each as defined below) and as set forth in this Final Order. The Prepetition Secured Parties (a) may assume the Debtors will comply with the Budget, (b) shall have no duty to monitor such compliance and (c) shall not be obligated to pay (directly or indirectly from the Prepetition Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to the Budget, except the Carve-Out (and, solely after and to the extent that all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan) have been indefeasibly paid in full and all rights and obligations of BMO and Hancock under the Prepetition Loan Documents have been assigned to Hilco Trading, in each case to the satisfaction of BMO and Hancock,⁸ the 503(b)(9) Escrow Account (as defined hereinafter)) to the extent permitted in this Final Order.

⁸ Immediately upon the indefeasible payment in full of all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan), all rights and obligations of BMO and Hancock under the Prepetition Loan

4. Permitted Variances. Notwithstanding the Budget, so long as no Event of Default (as defined below) has occurred, the Debtors are authorized to use Cash Collateral in accordance with the Budget subject to: (a) a permitted variance that would not cause (i) the total operating disbursements of the Debtors for the immediately preceding two (2) weeks to be greater than one-hundred ten percent (110%) of the then current Budget over the corresponding time period, and (ii) the aggregate of all actual cash receipts of the Debtors for the immediately preceding two (2) weeks to be less than ninety percent (90%) of the then current Budget over the corresponding time period, each first measured on the second Monday immediately following the entry of the Interim Order, and then weekly on a rolling basis thereafter (each such variance representing a “Permitted Variance”); and (b) a cumulative permitted variance that would not cause (i) the total operating disbursements of the Debtors for the immediate four (4) weeks after the entry of the Interim Order to be greater than one-hundred five percent (105%) of the then current Budget over the corresponding time period, and (ii) the aggregate of all actual cash receipts of the Debtors for the four (4) weeks after entry of the Interim Order to be less than ninety-five percent (95%) of the then current Budget over the corresponding time period, each first measured on the Friday immediately following the entry of the Interim Order, and then (iii) weekly on a rolling basis thereafter, aggregating over the corresponding time period (each such cumulative variance representing a “Cumulative Permitted Variance”).

5. Adequate Protection of Prepetition Secured Parties. Pursuant to sections 361, 362, 363(c)(2), 363(e) and 507 of the Bankruptcy Code, the Prepetition Secured Parties are entitled to

Documents shall be deemed assigned to Hilco Trading, and each of BMO, Hancock, Hilco Trading and the Debtors shall execute and deliver all documents necessary or reasonably requested by any of the foregoing parties to so assign such rights and obligations (including an agency resignation and assumption agreement or similar agreement pursuant to which Hilco Trading will succeed to the rights and obligations of the Agent).

adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral, in an amount equal to the aggregate actual diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any such diminution resulting from the depreciation, sale, lease or use by the Debtors (or other decline on value) of the Prepetition Collateral (including Cash Collateral, whether pursuant to the Budget or otherwise), the subordination of their liens on the Prepetition Collateral and superpriority claims to the Carve-Out pursuant to this Final Order and the Prepetition Loan Documents, or the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code (each, an "Adequate Protection Claim"). As adequate protection of the Adequate Protection Claim(s), the Prepetition Secured Parties are hereby granted the following (collectively, the "Adequate Protection Obligations"):

(a) *Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual diminution (if any) in value of the Prepetition Collateral, including Cash Collateral, effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by the Prepetition Secured Parties of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or the possession or control by the Agent of any Adequate Protection Collateral (as defined below), the Agent is hereby granted, for the benefit of the Prepetition Secured Parties, solely to the extent of any actual diminution in value of the Prepetition Collateral and as security for the payment of the Adequate Protection Claim(s), valid, binding, continuing, enforceable, fully perfected, first priority senior replacement liens on and security interests in (collectively, the "Adequate Protection Liens") any and all tangible and

intangible pre- and post-petition property of the Debtors, whether existing before, on or after the Petition Date, together with any proceeds thereof, including, without limitation, any and all cash and any investment of such cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, employee retention credits, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, chattel paper, interests in leaseholds, deposit accounts, securities accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, wherever located, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing (collectively, the “Adequate Protection Collateral”); provided, that notwithstanding anything to the contrary in the Interim Order or this Final Order, the Adequate Protection Collateral shall not include (i) any claims and causes of action of the Debtors arising under sections 502(d), 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law and the proceeds thereof (collectively, the “Avoidance Actions”), (ii) the Debtors’ real properties and the proceeds, products, rents and profits thereof (the “Real Properties Claims”), and (iii) solely to the extent the following are not subject to the Prepetition Liens of the Prepetition Secured Parties, including, without limitation, the proceeds (including insurance proceeds), products, rents and profits thereof, claims or causes of actions of the Debtors, whether sounding in contract, in tort, at law or in equity, or under statute, and the proceeds thereof (the “Other Estate Claims”).

(b) The Adequate Protection Liens shall be junior only to (i) the Carve-Out (and, solely after and to the extent that all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan) have been indefeasibly paid in full and all rights and

obligations of BMO and Hancock under the Prepetition Loan Documents have been assigned to Hilco Trading, in each case to the satisfaction of BMO and Hancock, the 503(b)(9) Escrow Account) and (ii) any Permitted Encumbrance. The Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on or claims against any of the Adequate Protection Collateral.

(c) The Adequate Protection Liens shall not be subject to sections 506(c), 510, 549, 550 or 551 of the Bankruptcy Code. The Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Chapter 11 Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (each a “Successor Case”).

(d) *Adequate Protection Superpriority Claims.* The Adequate Protection Claims due to the Agent shall constitute allowed superpriority administrative expense claims against the Debtors and their estates in the amount of any actual diminution (if any) in value of the Prepetition Collateral, including Cash Collateral, as provided in section 507(b) of the Bankruptcy Code, with priority in payment over any and all unsecured claims and administrative expense claims against the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113, 1114 and any other provision of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtors and any successor trustee or creditor in these Chapter 11 Cases or any Successor Case (the “Adequate Protection Superpriority Claims”),

subject and subordinate only to the Carve-Out (and, solely after and to the extent that all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan) have been indefeasibly paid in full and all rights and obligations of BMO and Hancock under the Prepetition Loan Documents have been assigned to Hilco Trading, in each case to the satisfaction of BMO and Hancock, the 503(b)(9) Escrow Account); provided, that the Adequate Protection Superpriority Claims shall not be paid from proceeds of Avoidance Actions, the Real Properties Claims or Other Estate Claims.

(e) *Payment of Prepetition and Postpetition Interest.* The Debtors shall pay to the Agent, for the benefit of the Prepetition Secured Parties, all accrued and unpaid interest (including, for the avoidance of doubt, interest accruing and becoming due on or after the Petition Date) at the applicable rates under, and consistent with the ordinary course interest payment dates set forth in, the Prepetition Loan Documents (the “Adequate Protection Interest Payments”).

(f) *Agent Fees and Expenses.* As additional adequate protection, the Agent shall receive from the Debtors, for the benefit of the Prepetition Secured Parties, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses payable to the Agent, on behalf of the Prepetition Secured Parties, under the Prepetition Loan Documents, including, but not limited to, the reasonable and documented prepetition and postpetition fees and disbursements of legal counsel, financial advisors and other consultants (the “Adequate Protection Fees and Expenses”, and together with the Adequate Protection Interest Payments, the “Adequate Protection Payments”). Payment of all such Adequate Protection Fees and Expenses shall not be subject to allowance by the Court but shall be subject to the following process. At the same time invoices are delivered to the Debtors, the professionals for the Prepetition Secured Parties shall deliver a copy of their respective invoices to (i) counsel for the Creditors’ Committee and (ii) the

office of the United States Trustee (the “U.S. Trustee”). The invoices for such fees and expenses shall not be required to comply with any U.S. Trustee guidelines related to the payment of fees and expenses of retained estate professionals, may be in summary form only, and shall not be subject to application or allowance by this Court. Any objections raised by the Debtors, the U.S. Trustee or the Creditors’ Committee with respect to such invoices within ten (10) business days of receipt thereof will be resolved by the Court if necessary (absent prior consensual resolution thereof). Pending such resolution, the undisputed portion of any such invoice shall be promptly paid by the Debtors. Except as otherwise ordered by the Court in the event an objection is timely filed, such Adequate Protection Fees and Expenses shall not be subject to any setoff, defense, claim, counterclaim, or diminution of any type, kind, or nature whatsoever.

