

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

In re

LL FLOORING HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11680 (BLS)

(Jointly Administered)

Related Docket Nos. 16, 17, 37, and 75, 189

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION
FINANCING, (II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL,
(III) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION TO THE
PREPETITION ABL PARTIES, (V) MODIFYING AUTOMATIC
STAY, AND (VI) GRANTING RELATED RELIEF**

Upon the motion (the “DIP Motion”) of LL Flooring, Inc. and each of its above-captioned affiliates (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), seeking entry of an interim order and a final order (this “Final Order”) pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1(b), 4001-2 and 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), *inter alia*:

- (i) authorizing the Debtors to obtain senior secured, superpriority, postpetition financing on a superpriority basis consisting of a senior secured superpriority revolving credit facility in the aggregate principal amount of up to \$130 million (the “DIP ABL Facility,” and all amounts extended thereunder, the “DIP Revolving Loans”), which will include a \$12 million sublimit for the issuance of letters of

¹ The Debtors in these chapter 11 cases, along with the last four (4) digits of their respective tax identification numbers, are as follows: LL Flooring Holdings, Inc. (0817); LL Flooring, Inc. (9199); Lumber Liquidators Leasing, LLC (N/A); LL Flooring Services, LLC (5960); and Lumber Liquidators Foreign Holdings, LLC (4568). The address of the Debtors’ corporate headquarters is 4901 Bakers Mill Lane, Richmond, VA 23230.

credit, and will provide for (a) “rolling up” of approximately \$10.6 million in aggregate principal amount of existing letters of credit issued under the Prepetition ABL Facility (as defined herein) into the DIP ABL Facility, along with Secured Bank Services (as defined herein) and (b) refinancing of the Prepetition ABL Facility pursuant to a “creeping roll up” mechanic whereby collections of collateral pay down principal on prepetition revolving loans, and any and all remaining outstanding Prepetition ABL Obligations (as defined herein) and all accrued and unpaid interest thereon and fees and expenses shall be fully “rolled” into the DIP ABL Facility and shall constitute DIP ABL Obligations (as defined herein) upon the entry of this Final Order, in each case pursuant to the terms and conditions of that certain *Senior Secured Super-Priority Debtor-In-Possession Credit Agreement* (as the same may be amended, restated, supplemented, waived or otherwise modified from time to time, the “DIP ABL Agreement”), by and among LL Flooring, Inc., as the lead borrower, each of the other Debtors party thereto as a borrower and/or a guarantor, as applicable, and Bank of America, N.A., as administrative agent and as collateral agent (in such capacities, together with its successors and permitted assigns in such capacities, the “DIP ABL Agent”) for and on behalf of itself and the other lenders, and letter of credit issuers party thereto and the providers of Secured Bank Services (collectively with the DIP ABL Agent, the “DIP ABL Lenders”), substantially in the form of Exhibit B attached to the Interim Order;

- (ii) authorizing the Debtors to execute and deliver the DIP ABL Agreement and any other agreements, instruments, pledge agreements, guarantees, control agreements and other Loan Documents (as defined in the DIP ABL Agreement) and documents related thereto (including any security agreements, mortgages, intellectual property security agreements, control agreements, or notes, in each case, as amended, restated, supplemented, waived, and/or modified from time to time, and collectively with the DIP ABL Agreement, the “DIP ABL Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP ABL Documents;
- (iii) granting, subject and subordinate to the Carve-Out (as defined herein), to the DIP ABL Agent, for the benefit of itself and the DIP ABL Lenders on account of the DIP ABL Facility and all obligations owing thereunder and under, or secured by the DIP ABL Documents (collectively, and including all “Obligations” as described in the DIP ABL Agreement, the “DIP ABL Obligations”) allowed superpriority administrative expense claim status in each of the Chapter 11 Cases and any Successor Cases (as defined herein);
- (iv) granting, subject and subordinate to the Carve-Out, to the DIP ABL Agent, for the benefit of itself and the DIP ABL Lenders under the DIP ABL Documents, automatically perfected security interests in and liens on all of the DIP Collateral (as defined herein), including all property constituting “cash collateral” as defined in section 363(a) of the Bankruptcy Code (“Cash Collateral”), which liens shall be subject to the priorities set forth herein;

- (v) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP ABL Documents as such become earned, due, and payable including, without limitation, letter of credit fees (including issuance and other related charges), continuing commitment fees, closing fees, audit fees, appraisal fees, valuation fees, liquidator fees, structuring fees, arrangement fees, upfront fees, administrative agent's fees, the reasonable fees and disbursements of the DIP ABL Agent's attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with the DIP ABL Documents;
- (vi) authorizing the Debtors to use, on the terms described herein, the DIP Revolving Loans and the Prepetition Collateral (as defined herein), including the Cash Collateral of the Prepetition ABL Parties under the Prepetition ABL Documents (each as defined herein);
- (vii) providing adequate protection to the Prepetition ABL Parties for any diminution in value of their interests in the Prepetition Collateral (as defined herein), including Cash Collateral, for any reason provided for under the Bankruptcy Code, including the imposition of the automatic stay, the Debtors' use, sale, or lease of the Prepetition Collateral, including Cash Collateral, and the priming of their respective interests in the Prepetition Collateral (including by the Carve-Out) pursuant to the terms and conditions set forth herein (collectively, the "Diminution in Value");
- (viii) vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP ABL Documents and this Final Order; and
- (ix) granting related relief.

The Court (as defined herein) having considered the DIP Motion, the exhibits attached thereto, the First Day Declaration (as defined in the DIP Motion) [Docket No. 11], the Declaration of Surbhi Gupta in support of the DIP Motion [Docket No. 17] (the "Gupta Declaration"), the DIP ABL Documents, and the evidence submitted and argument made at the interim hearing held on August 13, 2024 (the "Interim Hearing"); and the Court having entered the *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition ABL Parties, (V) Modifying Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* [Docket No. 75] (the "Interim

Order”); and the final hearing held on September 4, 2024 (the “Final Hearing”); and notice of the Final Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), 9014, the Interim Order, and all applicable Local Rules; and the Interim Hearing and the Final Hearing having been held and concluded; and all objections, if any, to the final relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the final relief requested in the DIP Motion is fair and reasonable and in the best interests of the Debtors, their estates and all parties in interest, and is essential for the continued operation of the Debtors’ business and the maximization of the value of the Debtors’ assets; and it appearing that the Debtors’ entry into the DIP ABL Agreement is a sound and prudent exercise of the Debtors’ business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FINAL HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:²

A. **Petition Date.** On August 11, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”).

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

² The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. **Jurisdiction and Venue.** This Court has jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. **Committee Formation.** On August 21, 2024, the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (the “Committee”) [Docket No. 116].