6. Reporting. The Debtors shall comply with the reporting requirements set forth in the Prepetition Loan Documents (as may be modified in writing by the Agent from time to time), and the Debtors shall provide the following additional reporting, which shall be delivered to the Agent on behalf of the Prepetition Secured Parties:

(a) A Weekly Borrowing Base Certificate (as defined in the ABL Credit Agreement) on Wednesday of each week, as of the close of business on the immediately preceding Friday;

(b) On or before four (4) weeks following the Petition Date, and every four (4) weeks thereafter, an updated Budget (which shall include the prior 2 weeks of actual results) (the “Proposed Budget”) with respect to the Debtors for the current calendar week then ended and the remaining 13 weeks of the current Budget, set forth on a weekly basis. Each Proposed Budget provided to the Agent, on behalf of the Prepetition Secured Parties, shall be of no force and effect unless and until it is approved in writing by the Agent for the benefit of the Prepetition Secured

Parties, such approval not to be unreasonably withheld, and, until such approval is given, the prior Budget shall remain in effect. Each Proposed Budget shall become the Budget five (5) days after delivery by the Debtors to the Agent, on behalf of the Prepetition Secured Parties, if approved in accordance with the foregoing (and the Prepetition Secured Parties shall be deemed to have approved the Proposed Budget upon the passage of five (5) days with no objection by either such party). Any such Proposed Budget, upon such approval, shall become, as of the date of such approval and for the period of time covered thereby, the Budget, and shall prospectively replace any prior Budget;

(c) on a weekly basis, starting October 24, 2024, a report (each a “Variance Report”), in each case certified by the “Chief Restructuring Officer,” reflecting, on a line-item basis, the actual cash disbursements and receipts for the preceding week and the percentage variance of such actual cash disbursements and receipts from those reflected in the Budget for such period; and for the avoidance of doubt the first Variance Reporting will be measured on October 28, 2024 and delivered to the Agent in accordance herewith;

(d) all financial reports, forecasts and all other financial documentation, pleadings and other filings that are reasonably requested by the Agent, on behalf of the Prepetition Secured Parties;

(e) all such information and documentation that is afforded to the Creditors’ Committee and/or the Creditors’ Committee’s respective legal or financial advisors; and

(f) in addition to, and without limiting, whatever rights to access the Agent and the Prepetition Secured Parties have under the Prepetition Loan Documents, upon reasonable notice, at reasonable times during normal business hours, the Debtors shall (a) permit representatives of the Agent and the Prepetition Secured Parties to visit and inspect any of their

respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective inventory and accounts, to tour the Debtors' business premises and other properties, and (b) cause their representatives and agents to make themselves reasonably available to discuss the Debtors' affairs, financial condition, properties, business, operations and accounts with the representatives and legal and financial of the Prepetition Secured Parties. The Debtors shall also provide to the Creditors' Committee's financial advisor that same information that is provided to the Prepetition Secured Parties in connection with subparagraphs (a) through (d) hereof.

7. Cash Management. The Debtors are authorized and directed to maintain their cash management system in a manner consistent with this Final Order and any order of this Court approving the maintenance of the Debtors' cash management system.

8. Excess Availability. The Debtors will not permit Excess Availability to be less than \$6,151,000. For purposes of this section, "Excess Availability" shall mean (a) the sum, without duplication, of (i) the Maximum Borrowing Amount (as defined in the ABL Credit Agreement) plus (ii) Qualified Cash (as defined in the ABL Credit Agreement) at such time in an aggregate amount not to exceed then (10%) percent of the Borrowing Base in effect at such time, minus (b) the aggregate Revolving Credit Exposures (as defined in the ABL Credit Agreement) (including the Letter of Credit Exposure (as defined in the ABL Credit Agreement)) of all Lenders (as defined in the ABL Credit Agreement) at such time.

9. Requests for Further Adequate Protection. Nothing in this Final Order shall be deemed to limit, abridge, waive or otherwise affect (a) any right of the Prepetition Secured Parties to request at any time that the Court provide different, additional or further adequate protection of their interests in the Prepetition Collateral (including Cash Collateral) or to seek different,

additional, or further adequate protection in the event the Prepetition Secured Parties contend that the adequate protection provided herein is inadequate or (b) the ability of the Debtors or any other party in interest to oppose any such relief.

10. Continuation of Prepetition Liens. Subject to the Challenge Rights set forth in Paragraph 21, until the Debtors have indefeasibly paid in full in cash all Prepetition Obligations all liens and security interests of the Prepetition Secured Parties (including, without limitation, the Adequate Protection Liens) shall remain valid and enforceable with the same continuing priority as described herein.

11. Modification of Automatic Stay. The automatic stay under section 362(a) of the Bankruptcy Code is hereby modified to the extent necessary to effectuate all of the terms and provisions of this Final Order, including, without limitation, to: (a) permit the Debtors to grant the Adequate Protection Liens and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the Prepetition Secured Parties may request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Prepetition Secured Parties under this Final Order; (d) authorize the Debtors to pay, and the Prepetition Secured Parties to retain and apply, any payments (including the Adequate Protection Payments) made in accordance with the terms of this Final Order and the Prepetition Loan Documents; and (e) permit the Prepetition Secured Parties to exercise all rights and remedies provided for hereunder and under the Prepetition Loan Documents.

12. Perfection of Adequate Protection Liens.

(a) The Prepetition Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments in any jurisdiction, or take possession of or

control over cash or securities, or take any other action in order to validate and perfect the Adequate Protection Liens. Whether or not the Prepetition Secured Parties shall, in their sole discretion, choose to file such financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments, or take possession of or control over any cash, securities or any other property of the Debtors, or take any action that otherwise may be required under federal, state or local law in any jurisdiction to validate and perfect a security interest or lien, in any such case, the Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination (subject to the priorities set forth in this Final Order), at the time and on the date of entry of the Interim Order or thereafter. Upon the reasonable request of any of the Prepetition Secured Parties, the Prepetition Secured Parties (at the Debtors' cost and expense) and the Debtors, without any further consent of any party, are authorized to take, execute, deliver and file such instruments (in each case, without representation or warranty of any kind) to enable the Prepetition Secured Parties to further validate, perfect, preserve and enforce the Adequate Protection Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(b) A certified copy of this Final Order (or the notice of the filing hereof) may, in the discretion of the Agent or the Prepetition Secured Parties, be filed with or recorded in filing or recording offices in addition to or *in lieu* of such financing statements, mortgages, deeds of trust, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final Order or notice for filing and/or recording, as applicable. The automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the Agent and the Prepetition Secured Parties to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

13. Termination of Cash Collateral Authorization. Subject to any applicable cure or any notice period set forth below, if any, the Debtors' right to use Cash Collateral shall terminate (each of the following, an "Event of Default," and the date of any such Event of Default, the "Termination Date"), without prior order of this Court or any further action by the Agent and the Prepetition Secured Parties, unless such Event of Default is waived by the Agent in writing, on the earliest to occur of:

(a) the effective date of a confirmed plan in these Chapter 11 Cases;

(b) the failure to meet or satisfy any of the following milestones (the "Case Milestones");

- (1) forty-one (41) days after the entry of the Interim Order if the Final Order has not yet been entered; and
- (2) completion of all of the Debtors' Store Closing Sales on or before December 31, 2024;

(c) the date the Debtors file or otherwise support any plan of reorganization, plan of liquidation, motion or other pleading to sell all or substantially all of the Debtors' assets, without the prior written consent of the Agent on behalf of the Prepetition Secured Parties;

(d) five (5) business days after the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or rendering illegal the plan and either (i) such ruling, judgment, or order has been issued at the request of or with the acquiescence of the Debtors or (ii) in all other circumstances, such ruling, judgment, or order has not been stayed, reversed, or vacated within thirty (30) days after such issuance;

(e) any Debtor's failure to comply with any of the material terms or conditions of this Final Order, including, but not limited to, (a) the use of Cash Collateral for any purpose other than as permitted in this Final Order, or (b) failure to comply with the Budget (including any

distributions in excess of the Permitted Variance and Cumulative Permitted Variance that has not been resolved and approved, in writing, by the Agent);

(f) the failure of the Debtors to make any payment under this Final Order to the Agent within ten (10) business days after such payment becomes due (other than payments required under Paragraph 5(f) of this Final Order, which payments shall be made as required therein);

(g) the date of the Debtors' filing an application, motion or other pleading seeking to amend, modify, supplement, or extend this Final Order without the prior written consent of the Prepetition Secured Parties;

(h) this Final Order ceases, for any reason (other than by reason of the express written agreement by the Prepetition Secured Parties), to be in full force and effect in any material respect, or any Debtor so asserts in writing, or the Adequate Protection Liens or Adequate Protection Superpriority Claims created by the Interim Order or this Final Order cease in any material respect to be enforceable and of the same effect and priority purported to be created hereby or any Debtor so asserts in writing;

(i) the Court shall have entered an order reversing, amending, supplementing, staying, vacating, or otherwise modifying this Final Order in a manner materially adverse to the Prepetition Secured Parties without the prior written consent of the Agent on behalf of the Prepetition Secured Parties;

(j) the date of an application, motion, or other pleading is filed by the Debtors for the approval of any superpriority claim or any lien in these Chapter 11 Cases that is *pari passu* with or senior to the Adequate Protection Superpriority Claims or the Adequate Protection Liens without the prior written consent of the Prepetition Secured Parties;

(k) the date any of the Debtors files any pleading or commences any action against the Prepetition Secured Parties challenging the validity or enforceability of the Prepetition Obligations, the Prepetition Loan Documents or the Prepetition Liens or seeking to avoid, disallow, subordinate, or recharacterize any claim, lien, or interest held by any of the Prepetition Secured Parties arising under or related to the Prepetition Obligations or the Prepetition Loan Documents;

(l) the date (i) any court enters an order dismissing any of these Chapter 11 Cases, converting any of these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, appointing a trustee, responsible officer, or examiner with expanded powers relating to the operation of these Chapter 11 Cases or terminating the Debtors' exclusivity under Bankruptcy Code section 1121, unless consented to in writing by the Agent on behalf of the Prepetition Secured Parties, or (ii) the Debtors apply for, consent to, acquiesce in any such dismissal, conversion, or appointment; and

(m) the filing of any pleading by any Debtor in support of (in any such case by way of any motion or other pleading filed with the Court or any other writing to another party in interest executed by or on behalf of any such Debtor) any other person's opposition to any motion filed in the Court by the Agent or any of the Prepetition Secured Parties seeking confirmation of the amount of their claims, including the Prepetition Obligations, or the validity or enforceability of the Prepetition Liens or the Adequate Protection Liens.

14. Rights and Remedies upon the Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default, notwithstanding the provisions of Bankruptcy Code section 362, without any application, motion, or notice to, hearing before, or order from this Court, but subject to the terms of this Final Order, the Agent may provide notice (such notice, a

“Termination Notice”) that (a) any Adequate Protection Obligations determined to be due and owing as of the delivery of the Termination Notice, if any, shall become due and payable, (b) the application of the Carve-Out has occurred through the delivery of the Carve-Out Trigger Notice (as defined below), and/or (c) interest shall accrue at the default rate set forth in the Prepetition Loan Documents. Unless otherwise ordered by this Court, the automatic stay in these Chapter 11 Cases otherwise applicable to the Prepetition Secured Parties is hereby modified so that five (5) business days after the date a Termination Notice is delivered (the “Remedies Notice Period”), the Agent and/or the Prepetition Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Loan Documents, this Final Order, or applicable law with respect to the Debtors’ use of Cash Collateral, including setting-off amounts in any account of the Debtors maintained with the Agent or the Prepetition Secured Parties or with respect to which the Agent controls pursuant to a deposit account control agreement or otherwise to the extent necessary for payment of the Adequate Protection Obligations or the making of the Adequate Protection Payments. During the Remedies Notice Period, the Debtors, the Creditors’ Committee, and/or any party in interest shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court. Except as set forth in this paragraph or otherwise ordered by the Court prior to the expiration of the Remedies Notice Period, after the Remedies Notice Period the Debtors shall waive their right to and shall not be entitled to seek relief, including, without limitation, under Bankruptcy Code section 105, to the extent such relief would in any way impair or restrict the rights and remedies of the Agent and/or the Prepetition Secured Parties under this Final Order. Unless the Court orders otherwise, the automatic stay, as to the Prepetition Secured Parties (solely with respect to the use of Cash Collateral to the extent permitted hereunder), shall automatically be terminated at the end of the Remedies Notice Period

without further notice or order. Upon expiration of the Remedies Notice Period, the Agent and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the Prepetition Loan Documents, and as otherwise available at law without further order of or application or motion to this Court consistent with this Final Order; provided, that the Prepetition Secured Parties shall be permitted to exercise remedies to the extent available solely with respect to the Debtors' use of Cash Collateral. Notwithstanding anything to the contrary herein or the occurrence of the Termination Date, all of the rights, remedies, benefits, and protections provided to an Event of Default, the delivery of a Termination Notice or the expiration of the Remedies Notice Period, all of the rights, remedies, benefits and protections provided to the Agent and the Prepetition Secured Parties under this Final Order shall survive.

15. Carve-Out. Subject to the terms and conditions contained in this Paragraph 15, each of the Prepetition Liens, Adequate Protection Liens and Adequate Protection Superpriority Claims shall be subject and subordinate to payment of the Carve-Out solely to the extent that a Carve-Out Trigger Notice is delivered.

(a) As used in this Final Order, the "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 section 1930(a) of title 28 of the United States Code, plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to and in the aggregate of \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below) or 1104(a); (iii) solely to the extent allowed by final order of this Court, all unpaid fees, disbursements, costs, and expenses accrued or incurred by persons or firms formally retained by the Debtors or the Creditors' Committee (collectively, the "Carveout Professionals"), whose retention is approved on a final basis by this Court pursuant to section 327, 328, 363, or

1103 of the Bankruptcy Code (collectively, the “Allowed Professional Fees”), at any time before delivery by the Agent of a Carve-Out Trigger Notice (or thereafter if the application to retain such Carveout Professional was pending before the Court as of the date of delivery of such Carve-Out Trigger Notice), whether allowed by this Court prior to or after delivery of such Carve-Out Trigger Notice and with respect to Allowed Professional Fees payable to Carveout Professionals; and (iv) Allowed Professional Fees in an aggregate amount not to exceed \$250,000 incurred following delivery by the Agent of the Carve-Out Trigger Notice (the amount set forth in this clause (iv) being the “Carve-Out Trigger Notice Cap”); provided, that nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, costs, disbursements, reimbursements or compensation described in clauses (i) through (iv) above on any grounds.

(b) On a weekly basis, the fees and expenses of the Carve-Out Professionals shall be funded into an escrow account with Young Conaway Stargatt & Taylor, LLP to satisfy the funding of the Carveout pursuant to the Budget (the “Carve-Out Professional Fee Reserve”). The funds on deposit in the Carve-Out Professional Fee Reserve shall be payable to the Carve-Out Professionals solely when such Allowed Professional Fees are approved by (and pursuant to) an order of this Court; provided, however, for the avoidance of doubt, the Carveout Professionals shall retain the ability to apply any excess funds allocated to such Carveout Professional in the Carve-Out Professional Fee Reserve in one week to another week.