E. **Notice.** The Final Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate, and sufficient notice, under the circumstances, of the DIP Motion has been provided in accordance with the Interim Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

F. **Debtors’ Stipulations.** After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties in interest as set forth in paragraph 35 herein, the Debtors admit, stipulate, acknowledge, and agree as follows (paragraphs F(i) through F(viii) below are referred to herein, collectively, as the “Stipulations”):

(i) *Prepetition ABL Facility.* Pursuant to that certain Fourth Amended and Restated Credit Agreement dated as of March 29, 2019 (as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date, the “Prepetition ABL Agreement,” and collectively with the Loan Documents (as defined in the Prepetition ABL Agreement), and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, waived or otherwise modified from time to time, the “Prepetition ABL Documents”), by and among LL Flooring, Inc., as the lead

borrower, each of the other Debtors party thereto as a borrower and/or a guarantor, as applicable, the lenders from time to time party thereto (collectively, the “Prepetition ABL Lenders” and, together with the other Credit Parties (as defined in the Prepetition ABL Agreement, the “Prepetition ABL Parties”) and Bank of America, N.A., as administrative agent and as collateral agent (in such capacities, together with its successors and permitted assigns in such capacities, the “Prepetition ABL Agent”), the Prepetition ABL Lenders provided revolving loans and other financial accommodations to, and issued letters of credit for the account of the Debtors pursuant to the Prepetition ABL Documents (the “Prepetition ABL Facility”).

(ii) *Prepetition ABL Obligations.* The Prepetition ABL Facility provided the Debtors with, among other things, an asset-based revolving credit facility with a maximum availability of \$200 million (which includes a letter of credit sub-facility up to a maximum available amount of \$20 million), subject to conditions under the revolving borrowing base. The Prepetition ABL Agreement also permits the Debtors to grant security interests in support of the obligations of the Debtors owing to the Prepetition ABL Lenders providing “Bank Products”, “Cash Management Services” or “Swap Contracts” (in each case, as such term is defined in the Prepetition ABL Agreement; collectively, the “Secured Bank Services”). As of the Petition Date, the aggregate principal amount outstanding under the Prepetition ABL Facility was approximately \$99.0 million in outstanding revolving loans and approximately \$10.6 million in issued and outstanding letter of credit obligations (collectively, together with accrued and unpaid interest, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including, without limitation, attorneys’ fees, accountants’ fees, auditor fees, appraisers’ fees and financial advisors’ fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations,

indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors' obligations pursuant to, or secured by, the Prepetition ABL Documents, including all "Obligations" as defined in the Prepetition ABL Agreement, and all interest, fees (including amendment fees), prepayment premiums, costs and other charges allowable under section 506(b) of the Bankruptcy Code, the "Prepetition ABL Obligations").

(iii) *Prepetition ABL Liens and Prepetition Collateral.* As more fully set forth in the Prepetition ABL Documents and the DIP Motion, prior to the Petition Date, the Debtors granted to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Parties, a first priority security interest in and continuing lien (the "Prepetition ABL Liens") on the "Collateral" (as defined in the Prepetition ABL Agreement), which includes substantially all of the assets of the Debtors and all proceeds, products, accessions, rents, and profits thereof, in each case whether then owned or existing or thereafter acquired or arising, subject only to the Permitted Prior Liens (as defined herein) (collectively, the "Prepetition Collateral").

(iv) *Validity, Perfection, and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that as of the Petition Date (a) the Prepetition ABL Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable, and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Parties for fair consideration and reasonably equivalent value; (b) the Prepetition ABL Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law (solely to the extent such liens were valid, non-avoidable, and senior in priority to the Prepetition ABL Liens as of the Petition Date and properly perfected

prior to the Petition Date or perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) or otherwise permitted by the Prepetition ABL Agreement (the “Permitted Prior Liens”); (c) the Prepetition ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors enforceable in accordance with the terms of the applicable Prepetition ABL Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition ABL Liens or Prepetition ABL Obligations exist, and no portion of the Prepetition ABL Liens or Prepetition ABL Obligations is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including, without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition ABL Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon or related to the Prepetition ABL Facility; (f) the Debtors have waived, discharged, and released any right to challenge any of the Prepetition ABL Obligations, the priority of the Debtors’ obligations thereunder, and the validity, extent, and priority of the Prepetition ABL Liens; and (g) the aggregate value of the Prepetition Collateral exceeds the amount of the Prepetition ABL Obligations and the claims of the Prepetition ABL Parties arising under, or secured by, the Prepetition ABL Documents constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code.

(v) *No Control.* None of the DIP ABL Agent, the DIP ABL Lenders or the Prepetition ABL Parties controls the Debtors or their properties or operations, has authority

to determine the manner in which any of the Debtors' operations are conducted or is a control person or insider of the Debtors or any of their affiliates by virtue of any of the actions taken with respect to, in connection with, related to, or arising from the Interim Order, this Final Order, the DIP ABL Facility, the DIP ABL Documents, the Prepetition ABL Facility, and/or the Prepetition ABL Documents.