(c) For purposes hereof, “Carve-Out Trigger Notice” shall mean a written notice delivered by email by the Agent, for the benefit of the Prepetition Secured Parties, to the Debtors, the Debtors’ counsel, the U.S. Trustee and counsel to the Creditors’ Committee, which notice may be delivered only upon the occurrence and during the continuation of an Event of Default, stating expressly that the Carve-Out Trigger Notice Cap has been invoked.

(d) On the day on which the Carve-Out Trigger Notice is delivered to the Debtors (the “Carve-Out Trigger Date”), the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to pay into the Carve-Out Professional Fee Reserve an amount equal to the then-unpaid and/or unfunded amounts of Allowed Professional Fees that have accrued in accordance with the Budget, subject to the Carve-Out Trigger Notice Cap.

(e) On the Carve-Out Trigger Date, the Carve-Out Trigger Notice shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtors, after funding of the Carve-Out Professional Fee Reserve, to fund a reserve (the “Carve-Out Trigger Notice Cap Reserve,” and, together with the Carve-Out Professional Fee Reserve, the “Carve-Out Reserves”) in an amount equal to the amounts set forth in clauses (i), (ii) and (iv) of the definition of Carve-Out in Paragraph 15(a) above (each of (i), (ii) and (iv) to the extent not previously paid) (the “Carve-Out Amounts”). All funds in the Carve-Out Trigger Notice Cap Reserve shall be first used only to pay the allowed obligations set forth in clauses (i), (ii), and (iv) of the definition of Carve-Out in Paragraph 15(a) above (each of (i), (ii) and (iv) to the extent not previously paid) until paid in full (which payments shall permanently reduce the Carve-Out Trigger Notice Cap Reserve on a dollar-for-dollar basis), and then, to the extent the Carve-Out Trigger Notice Cap Reserve has not been reduced to zero, to pay to the Agent for the benefit of the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. All funds in the Carve-Out Professional Fee Reserve shall be used to pay the Allowed Professional Fees (to the extent not previously paid) until paid in full (which payments shall permanently reduce the Carve-Out Professional Fee Reserve on a dollar-for-dollar basis), and then, to the extent the Carve-Out Professional Fee Reserve has not been reduced to zero, to pay to

the Agent for the benefit of the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in this Final Order, the Agent shall have a security interest in and lien on any residual interest in the Carve-Out Reserves, with any such funds paid to the Agent for the benefit of the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date.

(f) After the delivery to the Debtors of a Carve-Out Trigger Notice, any payment or reimbursement made on or in respect of any Allowed Professional Fees (excluding any incurred and unpaid Adequate Protection Fees and Expenses of the Agent and the Prepetition Secured Parties) shall permanently reduce the Carve-Out on a dollar-for-dollar basis.

(g) Notwithstanding anything to the contrary herein, the Carve-Out shall be senior to all liens and claims granted under this Final Order, including the Adequate Protection Liens, the Adequate Protection Superpriority Claims and any and all other liens or claims securing the Prepetition Obligations.

(h) None of the Prepetition Secured Parties (including the Agent) shall be responsible for the direct payment and/or reimbursement of any fees and/or disbursements (including, without limitation, the Allowed Professional Fees) of any retained professionals, the Creditors' Committee, the U.S. Trustee, or the Clerk of this Court (or of any other entity) incurred in connection with the Chapter 11 Cases or any Successor Case (including, without limitation, the Carve-Out Professionals), and nothing in this Final Order or otherwise shall be construed to obligate any such parties in any way to (i) pay such compensation to or to reimburse such expenses or (ii) assure that the Debtors have sufficient funds on hand to pay any of the foregoing.

16. Limitation on Charging Expenses against Collateral. Nothing contained in this Final Order shall be deemed a consent by the Agent or the Prepetition Secured Parties to any

charge, lien, assessment or claim against the Prepetition Collateral, the Adequate Protection Collateral or otherwise. Except to the extent of the Carve-Out, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases or any Successor Case at any time shall be surcharged against, and no person may seek to surcharge any costs or expenses of administration against the Agent, the Prepetition Secured Parties, any of the Prepetition Obligations, the Prepetition Collateral or the Adequate Protection Collateral pursuant to sections 506(c) of the Bankruptcy Code or otherwise without the prior written consent of the Prepetition Secured Parties. No action, inaction or acquiescence by the Agent or the Prepetition Secured Parties shall be deemed to be or shall be considered evidence of any alleged consent to a surcharge against the Agent, the Prepetition Secured Parties, the Prepetition Obligations, the Prepetition Liens, the Prepetition Collateral, the Adequate Protection Obligations, the Adequate Protection Collateral or the Adequate Protection Liens.

17. Equities of the Case Waiver. The Prepetition Secured Parties (including, without limitation, the Agent) shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and no person may assert an “equities of the case” claim under section 552(b) of the Bankruptcy Code against the Prepetition Secured Parties (including, without limitation, the Agent) with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.

18. Payments Free and Clear. In the event of any sale, lease, transfer, license, or other disposition of property of the Debtors that constitutes Prepetition Collateral, the Debtors are authorized to pay the proceeds to the Agent (for the benefit of the Prepetition Secured Parties) without further order of this Court up to the full amount of the Prepetition Obligations. Any and all proceeds remitted, subject only to the Carve-Out (and, solely after and to the extent that all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan) have

been indefeasibly paid in full and all rights and obligations of BMO and Hancock under the Prepetition Loan Documents have been assigned to Hilco Trading, in each case to the satisfaction of BMO and Hancock, the 503(b)(9) Escrow Account) and any Challenge Proceeding (as defined below), to the Agent (for the benefit of the Prepetition Secured Parties) pursuant to the terms of this Final Order or any subsequent order of this Court shall be received free and clear of any claim, charge, assessment or other liability, including any such claim or charge arising out of or based on, directly or indirectly, section 506(c) of the Bankruptcy Code or the “equities of the case” exception of section 552(b) of the Bankruptcy Code.

19. No Marshaling. The Agent and the Prepetition Secured Parties shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition Collateral, and proceeds of the Prepetition Collateral shall be received and applied pursuant to this Final Order and the Prepetition Loan Documents notwithstanding any other agreement, order or provision to the contrary. Without limiting the generality of the immediately preceding sentence, no party shall be entitled, directly or indirectly, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of the Prepetition Collateral after an Event of Default.

20. Effect of Debtors’ Stipulations. Each of the Debtors’ Stipulations and each of the Debtors’ other admissions, agreements and releases contained in this Final Order, including, without limitation, in Paragraph E of this Final Order, shall be binding upon each of the Debtors and, subject to Paragraph 21 of this Final Order, any successor(s) thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors in these Chapter 11 Cases or any Successor Case) under all circumstances and for all purposes upon entry of this Final Order.

21. Challenge Rights. Each of the Debtors' Stipulations and each of the Debtors' other admissions, agreements and releases contained in this Final Order, including, without limitation, in Paragraph E of this Final Order, shall be binding upon all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in these Chapter 11 Cases (including the Creditors' Committee) and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors in these Chapter 11 Cases or any Successor Case, in all circumstances and for all purposes unless: (a) the Creditors' Committee or any other party in interest, in each case with requisite standing, has filed (subject to the limitations contained herein, including, inter alia, in this Paragraph 21), by no later than a date that is the later of (i) in the case of a party in interest with requisite standing, including the Creditors' Committee, seventy-five (75) calendar days after entry of the Interim Order, (ii) with respect to any Challenge Proceeding against the Agent and/or any of the Prepetition Secured Parties, any such later date agreed to in writing by the Agent, for the benefit of the Prepetition Secured Parties, in its sole discretion; or (iii) any such later date ordered by the Court for cause shown after notice and an opportunity to be heard, provided that such order is entered before the expiration of any applicable period as set forth in clauses (i) through (iii) of this sentence (the "Challenge Period"), a contested matter, adversary proceeding or other action or "claim" (as defined in the Bankruptcy Code), (A) contesting, objecting or otherwise challenging the admissions, stipulations, findings or releases included in the Debtors' Stipulations and this Final Order, (B) contesting, objecting or otherwise challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Obligations or the Prepetition Liens (including, but not limited to, those under sections 506, 544, 547, 548, 549, 550, and/or 552 of the Bankruptcy Code), (C) contesting, objecting or otherwise challenging the

right of the Prepetition Secured Parties to credit bid on the Prepetition Collateral pursuant to 363(k) of the Bankruptcy Code, or (D) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims (whether pursuant to Chapter 5 of the Bankruptcy Code or otherwise) or any other claims, counterclaims or causes of action, objections, contests, defenses, setoffs, offsets or recoupments, whether arising at law or equity, against the Prepetition Secured Parties or their respective 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 solely in their respective capacities as such (collectively, the “Representatives”), and solely in their capacities as Representatives of the Prepetition Secured Parties, in connection with (1) the prepetition business relationship between or conduct of the Prepetition Secured Parties with the Debtors, (2) the actions or inactions of the Prepetition Secured Parties arising out of or related to the Prepetition Obligations or otherwise, including, without limitation, any claim against the Prepetition Secured Parties in the nature of an “equitable subordination,” “lender liability,” “deepening insolvency” or “control person” liability, or (3) matters related to the Prepetition Loan Documents, the Prepetition Obligations, the Prepetition Liens and the Prepetition Collateral ((A), (B), (C), and (D) collectively, a “Challenge Proceeding”); and (b) there is a final and non-appealable order in favor of the plaintiff in any such timely filed Challenge Proceeding. The Prepetition Secured Parties stipulate and agree that each of the Prepetition Secured Parties will not raise as a defense in connection with any Challenge Proceeding the ability of creditors to file derivative suits on behalf of limited liability companies under the Delaware Limited Liability Company Act. If the Chapter 11 Cases convert to cases administered under chapter 7 of the Bankruptcy Code, or if a Chapter 11 trustee is appointed, prior to the end of the Challenge Period,

then the Challenge Period shall be extended for the Chapter 7 or Chapter 11 trustee to 20 days after their appointment.

22. If no such Challenge Proceeding is filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding, then: (a) the Debtors' Stipulations, admissions, agreements and releases contained in this Final Order, including, without limitation, those contained in Paragraph E of this Final Order, shall be binding on all parties in interest, including, without limitation, the Creditors' Committee or any trustee appointed in these Chapter 11 Cases or any Successor Case; (b) the obligations of the Debtors under the Prepetition Loan Documents, including the Prepetition Obligations, shall constitute fully allowed secured claims within the meaning of Section 506 of the Bankruptcy Code not subject to defense, claim, counterclaim, recharacterization, subordination, offset or avoidance or otherwise, for all purposes in these Chapter 11 Cases and any Successor Case; (c) the Prepetition Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens not subject to recharacterization, subordination, avoidance or other defense; and (d) the Prepetition Obligations, the Prepetition Collateral and the Prepetition Liens (including all payments made to or for the benefit of the Prepetition Secured Parties pursuant to, or otherwise authorized by, the Prepetition Loan Documents, the Interim Order, this Final Order or otherwise, whether made prior to, on, or after the Petition Date) shall not be subject to any other or further claim or challenge by the Creditors' Committee, any non-statutory committees appointed or formed in these Chapter 11 Cases, or any other party in interest acting or seeking to act on behalf of the Debtors' estates and any defenses, claims, causes of action, counterclaims and offsets by the Creditors' Committee, any non-statutory committees appointed or formed in these Chapter 11 Cases, or any other party acting or seeking to act on behalf of the Debtors' estates, whether arising under the Bankruptcy Code or

otherwise, against the Agent, the Prepetition Secured Parties and their Representatives arising out of or relating to the Prepetition Loan Documents shall be deemed forever waived, released and barred.

23. If any such Challenge Proceeding is timely filed during the Challenge Period, (a) any claim or action that is not brought shall forever be barred, and (b) each of the Debtors' Stipulations and each of the Debtors' other admissions and agreements contained in this Final Order, including, without limitation, those contained in Paragraph E of this Final Order, shall nonetheless remain binding and preclusive on the Creditors' Committee and on any other person or entity, except to the extent that such stipulations, admissions, and agreements were successfully challenged in such Challenge Proceeding as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in this Final Order vests or confers on any Person (as defined in the Bankruptcy Code), including the Creditors' Committee or any non-statutory committees appointed or formed in these Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenge Proceedings with respect to the Prepetition Secured Parties, the Prepetition Loan Documents, the Prepetition Obligations, the Prepetition Collateral or the Prepetition Liens. The filing of a motion seeking standing to file a Challenge Proceeding before the Challenge Period, which attaches a proposed Challenge Proceeding, shall extend the Challenge Period with respect to that party until two (2) business days after the Court approves the standing motion, or such other time period ordered by the Court in approving the standing motion.

24. Restriction on Use of Cash Collateral. Notwithstanding anything herein or in any other order by this Court to the contrary, no Cash Collateral, other Prepetition Collateral, proceeds, products, or offspring of any of the foregoing or any portion of the Carve-Out may be used (except

to the extent otherwise expressly agreed in writing by the Agent, on behalf of the Prepetition Secured parties, in response to a written request from the Debtors specifying the proposed use) to pay any claims for services rendered by any of the professionals retained by the Debtors (including, without limitation, the Carveout Professionals), any creditor or party in interest, any committee (including the Creditors' Committee), any trustee appointed under these Chapter 11 Cases or any Successor Case, or any other person, party, or entity (or to pay any professional fees and disbursements in connection therewith) to: (a) apply to the Bankruptcy Court for authority to approve superpriority claims or grant liens or security interests in the Prepetition Collateral, including the Cash Collateral, or any portion thereof, that are senior to, or on parity with, the Prepetition Liens, unless the Prepetition Obligations and claims granted to the Prepetition Secured Parties under this Final Order, as applicable, have been refinanced or indefeasibly paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the Agent, on behalf of the Prepetition Secured Parties; (b) to prevent, hinder or otherwise delay the Prepetition Secured Parties' assertion, enforcement or realization on the Prepetition Collateral, including Cash Collateral, and liens, claims and rights granted to the Prepetition Secured Parties under this Final Order in accordance with the Prepetition Loan Documents or this Final Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Secured Parties under this Final Order or the Prepetition Loan Documents; (d) to pay any amount on account of any claims arising prior to the Petition Date unless such payments are expressly provided for in the Budget and approved by an order of this Court that is in form and substance satisfactory to the Agent; (e) investigate, assert, join, commence, support or prosecute any action or claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against the Agent or the Prepetition