(vi) *Release.* Each of the Debtors and (subject to the provisions of paragraph 35 hereof) each of their estates, on its own behalf and on behalf of its and their respective predecessors, successors, heirs, and past, present and future subsidiaries and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition ABL Parties, the DIP ABL Agent, the DIP ABL Lenders and each of their respective affiliates and each of their former, current, or future officers, partners, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (collectively, the “Released Parties” and, each, a “Released Party”), from any and all liability to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action of any kind, nature and description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, in contract or tort, in each case arising out of or related to the Prepetition ABL Documents, the Prepetition ABL Facility, the DIP ABL Facility, the DIP ABL Documents, the Creeping Roll-Up (as defined below), the negotiation thereof and the transactions and agreements reflected thereby, that the Debtors at any time had, now have or may have, or that their

predecessors, successors or assigns at any time had or hereafter may have against any of the Released Parties for or by reason of any act, omission, matter, or cause arising at any time on or prior to the date of this Final Order; *provided that* nothing herein releases (A) the DIP ABL Agent and the DIP ABL Lenders from their obligations under the DIP ABL Documents or (B) any claims against or liabilities of a Released Party that a court of competent jurisdiction determines by a final non-appealable order to have resulted from such Released Party's bad faith, fraud, gross negligence or willful misconduct.

(vii) *Cash Collateral.* All of the Debtors' cash, including any cash in deposit accounts of the Debtors, wherever located, constitutes Cash Collateral of the Prepetition ABL Parties.

(viii) *Default by the Debtors.* The Debtors acknowledge and stipulate that they are in default of their obligations under the Prepetition ABL Documents, including as a result of the Chapter 11 Cases, and that an Event of Default (as defined in the Prepetition ABL Agreement) has occurred and is continuing to occur under the Prepetition ABL Documents. As of the Petition Date, therefore, interest is accruing on the Prepetition ABL Obligations at the default rate.

G. **Permitted Prior Liens.** Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing shall prejudice the rights of any party in interest, including, but not limited to, the Debtors, the DIP ABL Agent, the Prepetition ABL Parties, or the Committee, to challenge the validity, priority, enforceability, seniority, avoidability, perfection, or extent of any alleged Permitted Prior Lien and/or security interests. The right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code is not a Permitted Prior Lien, rather, any

such alleged claim arising or asserted as a right of reclamation (whether asserted under section 546(c) of the Bankruptcy Code or otherwise) shall have the same rights and priority with respect to the DIP Liens (as defined herein) as such claims had with respect to the Prepetition ABL Liens.

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

I. **Findings Regarding Postpetition Financing**

(i) *Request for Postpetition Financing.* The Debtors seek authority to (a) use Cash Collateral on the terms described herein, and (b) enter into, and borrow under, the DIP ABL Facility in a manner consistent with the terms and conditions set forth herein, in the DIP ABL Documents and in the Budget (as defined herein), to administer their Chapter 11 Cases, and to fund the Debtors' operations.

(ii) *Priming of the Prepetition ABL Liens.* The priming of the Prepetition ABL Liens on the Prepetition Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP ABL Facility and as further described below, is necessary for the Debtors to obtain the DIP ABL Facility and to continue to operate their business to the benefit of their estates and creditors. The Prepetition ABL Parties are each entitled to receive adequate protection as set forth in the Interim Order and this Final Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any Diminution in Value of each of their respective interests in the Prepetition Collateral (including Cash Collateral).

(iii) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have a continuing need to use Cash Collateral and to obtain credit pursuant to the DIP ABL Facility on a final basis in order to, among other things, administer and preserve the value of

their estates. The ability of the Debtors to maintain business relationships with their vendors, suppliers, and customers, to pay their employees, and otherwise finance their operations requires the availability of working capital from the DIP ABL Facility and the use of Cash Collateral, the absence of either of which would immediately and irreparably harm the Debtors, their estates, and parties in interest. The Debtors do not have sufficient available sources of working capital and financing to operate their business or maintain their properties in the ordinary course of business without the DIP ABL Facility and authorized use of Cash Collateral.

(iv) *No Credit Available on More Favorable Terms.* The DIP ABL Facility is the best source of debtor-in-possession financing available to the Debtors. Given their current financial condition, financing arrangements, and capital structure, the Debtors have been and continue to be unable to obtain financing from sources other than the DIP ABL Lenders on terms more favorable than the DIP ABL Facility. The Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors have also been unable to obtain: (a) unsecured credit having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a) and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien that was on acceptable terms or able to close prior to the Petition Date. Financing on a postpetition basis on better terms is not otherwise available without granting (1) perfected security interests in and liens on (each as provided herein) all of the Debtors' existing and after-acquired assets with the priorities set forth herein; (2) superpriority claims and liens as provided herein; and (3) the other protections set forth in the Interim Order and this Final Order.

(v) *Use of Proceeds of the DIP ABL Facility.* As a condition to entry into the DIP ABL Agreement, the extension of credit under the DIP ABL Facility and the authorization to use Cash Collateral, the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties require, and the Debtors have agreed, that proceeds of the DIP ABL Facility and Cash Collateral shall be used, in each case in a manner consistent with the terms and conditions of the Interim Order, this Final Order and the DIP ABL Documents and the budget (as the same may be modified from time to time consistent with the terms of the DIP ABL Documents and in this Final Order and subject to such variances as permitted in the DIP ABL Documents³), and as set forth in paragraphs 15 and 16 hereof, the “Budget”),⁴ for: (a) the Creeping Roll-Up (as defined herein) of the Prepetition ABL Obligations into DIP ABL Obligations to the extent provided for in the Interim Order, this Final Order and the DIP ABL Documents, and subject to the rights preserved in paragraph 35 of this Final Order; (b) working capital and letters of credit; (c) permitted payment of costs of administering the Chapter 11 Cases; (d) payment of such other prepetition obligations consented to by the DIP ABL Lenders and solely in accordance with the terms and conditions set forth herein, in the DIP ABL Documents, and in the Budget and as approved by the Court; (e) payment of interest, fees and expenses (including, without limitation, legal and other professionals’ fees and expenses of the DIP ABL Agent and Prepetition ABL Agent) and all other “Obligations” owed under the Prepetition ABL Documents and the DIP ABL Documents; (f) payment of certain adequate protection amounts to the Prepetition ABL Parties, as set forth herein; (g) other general corporate purposes of the Debtors; and (h) funding of the Carve-Out.

³ For the avoidance of doubt, any such variances shall not measure, limit, or cap any Excluded Disbursements (as defined below), and such amount shall be considered part of the Budget.

⁴ A copy of the initial Budget is attached hereto as **Exhibit A**.