Secured Parties or their Representatives with respect to any transaction, occurrence, omission, or action, including, without limitation, (i) any Avoidance Actions or other actions arising under chapter 5 of the Bankruptcy Code, (ii) any action relating to any act, omission or aspect of the relationship between the Agent and/or the Prepetition Secured Parties, on the one hand, and the Debtors or any of their affiliates, on the other hand, (iii) any action with respect to the validity, extent and/or priority of the Prepetition Obligations, the Prepetition Liens and/or the Adequate Protection Obligations, (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the Prepetition Liens, the Adequate Protection Liens and/or Adequate Protection Obligations granted under the Interim Order or this Final Order, (v) except to contest the occurrence of any Event of Default as permitted in Paragraph 14 herein, any action that has the effect of preventing, hindering or delaying (whether directly or indirectly) the Agent and/or the Prepetition Secured Parties in respect of their liens and security interests in the Cash Collateral or the other Prepetition Collateral, (vi) pay any fees or similar amounts to any person to purchase the Prepetition Secured Parties' interests in any of the Debtors without the prior written consent of the Agent on behalf of the Prepetition Secured Parties, unless such person consummates or otherwise closes the purchase of the Prepetition Secured Parties' interests in any of the Debtors, or (vii) use or seek to use Cash Collateral unless otherwise permitted hereby without the prior written consent of the Agent on behalf of the Prepetition Secured Parties; or (f) for objecting to, contesting, delaying, preventing, hindering or otherwise interfering with in any way with the exercise of rights or remedies by the Agent or the Prepetition Secured Parties with respect to any Prepetition Collateral, including Cash Collateral and any Adequate Protection Collateral, after the occurrence of an Event of Default; provided that, notwithstanding anything to the contrary in this Paragraph 24, the Creditors' Committee may use Prepetition Collateral, including Cash Collateral,

and the proceeds thereof solely to investigate (y) the claims and liens of the Prepetition Secured Parties solely to the extent set forth in this Paragraph 24 (but not to prepare, initiate, litigate, prosecute, object to, or otherwise challenge any of the foregoing or support any other Person pursuing the same), and (z) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties solely to the extent set forth in this Paragraph 24 (but not to prepare, initiate, litigate, prosecute, object to, or otherwise challenge any of the foregoing or support any other Person pursuing the same); provided, further that not more than the aggregate of \$35,000 of Prepetition Collateral, including Cash Collateral, and the proceeds thereof may be used by the Creditors' Committee in respect of the investigations expressly set forth in the preceding proviso (the "Investigation Budget"). Notwithstanding anything to the contrary in this paragraph of Final Order, the Creditors' Committee's investigation into the claims or liens of insiders, including, without limitation, Hilco Trading, shall not be restricted by the Investigation Budget.

25. Releases. The release, discharge, waivers, settlements, compromises, and agreements set forth in this Paragraph 25 shall be deemed immediately effective upon entry of this Final Order and subject only to the challenge rights set forth in Paragraph 21 above. The Debtors forever and irrevocably: (a) release, discharge and acquit the Agent and the Prepetition Secured Parties (but excluding Hilco Trading and any of its affiliates), and each of their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, and predecessors in interest, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness, and obligations, of every type arising prior to the Petition Date, including, without limitation, any claims arising from any actions relating to any aspect of the relationship by and among the Agent, the Prepetition

Secured Parties and the Debtors and their affiliates, (including, without limitation, any equitable subordination claims or defenses), with respect to or relating to the Prepetition Obligations, the Prepetition Liens, the Prepetition Collateral, the Prepetition Loan Documents, the Debtors' attempts to restructure the Prepetition Obligations, any and all claims and causes of action arising under the Bankruptcy Code and any and all claims regarding the validity, priority, extent, enforceability, perfection or avoidability of the liens or claims of the Agent and Prepetition Secured Parties; and (b) waive any and all defenses (including, without limitation, offsets and counterclaims of any nature or kind) as to the validity, perfection, priority, extent, enforceability and non-avoidability of the Prepetition Obligations, the Prepetition Liens and the Prepetition Loan Documents.

26. Prohibition on Granting of Additional Liens and Interests; Use of Prepetition Collateral. No liens, claims, interests or priority status, other than the Carve-Out (and, solely after and to the extent that all Prepetition Obligations (other than those Prepetition Obligations in respect of the FILO Loan) have been indefeasibly paid in full and all rights and obligations of BMO and Hancock under the Prepetition Loan Documents have been assigned to Hilco Trading, in each case to the satisfaction of BMO and Hancock, the 503(b)(9) Escrow Account) and the Permitted Encumbrances, having a lien or administrative priority superior to or *pari passu* with that of the Adequate Protection Superpriority Claims, the Prepetition Liens or the Adequate Protection Liens shall be granted while any portion of the Prepetition Obligations remain outstanding or any commitment under the Prepetition Loan Documents remains in effect, all without the prior written consent of the Agent on behalf of the Prepetition Secured Parties. Nothing in this Final Order shall authorize, other than in the ordinary course of the Debtors' business and pursuant to the Budget, the sale, transfer, lease, encumbrance, or other disposition of any assets of the Debtors or their

respective estates without the prior written consent of the Prepetition Secured Parties (and no such consent or direction shall be implied from any other action, inaction, or acquiescence by any of the Prepetition Secured Parties, the Agent or any order of this Court), except as permitted in the Prepetition Loan Documents and this Final Order.

27. Binding Effect of Final Order; Conflicts. Subject to Paragraph 21 hereof, immediately upon entry of this Final Order by this Court (notwithstanding any applicable law or rule to the contrary) the terms and provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the Debtors, the Agent, the Prepetition Secured Parties, all other creditors of the Debtors, the Creditors' Committee, and each of their respective successors and assigns (including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed in these Chapter 11 Cases or any Successor Case) and shall inure to the benefit of the Debtors, the Agent, the Prepetition Secured Parties and their respective successors and assigns. To the extent of any inconsistencies between the provisions of the Interim Order and this Final Order, the provisions of this Final Order shall govern.

28. Survival. The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order (a) confirming any plan of reorganization in any of these Chapter 11 Cases, (b) converting any of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, (c) dismissing any of these Chapter 11 Cases or any Successor Case, or (d) pursuant to which this Court abstains from hearing any of these Chapter 11 Cases or any Successor Case. Notwithstanding the entry of any such order or other order of this Court, the terms and provisions of this Final Order, including the claims, liens, security interests and other protections granted to the Agent and the Prepetition Secured Parties pursuant to this Final Order, shall continue in these

Chapter 11 Cases, in any Successor Case or following dismissal of these Chapter 11 Cases or any Successor Case, and shall maintain their priority as provided by this Final Order and not be modified, altered or impaired in any way, whether by act or omission, until all of the Prepetition Obligations has been indefeasibly paid in full in cash and completely satisfied and all commitments under the Prepetition Loan Documents have been terminated, notwithstanding the occurrence of an Event of Default or any earlier termination of the Debtors' authorization to use the Prepetition Collateral, including Cash Collateral.

29. Limitation of Liability. Solely in the Prepetition Secured Parties' capacity as a lender under the Prepetition Loan Documents (but excluding Hilco Trading and any of its affiliates), in determining to permit the use of Cash Collateral, making and administering the loans and financial accommodations extended under the Prepetition Loan Documents, extending other financial accommodations to the Debtors under the Interim Order, this Final Order and the Prepetition Loan Documents, or in exercising any rights or remedies as and when permitted pursuant to the Interim Order, this Final Order or the Prepetition Loan Documents, as applicable, the Agent and each of the Prepetition Secured Parties (in their respective capacity as such) or any successor of any of the foregoing shall not (a) be deemed to be in "control" of the operations of the Debtors or any of their affiliates, (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates, and/or (c) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" with respect to the operation or management of the Debtors or any of their affiliates (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601, *et seq.*, as amended, or any similar federal or state statute). Furthermore, nothing in the Interim Order, this Final Order or the Prepetition Loan Documents or any other documents related thereto shall in any

way be construed or interpreted to impose or allow the imposition upon the Agent or any of the Prepetition Secured Parties (but excluding Hilco Trading and any of its affiliates), or any successor of any of the foregoing, of any liability for any claims arising from the prepetition or postpetition activities of the Debtors or any of their subsidiaries or affiliates in the operation of their businesses or in connection with their restructuring efforts.

30. Insurance. To the extent the Agent or any of the Prepetition Secured Parties are listed as loss payee under the Debtors' insurance policies, and if the Agent or any of the Prepetition Secured Parties receive any proceeds, they shall distribute any proceeds recovered or received in respect of any such insurance policies, to the extent such proceeds are proceeds of Prepetition Collateral, to pay the Prepetition Obligations, subject to the terms of the Prepetition Loan Documents. The Debtors shall maintain insurance on the Prepetition Collateral in amounts, for the risks, and by the entities as required under the Prepetition Loan Documents.