(vi) *Application of Proceeds of Collateral.* As a condition to entry into the DIP ABL Agreement, the extension of credit under the DIP ABL Facility and authorization to use Cash Collateral, the Debtors, the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties have agreed that as of and commencing on the date of the Interim Hearing, the Debtors shall apply the proceeds of DIP Collateral in accordance with the Interim Order, this Final Order and as provided in the DIP ABL Documents and the Budget.

(vii) *DIP Roll-Up Obligations.* Upon (a) entry of the Interim Order, without any further action by the Debtors or any other party, but subject to paragraph 35 herein, (1) all Prepetition ABL Obligations relating to Secured Bank Services, fees and expenses and issued and outstanding Letters of Credit (each as defined in the Prepetition ABL Agreement) were deemed issued under and subject to the DIP ABL Agreement and constitute DIP ABL Obligations, and (2) all collections and proceeds of DIP Collateral were applied to reduce, on a dollar-for-dollar basis, the principal amount of the revolving loans advanced pursuant to the Prepetition ABL Agreement (the “Creeping Roll-Up”), and (b) entry of this Final Order, but subject to paragraph 35 herein, all remaining outstanding Prepetition ABL Obligations shall be deemed converted into and constitute DIP ABL Obligations (the “Full Roll-Up”, and together with the Creeping Roll-Up, the “DIP Roll-Up Obligations”). The DIP Roll-Up Obligations shall be authorized as compensation for, in consideration for, and solely on account of, the agreement of the Prepetition ABL Lenders to fund amounts under the DIP ABL Facility and not as adequate protection for, or otherwise on account of, any Prepetition ABL Obligations. The Prepetition ABL Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens as provided herein, and the DIP ABL Agent and the DIP ABL Lenders would not be willing to provide the DIP ABL Facility or extend credit to the Debtors thereunder without the inclusion of

the DIP Roll-Up Obligations in the DIP ABL Obligations. Moreover, the Creeping Roll-Up upon entry of the Interim Order, and the Full Roll-Up upon entry of this Final Order, will enable the Debtors to obtain urgently needed financing to administer these Chapter 11 Cases and fund their operations. Because the DIP Roll-Up Obligations are subject to the reservation of rights in paragraph 35 below, they will not prejudice the right of any other party in interest.

J. **Adequate Protection.** Until the Prepetition ABL Obligations are Paid in Full,⁵ the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Parties, is entitled to receive adequate protection to the extent of any Diminution in Value of its interests in the Prepetition Collateral as set forth in the Interim Order and this Final Order.

K. **Sections 506(c) and 552(b).** In light of: (i) the DIP ABL Agent's and DIP ABL Lenders' agreement that their liens and superpriority claims shall be subject to the Carve-Out, (ii) the Prepetition ABL Parties' agreement that their liens shall be subject to the Carve-Out and subordinate to the DIP Liens, and (iii) the payment of prepetition claims and/or expenses as set forth in the Budget and first day motions in accordance with and subject to the terms and conditions

⁵ "Paid in Full" means the indefeasible repayment in full in cash of all obligations (including principal, interest, fees, expenses, indemnities, other than contingent indemnification obligations for which no claim has been asserted) under the applicable credit facility, the cash collateralization or repayment in full in cash of all treasury and cash management obligations, hedging obligations, and bank product obligations, and the cancelation, replacement, backing, or cash collateralization of letters of credit, in each case, in accordance with the terms of the applicable credit facility. No facility shall be deemed to have been Paid in Full until such time as, with respect to the applicable credit facility, (a) the commitments to lend thereunder have been terminated, (b) with respect to the Prepetition ABL Obligations and the DIP Roll-Up Obligations, (i) the Challenge Deadline (as defined herein) shall have occurred without the timely and proper commencement of a Challenge or (ii) if a Challenge is timely and properly asserted prior to the Challenge Deadline, upon the final, non-appealable disposition of such Challenge; (c) the satisfaction of any obligations with respect to the Carve-Out as provided herein; and (d) with respect to the Prepetition ABL Obligations and the DIP ABL Obligations, the Prepetition ABL Agent or the DIP ABL Agent (as applicable) has received (i) a countersigned payoff letter in form and substance satisfactory to such agent and (ii) releases in form and substance satisfactory to such agent, each in its sole discretion, including, upon the satisfaction of any obligations with respect to the Carve-Out as provided herein, a release from any further obligations or subordination with respect to the Carve-Out.

of the Interim Order, this Final Order and the DIP ABL Documents, (a) the Prepetition ABL Parties are each entitled to a waiver of any “equities of the case” exception under section 552(b) of the Bankruptcy Code, and (b) the DIP ABL Agent, the DIP ABL Lenders and the Prepetition ABL Parties are each entitled to a waiver of the provisions of section 506(c) of the Bankruptcy Code.

L. **Good Faith of the DIP ABL Agent and DIP ABL Lenders.**

(i) *Willingness to Provide Financing.* The DIP ABL Lenders have indicated a willingness to provide financing to the Debtors subject to: (a) entry of the Interim Order and this Final Order; (b) Court approval of the terms and conditions of the DIP ABL Facility and the DIP ABL Documents; (c) satisfaction of the closing conditions set forth in the DIP ABL Documents; and (d) findings by this Court that the DIP ABL Facility is essential to the Debtors’ estates, that the DIP ABL Agent and DIP ABL Lenders are extending credit to the Debtors pursuant to the DIP ABL Documents in good faith, and that the DIP ABL Agent’s and DIP ABL Lenders’ claims, superpriority claims, security interests and liens and other protections granted pursuant to the Interim Order, this Final Order and the DIP ABL Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(ii) *Business Judgment and Good Faith Pursuant to Section 364(e).* The terms and conditions of the DIP ABL Facility and the DIP ABL Documents, and the interest and fees paid and to be paid thereunder, are fair, reasonable, and the best available to the Debtors under the circumstances, are appropriate for secured financing to debtors in possession, reflect the Debtors’ exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration. The terms and conditions of the DIP ABL Facility and the use of Cash Collateral were negotiated in good faith and at arms’ length among the Debtors, the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties,

with the assistance and counsel of their respective advisors. Use of Cash Collateral and credit to be extended under the DIP ABL Facility shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties within the meaning of section 364(e) of the Bankruptcy Code.

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

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. DIP ABL Facility Approved. The DIP Motion is granted, the DIP ABL Facility is authorized, and the use of Cash Collateral is authorized, in each case on a final basis, subject to the terms and conditions set forth in the DIP ABL Documents and this Final Order. Any objections to this Final Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled.

I. DIP ABL Facility Authorization

2. Authorization of the DIP ABL Facility. The DIP ABL Facility is hereby approved on a final basis as set forth herein, including the Full Roll-Up. The Debtors are expressly and immediately authorized and empowered to execute and deliver the DIP ABL Documents, and to incur and to perform the DIP ABL Obligations in accordance with, and subject to, the terms of this Final Order and the DIP ABL Documents, and to deliver all instruments, certificates, agreements, and documents that may be required or necessary for the performance by the Debtors under the DIP ABL Facility and the creation and perfection of the DIP Liens described in and provided for by this Final Order and the DIP ABL Documents, including, the joint and several guarantee of all of the DIP ABL Obligations and such acts as shall be necessary or desirable in

order to effect the Full Roll-Up. The Debtors are hereby authorized to pay, in accordance with the Interim Order and this Final Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP ABL Documents as such amounts become due and payable and without need to obtain further Court approval, including, without limitation, closing fees, arrangement fees, letter of credit fees (including issuance, fronting, and other related charges), unused facility fees, continuing commitment fees, backstop fees, servicing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees and collateral agent's fees, and, subject to paragraph 31 herein, the reasonable fees and disbursements of the DIP ABL Agent's attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in the Interim Order, this Final Order or the DIP ABL Documents. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations, or otherwise, will be deposited and applied as required by this Final Order and the DIP ABL Documents. Upon execution and delivery, the DIP ABL Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms.

3. Authorization to Borrow. From the entry of the Interim Order through and including the Termination Date (as defined below), and subject to the terms, conditions, limitations on availability and reserves (as applicable) set forth in the DIP ABL Documents and this Final Order, the Debtors are hereby authorized to continue requesting extensions of credit (in the form of loans and letters of credit) under the DIP ABL Facility.

4. DIP ABL Obligations. The DIP ABL Documents, the Interim Order and this Final Order shall constitute and evidence the validity and binding effect of the DIP ABL Obligations, which shall be enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in the Chapter 11 Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the “Successor Cases”). The DIP ABL Obligations include all loans, letter of credit reimbursement obligations, and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP ABL Agent or any of the DIP ABL Lenders, in each case, under, or secured by, the DIP ABL Documents, the Interim Order or this Final Order, including, without limitation, all principal, accrued interest, costs, fees, expenses and other amounts owing under the DIP ABL Documents, and all cash management and bank product exposure and hedging exposure and obligations to the extent provided under the DIP ABL Documents. All Prepetition ABL Obligations relating to Secured Bank Services and issued and outstanding Letters of Credit under the Prepetition ABL Agreement shall continue in place and all such obligations shall be deemed issued under and subject to the DIP ABL Agreement and shall constitute DIP ABL Obligations. The Debtors shall be jointly and severally liable for the DIP ABL Obligations. The DIP ABL Obligations shall be due and payable, without notice or demand, on the DIP Maturity Date (as defined herein). No obligation, payment, transfer, or grant of collateral security hereunder or under the DIP ABL Documents (including any DIP ABL Obligation or DIP Liens, and including, subject to paragraph 35 herein, in connection with any adequate protection provided to the Prepetition ABL Parties hereunder) shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law

(including, without limitation, under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaim, cross-claim, defense, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

5. DIP Liens In order to secure the DIP ABL Obligations, effective immediately upon entry of the Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the DIP ABL Agent, for the benefit of itself and the DIP ABL Lenders, was granted pursuant to the Interim Order and is hereby granted on a final basis, subject to the priorities described herein (including with respect to the Carve-Out and Permitted Liens), continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the “DIP Liens”) all Prepetition Collateral, “Collateral” (as defined in the DIP ABL Agreement) and real or personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of each of the Debtors (collectively, the “DIP Collateral”), including without limitation: (a) all cash, cash equivalents, deposit accounts, securities accounts, accounts, accounts receivable and other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock or equivalents of each of its subsidiaries), hedge agreements, furniture, fixtures, equipment (including documents of title), goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, license rights, intellectual property, general intangibles (including, for the avoidance of doubt, payment

intangibles), rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action, and all substitutions, indemnification rights, all present and future intercompany debt, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds; (b) all proceeds of leased real property; (c) the proceeds of actions brought under section 549 of the Bankruptcy Code to recover any post-petition transfer of DIP Collateral; (d) the proceeds of any avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code or applicable state law equivalents (the “Avoidance Actions”); (e) proceeds of the Debtors’ rights under section 506(c) (solely to the extent such rights result from the use of the DIP ABL Facility or the DIP Collateral, and are, therefore, enforceable against parties other than the DIP ABL Agent, DIP ABL Lenders, or Prepetition ABL Parties) and 550 of the Bankruptcy Code; and (f) all other DIP Collateral that was not otherwise subject to valid, perfected, enforceable, and unavoidable liens on the Petition Date. Notwithstanding the foregoing, DIP Collateral shall not include (1) any (a) real property leases or property subject to a purchase money lien, capital lease or similar arrangement to the extent the creation of a security interest therein is prohibited thereby or creates a right of termination in favor of any other party thereto or otherwise requires third party consent thereunder, or (b) avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code or applicable state law equivalents; *provided, however*, that DIP Collateral shall include proceeds of all of the foregoing; or (2) the Carve-Out Reserves, subject to paragraph 33(d) herein. The DIP ABL Agent and the DIP ABL Lenders shall use commercially reasonable efforts to collect first from DIP Collateral (other than proceeds of Avoidance Action and commercial tort claims), and thereafter from proceeds of Avoidance Actions and commercial tort claims.