31. Collateral Rights. If any party who holds a lien or security interest in any of the Prepetition Collateral that is junior and/or subordinate to the Adequate Protection Liens or the Prepetition Liens in such Prepetition Collateral receives or is paid any proceeds of such Prepetition Collateral, or receives any other payment or distribution with respect thereto from any other source, prior to the indefeasible payment in full in cash and the complete satisfaction of the Prepetition Obligations under the Prepetition Loan Documents, such junior or subordinate lienholder shall be deemed to have received, and shall hold, the proceeds of any such Prepetition Collateral in trust for the Agent (on behalf of the Prepetition Secured Parties) and shall immediately turn over such proceeds to the Agent for application to repay the Prepetition Obligations in accordance with the Prepetition Loan Documents and this Final Order until such Prepetition Obligations are indefeasibly paid in full in cash.

32. No Waiver. Other than as provided for in this Final Order, nothing in this Final Order shall not be construed in any way as a waiver or relinquishment of any rights that the Debtors, the Agent or the Prepetition Secured Parties may have to bring or be heard on any matter brought before this Court.

33. Stub Rent. The Debtors shall pay the prorated post-petition rent, solely for the period from the Petition Date through and including October 31, 2024, for the use and occupancy of a non-residential real property lease (a "Lease") that is rejected by the Debtors pursuant to an order of this Court (such prorated rent amount, the "Stub Rent") within ten (10) days following the entry by this Court of such rejection order; provided, that to the extent there exists a dispute between the Debtors and a landlord regarding the calculation and/or amount of the Stub Rent due and owing, the Debtors shall work diligently to reconcile such dispute and pay such allowed unpaid Stub Rent, if any, on the later of (a) two (2) business days following the date of execution of a written agreement between the Debtors and the affected landlord in respect of any such allowed unpaid Stub Rent and (b) the date of entry of a final order by the Court determining the allowed amount of such unpaid Stub Rent.

34. 503(b)(9) Escrow Account. The Debtors are authorized and directed to establish a segregated non-interest-bearing account (the "503(b)(9) Escrow Account") as security for the payment of claims against the Debtors that may be allowed under section 503(b)(9) of the Bankruptcy Code (to the extent allowed, the "503(b)(9) Claims"). The Debtors shall deposit all proceeds from the sale, lease, transfer, license, or other disposition of motor vehicles and other assets subject to certificates of title (the "Excluded Collateral") into the 503(b)(9) Escrow Account up to the amount of \$250,000 (the "503(b)(9) Escrow Amount"), and such amounts funded into the 503(b)(9) Escrow Account shall be used exclusively to fund payment of 503(b)(9) Claims until

all 503(b)(9) Claims have been paid in full; *provided, however*, that if by December 22, 2024 the proceeds from the disposition of such Excluded Collateral are insufficient to fund the 503(b)(9) Escrow Amount, then the Debtors shall deposit, up to a maximum amount of \$125,000 (which amount shall not be funded from proceeds of Hancock's real estate collateral), into the 503(b)(9) Escrow Account to cover any shortfall in the 503(b)(9) Escrow Amount. Any amounts remaining in the 503(b)(9) Escrow Account after all 503(b)(9) Claims are paid in full shall revert to the Debtors' estates. The terms of this Paragraph 34 shall be binding on any chapter 7 trustee appointed in a Successor Case.

35. Effectiveness. This Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable immediately upon entry hereof. Notwithstanding any Bankruptcy Rule, any Local Rule, any Federal Rule of Civil Procedure, or other applicable law, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

36. Proofs of Claim. Neither the Agent nor any of the Prepetition Secured Parties shall be required to file any proofs of claim in any of these Chapter 11 Cases or a Successor Case for any claim allowed herein. The Debtors' Stipulations shall be deemed to have constituted a timely filed proof of claim for the Agent and each of the Prepetition Secured Parties upon approval of the Interim Order (and again upon entry of this Final Order), and the Agent and all of the Prepetition Secured Parties shall be treated under section 502(a) of the Bankruptcy Code as if they each had filed a proof of claim(s). Notwithstanding any order entered by this Court in relation to the establishment of a bar date in any of these Chapter 11 Cases or a Successor Case to the contrary, the Agent and each of the Prepetition Secured Parties are hereby authorized and entitled, in their sole discretion, but not required, to file (and amend and/or supplement, as they see fit) a proof of

claim(s) and/or aggregate proofs of claims in each of these Chapter 11 Cases or a Successor Case for any claim(s) allowed herein.

37. No Third Party Rights. Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any party, creditor, equity holder, other entity or any direct, indirect or incidental beneficiary other than (a) the Agent and each of the Prepetition Secured Parties and their respective Representatives, (b) the Debtors and (c) the respective successors and assigns of each of the foregoing.

38. Texas Taxing Authorities. Consistent with this Final Order, to the extent that any statutory liens on account of ad valorem taxes held by the Texas Taxing Authorities⁹ are valid, perfected and unavoidable liens and allowed claims senior to the Prepetition Liens and constituting Permitted Encumbrances (such liens, the “Tax Liens” and such claims, the “Tax Claims”), such Tax Liens and Tax Claims shall neither be primed by nor made subordinate to any liens granted to any party hereby, and all parties’ rights (including, without limitation, the rights of the Agent, the Debtors and the Creditors’ Committee) to object to the priority, validity, amount, and extent of such Tax Claims and Tax Liens asserted by the Texas Taxing Authorities are fully preserved in all respects (the “Texas Challenge Rights”). As adequate protection for the asserted Tax Claims and Tax Liens, the Debtors shall reserve the amount of \$179,480.00 in a segregated account (the “Texas Tax Reserve”) pursuant to the schedule set forth in the Budget. Such Tax Liens shall attach to the Texas Tax Reserve to the same extent and with the same validity and priority as the liens attached to the Debtors’ assets securing the Tax Liens. The funds in the Texas Tax Reserve shall

⁹ The Texas Taxing Authorities include Bexar County, City of Pasadena, Lone Star College System, Harris Co ESD #11, Harris Co ESD #28, Pasadena ISD, Spring ISD, Alief ISD, City of Houston, Brazoria County et al, Carrollton-Farmers Branch Independent School District, Hill CAD, Hill County, Harrison CAD, Harrison County, Comal County, Ellis County, Tarrant County.

constitute adequate protection, but shall not constitute the allowance of any of the Tax Claims nor a cap on the allowed amounts the Texas Taxing Authorities may be entitled to receive. The funds in the Tax Reserve may be distributed only upon written agreement between the Texas Taxing Authorities and the Debtors, or by subsequent order of the Court, duly noticed to the Texas Taxing Authorities. Notwithstanding any order that may be entered converting these Chapter 11 Cases to cases under chapter 7, the funds in the Tax Reserve will continue to be held for the benefit of the Texas Tax Authorities and the Tax Liens shall remain attached to the funds in the Texas Tax Reserve in their relative priority, subject to the Texas Challenge Rights, until such Tax Claims are allowed and paid in full.

39. 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 Final Order.

40. Rights Reserved. Notwithstanding anything herein to the contrary, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly (a) the Agent's and the Prepetition Secured Parties' respective rights to pursue any and all rights and remedies under the Bankruptcy Code, the Prepetition Loan Documents or any other applicable agreement or law, or seek any other or supplemental relief in respect of the Debtors, including the right to seek new, different or additional adequate protection, as applicable, or the Debtors' or any other party in interest's rights to oppose such relief, or (b) any of the rights and remedies of the Debtors, the Agent, the Prepetition Secured Parties, or any other party in interest under the Prepetition Loan Documents or other applicable agreement, the Bankruptcy Code or applicable non-bankruptcy law.

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

42. Necessary Action. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Final Order.

43. Retention of Jurisdiction. The Court shall retain jurisdiction to enforce the provisions of this Final Order, and this Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this Final Order, including following confirmation and consummation of any chapter 11 plan for any one or more of the Debtors.

44. Service of this Final Order. The Debtors shall promptly serve copies of this Final Order to the parties having been given notice of the Final Hearing, to any party that has filed a request for notices with this Court, to counsel for the Agent and Prepetition Secured Parties, and to counsel for the Creditors' Committee.