6. DIP Lien Priority. The DIP Liens securing the DIP ABL Obligations are valid, automatically perfected, non-avoidable, senior in priority, and superior to any security, mortgage, collateral interest, lien, or claim to any of the DIP Collateral, except that the DIP Liens shall be subject to the Carve-Out and shall otherwise be junior only to the Permitted Prior Liens. Other than as set forth herein or in the DIP ABL Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Chapter 11 Cases or any Successor Cases, upon the conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The DIP Liens shall not be subject to section 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens.

7. DIP Superpriority Claims. The DIP ABL Agent, on behalf of itself and the DIP ABL Lenders, was granted pursuant to the Interim Order and is hereby granted on a final basis, pursuant to section 364(c)(1) of the Bankruptcy Code, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases and any Successor Cases (collectively, the “DIP Superpriority Claims”) for all DIP ABL Obligations. Except as set forth herein, the DIP Superpriority Claims shall have priority over any and all other obligations, liabilities and indebtedness of each Debtor other than the Carve-Out, including, without limitation, any and all administrative expense claims and unsecured claims against the Debtors or their estates in any of the Chapter 11 Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds

specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Superpriority Claims.

8. No Obligation to Extend Credit. Except as may be required to fund the Carve-Out Reserves (as defined below), the DIP ABL Agent and DIP ABL Lenders shall have no obligation to make any loan or advance, or to issue, amend, renew or extend any letters of credit or bankers' acceptance under the DIP ABL Documents, unless all of the conditions precedent to the making of such extension of credit or the issuance, amendment, renewal, or extension of such letter of credit or bankers' acceptance under the DIP ABL Documents and this Final Order have been satisfied in full or waived by the DIP ABL Agent and in accordance with the terms of the DIP ABL Agreement.

9. Use of Proceeds of DIP ABL Facility. From and after the Petition Date, the proceeds of the loans extended to the Debtors under the DIP ABL Facility shall be used solely in accordance with the terms and conditions set forth in the Interim Order, this Final Order, the DIP ABL Documents and the Budget.

10. DIP Roll-Up Obligations. Upon (a) entry of the Interim Order, the Creeping Roll-Up was approved and is hereby approved on a final basis, and (b) entry of this Final Order, the Full Roll-Up is approved on a final basis. The authorization of the DIP Roll-Up Obligations shall be subject to the reservation of rights set forth in paragraph 35 of this Final Order and, in the event of a successful Challenge (as defined herein), the Court may fashion any appropriate remedy.

II. Authorization to Use Cash Collateral

11. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Final Order, the DIP ABL Documents and the Budget, the Debtors are authorized to use Cash Collateral until the expiration of the Remedies Notice Period (as defined herein); *provided, however*, that during the Remedies Notice Period, the Debtors may seek relief pursuant to paragraph 29 below and use Cash Collateral to fund the Carve-Out, meet payroll obligations (other than severance) and sales taxes, pay expenses that the DIP ABL Lenders approve as critical to keeping the Debtors' business operating in accordance with the Budget, or as otherwise agreed by the DIP ABL Lenders in their sole discretion. Nothing in this Final Order shall authorize the disposition of any assets of the Debtors or their estates outside the ordinary course of business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in this Final Order (including the Carve-Out), the DIP ABL Documents, and in accordance with the Budget.

12. Adequate Protection for Prepetition ABL Parties. Pursuant to sections 361, 363 and 364 of the Bankruptcy Code, as adequate protection against any Diminution in Value of the Prepetition ABL Parties' interests in the Prepetition Collateral, the Prepetition ABL Agent shall receive on a final basis, for the benefit of itself and the Prepetition ABL Parties:

(a) *Adequate Protection Liens.* Pursuant to sections 361, 363(e), and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition ABL Parties in the Prepetition Collateral and solely to the extent of any Diminution in Value of such interests in the Prepetition Collateral, the Debtors granted pursuant to the Interim Order and hereby grant on a final basis to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Parties, continuing, valid, binding, enforceable, and perfected postpetition security interests

in and liens on the DIP Collateral (the “Adequate Protection Liens”). The Adequate Protection Liens shall be subject to the Carve-Out and shall otherwise be junior only to (1) Permitted Prior Liens; (2) the DIP Liens; and (3) the Prepetition ABL Liens. The Adequate Protection Liens shall otherwise be senior to all other security interests in or liens on any of the Debtors’ assets. Except as provided herein, the Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter in the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Chapter 11 Cases or any Successor Cases, or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the Prepetition ABL Liens or the Adequate Protection Liens.

(b) *Adequate Protection Superpriority Claim.* As further adequate protection of the interests of the Prepetition ABL Parties in the Prepetition Collateral and solely to the extent of any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition ABL Agent, on behalf of itself and the Prepetition ABL Parties, was granted pursuant to the Interim Order and is hereby granted on a final basis as and to the extent provided by section 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the Chapter 11 Cases and any Successor Cases (the “Adequate Protection Superpriority Claim”). Except as set forth herein, the Adequate Protection Superpriority Claim shall have priority over all administrative expense claims and unsecured claims against the Debtors or their estates, 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, 328,

330, 331, 503(a), 503(b), 507(a), 506(c), 507(b), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code; *provided, however*, that the Adequate Protection Superpriority Claim shall be subject to the Carve-Out and junior to the DIP Superpriority Claims.

(c) Adequate Protection Payments and Protections for Prepetition ABL Parties. As further adequate protection, the Debtors are authorized and directed to provide adequate protection to the Prepetition ABL Parties in the form of payment in cash (and as to fees and expenses, without the need for the filing of a formal fee application) of (i) to the extent any Prepetition ABL Obligations remain outstanding after entry of this Final Order, interest (at the default rate) and principal due under the Prepetition ABL Documents, subject to the rights preserved in paragraph 35 below, (ii) to the extent not already paid upon entry of the Interim Order, payment of the reasonable and documented fees, out-of-pocket expenses, and disbursements (including the reasonable and documented fees, out-of-pocket expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants, and other vendors) incurred by the Prepetition ABL Agent arising prior to the entry of the Interim Order (including prior to the Petition Date), including reasonable and documented fees and out-of-pocket expenses of (1) Morgan, Lewis & Bockius LLP, (2) Reed Smith LLP, and (3) Berkeley Research Group (“BRG” and, collectively, the “ABL Advisors”), and (iii) in accordance with the procedures set forth in paragraph 31 hereof, the reasonable and documented fees, out-of-pocket expenses, and disbursements (including the reasonable and documented fees, out-of-pocket expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants, and other vendors) incurred by the Prepetition ABL Agent and arising subsequent to the entry of the Interim Order, including reasonable and documented fees and out-of-pocket expenses of the ABL Advisors.

13. Adequate Protection Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition ABL Parties hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Chapter 11 Cases or any Successor Cases. The receipt by the Prepetition ABL Parties of the adequate protection provided herein shall not be deemed an admission that the interests of the Prepetition ABL Parties are adequately protected. Further, this Final Order shall not prejudice or limit the rights of the Prepetition ABL Parties to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection in a manner consistent with the Prepetition ABL Documents, and all parties in interests' rights are reserved with respect thereto.

III. Provisions Common to DIP Financing and Use of Cash Collateral

14. Amendment of the DIP ABL Documents. The DIP ABL Documents may from time to time be amended, modified, or supplemented by the parties thereto without further order of the Court if the amendment, modification, or supplement is (a) immaterial or non-adverse to the Debtors and (b) in accordance with the DIP ABL Documents; *provided*, that the Debtors shall file a notice of such amendment, modification, or supplement with the Court. In the case of a material amendment, modification, or supplement to the DIP ABL Documents that is adverse to the Debtors' estates, the Debtors shall file a notice of such amendment, modification, or supplement with the Court and serve such notice to counsel to the Committee and the U.S. Trustee, each of whom shall have five (5) days from the date of such notice to object in writing to such amendment, modification or supplement; *provided that* approval of the Court (which may be sought on an expedited basis) will be necessary to effectuate any amendment, modification or

supplement that is the subject of a timely objection or that materially prejudices the interests of the Debtors.

15. Budget Maintenance. The use of proceeds under the DIP ABL Facility (including in connection with any letters of credit) and the use of Cash Collateral shall be in accordance with the terms and conditions set forth in this Final Order and the Budget (subject to the Excluded Disbursements (defined below)), as described in paragraph 16 below. The Debtors shall, commencing with the first full calendar week after the Petition Date, deliver to the DIP ABL Agent, by not later than 5:00 p.m. (Eastern time) on Thursday of each week, a reconciliation for the prior week of each line item in the Budget. Commencing with the third full calendar week after the Petition Date, Budget compliance shall be tested weekly, on a rolling cumulative four-week basis (or such lesser cumulative period from the Petition Date). The Budget shall be updated, modified or supplemented by the Debtors with the written consent of the DIP ABL Agent, the Required Lenders (as defined in the DIP ABL Agreement), and the Prepetition ABL Agent, but in any event the Budget shall be updated by the Debtors not less than one time in each four (4) consecutive week period (provided that such updated Budget shall be in form and substance satisfactory to, and approved by, the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent in their reasonable discretion). No such updated, modified or supplemented budget shall be effective until so approved; *provided* that the Debtors, the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent shall work in good faith to reach agreement on any updated, modified or supplemented budget within four (4) business days after receipt of such proposed budget; and once approved such updated, modified or supplemented budget shall be deemed the “Budget”; *provided, however*, that in the event that the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent and the Debtors cannot agree as to an updated, modified

or supplemented budget within such four (4) business day period (unless such period is extended by the Debtors, the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent), the prior approved Budget shall continue in effect, with weekly details for any periods after the initial 13-week period to be derived in a manner reasonably satisfactory to the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent from the monthly budget prepared by the Debtors (and approved by the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent, each in their sole discretion) for these Chapter 11 Cases, and such disagreement shall give rise to an Event of Default under the DIP ABL Agreement and this Final Order once the period covered by the prior approved Budget has terminated. A copy of any Budget (or updated Budget) shall be delivered to counsel for the Committee and the U.S. Trustee after (or if) it has been approved by the DIP ABL Agent, the Required Lenders and the Prepetition ABL Agent.

16. Budget Compliance. Subject to the variances set forth in the DIP ABL Documents and as provided herein, the Debtors shall at all times comply with the Budget; *provided*, that such variances shall not measure, limit or cap any cash disbursements in respect of (a) restructuring professional fees (including, without limitation, fees and expenses of the advisors of the Debtors, any committee appointed under section 1102 of the Bankruptcy Code, the DIP ABL Agent and Prepetition ABL Agent, each as provided in this Final Order); and (b) other restructuring charges arising on account of the Cases, consisting of (1) U.S. Trustee fees, (2) amounts paid by the Debtors to the Prepetition ABL Parties as adequate protection, and (3) interest payable under the DIP ABL Agreement (clauses (a) and (b) collectively, the “Excluded Disbursements”) and such Excluded Disbursements shall be considered part of the Budget. The Debtors shall provide all reports and other information as required in the DIP ABL Agreement, and all such reports and other information so provided shall also be substantially

contemporaneously provided by the Debtors to the professionals representing the Committee. The Debtors' failure to comply with the Budget or to provide the reports and other information required in the DIP ABL Documents shall constitute an Event of Default (as defined herein and in the DIP ABL Documents).

17. Modification of Automatic Stay. The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Final Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP ABL Agent and the Prepetition ABL Agent each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP ABL Agent, DIP ABL Lenders, and Prepetition ABL Parties under the DIP ABL Documents, the DIP ABL Facility, and this Final Order, as applicable; and (d) authorize the Debtors to pay, and the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties to retain and apply, payments made in accordance with the terms of this Final Order and the DIP ABL Documents.