Dated: November 25th, 2024
Wilmington, Delaware

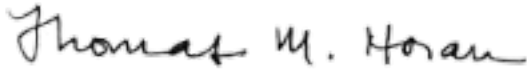

THOMAS M. HORAN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Budget

Channel Control Merchants LLC
US Liquidation Forecast
Reforecast 11-24-2024 [503(b)9]

DISCLAIMER

In preparing this report, we have necessarily relied upon unaudited financial and other information supplied, and representations made to us, by Company management. Although the information has been reviewed for reasonableness, we have not independently verified the accuracy or completeness of the information or conducted an audit, nor are we providing any other form of assurance thereon. The procedures we performed are limited in nature and as such, our work may not necessarily disclose all significant matters about the Company, or any errors, misstatements, irregularities, or illegal acts, if such exist, on the part of the Company, its officers, employees, or advisors, or in the underlying information.

We have not completed procedures recommended by the CICA or the AICPA for the examination of a financial forecast. The financial forecasts referred to herein are those of the Company and its advisors, and are based on assumptions that accompany them, which are not always capable of objective verification or validation. To the extent that actual conditions vary from those projected by the Company, the results predicted can be expected to change. Such changes may be material. MG Partners work in connection with this review was concluded on or about Sept 30th, 2024 with limited follow-up queries and information requests thereafter. Accordingly, we reserve the right, without being obliged to do so, to review, and if required, amend this report in the event that additional information comes to our attention after such date. This report, together with all of the attachments, is being provided solely for the exclusive use of the Board and except as set out in the Engagement Letter may not be used or relied upon by any other party. MG Partners, their affiliates, their respective partners, directors, officers, employees, counsel or agents (collectively "MG Partners") will not have any liability to the Board or the Company resulting from the use of this report other than pursuant to the terms of the Engagement Letter.

This report is private and confidential and is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose, other than to assist with the specific matters discussed therein, without MG Partners prior written permission in each specific instance. We will not assume any responsibility or liability for damages or losses occasioned by anyone as a result of the circulation, publication, reproduction or use of this report. Any use which a party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such party. MG Partners does not accept any responsibility for damages, if any, suffered by any party as a result of decisions made or actions taken based on this report.

CCW LLC
Cashflow Forecast
All Figures \$'000

W/E	Open/Reforecast 11-20-2024												Total
	13-Oct	20-Oct	27-Oct	03-Nov	10-Nov	17-Nov	24-Nov	01-Dec	08-Dec	15-Dec	22-Dec		
	1	2	3	4	5	6	7	8	9	10	11		
	Act	Act	Act	Act	Act	Act	FCost	FCost	FCost	FCost	FCost		
Cash Inflows													
Retail Sales	2,151	5,254	3,532	2,609	2,462	2,376	2,535	2,714	2,737	1,880	852	29,099	
Sales Tax Collected	174	424	283	205	195	192	205	220	222	152	69	2,342	
Less: Credit Card Fees	0	0	0	0	(138)	(54)	0	0	0	(39)	(55)	(386)	
Cash in Transit Mvmt	(2,324)	193	1,025	557	(78)	31	437	(273)	(11)	422	926	905	
	0	5,871	4,839	3,371	2,441	2,545	3,178	2,661	2,846	2,415	1,792	31,960	
Total Cash Inflows	0	5,871	4,839	3,371	2,441	2,545	3,178	2,661	2,846	2,415	1,792	31,960	
Cash Outflows													
Payroll / 401K	0	773	1,020	843	959	774	1,024	802	810	513	1,399	8,918	
Rent	0	0	0	0	888	305	(116)	0	311	466	209	2,064	
Transport	0	0	8	45	50	32	199	45	45	0	0	424	
Sales Tax Paid	0	21	1,039	0	0	22	1,192	21	0	21	1,309	3,624	
Marketing & Liquidation (Hilco)	0	0	0	0	0	0	241	187	187	211	774	1,601	
Prof Fees - Creditors Committee	0	0	0	0	89	0	210	70	70	70	70	580	
Prof Fees - Debtors Counsel	0	0	0	0	708	0	375	125	125	100	100	1,533	
Prof Fees - MG Partners	0	0	0	0	0	0	99	33	33	33	33	231	
Prof Fees - Other	0	0	0	0	103	34	64	210	91	91	511	1,105	
Deposits and Securities	0	0	0	160	9	0	25	0	0	0	(194)	0	
Insurance	0	0	0	101	0	0	0	0	282	0	0	383	
Utilities (Verantix)	0	0	7	7	6	7	163	63	63	17	52	384	
Taxes - Other	0	0	0	0	0	0	0	0	0	0	0	165	
Taxes - Texas	0	0	0	0	0	0	0	0	60	60	59	179	
503B9 Vendors	0	0	0	0	0	0	0	0	0	0	0	246	
Hancock Mortgage	0	0	0	(22)	133	0	0	0	130	0	0	241	
Other Spend	0	97	249	19	12	71	380	279	94	192	271	1,665	
	0	891	2,322	1,153	2,957	1,245	3,856	1,835	2,302	1,775	5,006	23,343	
Total Cash Outflows	0	891	2,322	1,153	2,957	1,245	3,856	1,835	2,302	1,775	5,006	23,343	
Operational Cash Movement	0	4,980	2,518	2,218	(517)	1,300	(678)	826	544	640	(2,964)	8,617	
	0	4,980	2,518	2,218	(517)	1,313	(678)	826	544	640	(2,964)	8,617	0
Non-Operational Cashflow													
Other Realizations	0	0	0	(0)	0	13	0	0	0	0	0	263	
Net Property Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	
Net Financed Lease Proceeds	0	0	0	0	0	0	0	0	0	0	0	0	
Less: Funds Available for distribution	0	0	0	0	0	0	0	0	0	0	0	0	
Non-Operational Cash Movement	0	0	0	(0)	0	13	0	0	0	0	0	263	
	0	0	0	(0)	0	13	0	0	0	0	0	263	
Total Cash Movement	0	4,980	2,518	2,218	(517)	1,313	(678)	826	544	640	(2,964)	8,880	
	0	4,980	2,518	2,218	(517)	1,313	(678)	826	544	640	(2,964)	8,880	0
Cash Balance													
Opening Cash Balance	1,737	1,737	4,608	5,069	4,718	3,297	3,472	1,962	2,538	2,582	2,972	1,737	
Cash Movement	0	4,980	2,518	(517)	(517)	1,313	(678)	826	544	640	(2,964)	8,880	
Cash Sweep	0	(2,109)	(2,057)	(2,569)	(904)	(1,139)	(832)	(250)	(500)	(250)	(8)	(10,617)	
Closing Cash Balance	1,737	4,608	5,069	4,718	3,297	3,472	1,962	2,538	2,582	2,972	0	0	
	0	(0)	0	0	0	0	0	0	0	0	0	0	
BMO Funding													
BMO Opening	(29,568)	(29,568)	(27,054)	(24,998)	(22,746)	(21,842)	(20,704)	(19,872)	(19,872)	(19,372)	(19,122)	(29,568)	
BMO Interest	0	0	0	(317)	0	0	0	(250)	0	0	0	(567)	
CIT / Hilco Adjustment	0	405	0	0	0	0	0	0	0	0	0	405	
Cash Sweep	0	2,109	2,037	2,569	904	1,139	832	250	500	250	8	10,617	
BMO Closing	(29,568)	(27,054)	(24,998)	(22,746)	(21,842)	(20,704)	(19,872)	(19,872)	(19,372)	(19,122)	(19,114)	(29,568)	
Borrowing Base Availability / (Shortfall)	30,182	29,822	28,529	27,466	24,869	24,261	20,944	18,455	15,903	13,791	11,584	(7,530)	
	613	2,768	3,532	4,720	3,027	3,557	1,072	(1,417)	(3,469)	(5,331)	(7,530)	(7,530)	