18. Perfection of DIP Liens and Adequate Protection Liens. The Interim Order and this Final Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement or mortgage) to validate or perfect (in accordance with

applicable non-bankruptcy law) the DIP Liens and the Adequate Protection Liens, or to evidence or entitle the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties to the priorities granted herein. Notwithstanding the foregoing, each of the DIP ABL Agent and the Prepetition ABL Agent are authorized to file, in the applicable registries of deeds and other appropriate public records, as it in its sole discretion deems necessary or advisable, (a) notice of this Final Order, and (b) such financing statements, security agreements, mortgages, leasehold mortgages, notices of liens, and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, and all such financing statements, mortgages, leasehold mortgages, notices, and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided, however*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The Debtors are authorized and directed to execute and deliver promptly upon demand to the DIP ABL Agent and the Prepetition ABL Agent all such financing statements, deposit account control agreements, mortgages, leasehold mortgages, notices, and other documents as the DIP ABL Agent or the Prepetition ABL Agent may reasonably request. Each of the DIP ABL Agent and the Prepetition ABL Agent, in its discretion, may file a photocopy of this Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien, or similar instrument. To the extent that the Prepetition ABL Agent is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other collateral documents or relevant Prepetition ABL Documents then automatically and without further action, (i) the DIP ABL Agent shall be deemed to be a secured

party under such documents, (ii) the DIP ABL Facility, together with any refinancings or replacements thereof, shall be deemed to be secured obligations under such documents, and (iii) the applicable provisions of such documents shall apply to the DIP ABL Facility; all as fully and completely as if the DIP ABL Agent was an original secured party in such documents and the DIP ABL Facility was an original secured obligation in such documents. To the extent the Prepetition ABL Agent is listed as loss payee, lender loss payee, mortgagee or additional insured under any of the Debtors' insurance policies, the DIP ABL Agent shall also be deemed to be the secured party under such documents or to be the loss payee, lender loss payee, mortgagee or additional insured, as applicable.

19. Application of Proceeds of Collateral. As a condition to the entry of the DIP ABL Documents, the continued extension of credit under the DIP ABL Facility and the authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the date of the Interim Hearing, all proceeds of DIP Collateral, including whether sold in the ordinary course, liquidated, or otherwise, shall be applied in accordance with the terms and conditions of the Interim Order, this Final Order, the DIP ABL Documents, and the Budget until such time as the DIP ABL Obligations and the Prepetition ABL Obligations have been Paid in Full.

20. Protections of Rights of DIP ABL Agent, DIP ABL Lenders and Prepetition ABL Parties. Unless the DIP ABL Agent and the Prepetition ABL Agent, as applicable, shall have provided their prior written consent, or all DIP ABL Obligations and all Prepetition ABL Obligations (excluding contingent indemnification obligations for which no claim has been asserted) have been, or contemporaneously will be, Paid in Full, in any of these Chapter 11 Cases or any Successor Cases, the Debtors shall neither seek entry of, nor support any motion or application seeking entry of, and otherwise shall object to any motion or application seeking entry

of, any order (including any order confirming any plan of reorganization or liquidation) that authorizes any of the following, except as permitted in the DIP ABL Documents or this Final Order: (a) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral or Prepetition Collateral and/or that is entitled to administrative priority status, in each case that is superior to or *pari passu* with the DIP Liens, the DIP Superpriority Claims, the Prepetition ABL Liens, the Adequate Protection Liens, and/or the Adequate Protection Superpriority Claims; (b) the use of Cash Collateral for any purpose other than as permitted in the DIP ABL Documents, the Interim Order or this Final Order; (c) except as set forth in the DIP ABL Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor or any creditor's taking any setoff against any of its prepetition indebtedness based upon any such return of goods pursuant to section 553 of the Bankruptcy Code; or (d) any modification of any of the DIP ABL Agent's, the DIP ABL Lenders', or the Prepetition ABL Parties' rights under this Final Order, the DIP ABL Documents or the Prepetition ABL Documents, as applicable, with respect to any DIP ABL Obligations or Prepetition ABL Obligations. It shall be an Event of Default under the DIP ABL Documents and this Final Order if, in any of these Chapter 11 Cases or any Successor Cases, the Debtors take or fail to take any of the actions contemplated with respect to provisions (a) through (d) of the previous sentence or if any order is entered granting any of the relief enumerated in provisions (a) through (d) of the previous sentence.

21. Credit Bidding. In connection with any sale process authorized by the Court, (a) the DIP ABL Agent and the DIP ABL Lenders and (b) subject to the rights preserved in paragraph 35 of this Final Order, the Prepetition ABL Agent and Prepetition ABL Parties, or any

assignee or designee of any of the foregoing, shall be authorized to credit bid, consistent with the applicable DIP ABL Documents and/or Prepetition ABL Documents, some or all of their claims for their respective priority collateral (each a “Credit Bid”) pursuant to section 363(k) of the Bankruptcy Code, subject in each case to the provision of consideration sufficient to indefeasibly pay in full in cash any senior liens on the collateral that is subject to the Credit Bid except to the extent otherwise agreed by the holder of such senior lien in their sole and absolute discretion.

22. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Cases, shall obtain credit or incur debt pursuant to sections 364(b), 364(c), or 364(d) of the Bankruptcy Code or in violation of the DIP ABL Documents at any time prior to the DIP ABL Obligations and Prepetition ABL Obligations being Paid in Full, including subsequent to the confirmation of any plan with respect to any or all of the Debtors and the Debtors’ estates, and such facilities are secured by any DIP Collateral, then all the cash proceeds derived from such credit or debt shall immediately be turned over to the DIP ABL Agent to be applied in accordance with this Final Order and the DIP ABL Documents.

23. Cash Collection.

(a) From and after the date of the entry of the Interim Order, subject to the funding of the Carve-Out Reserves (as defined below) in accordance with the Interim Order and this Final Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral or services provided by any Debtor and all Cash Collateral (except as otherwise set forth in the DIP ABL Agreement) that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall be promptly deposited in the same lock-box and/or deposit accounts into which the collections and proceeds of

the Prepetition Collateral were deposited under the Prepetition ABL Documents (or in such other accounts as are designated by the DIP ABL Agent from time to time) (collectively, the “Cash Collection Accounts”), which accounts (except as otherwise set forth in the DIP ABL Agreement) shall be subject to the sole dominion and control of the DIP ABL Agent until such time as the Prepetition ABL Obligations and the DIP ABL Obligations have been Paid in Full, subject to the terms of this Final Order.

(b) Unless otherwise agreed to in writing by the DIP ABL Agent, or otherwise provided for herein, other than the account(s) holding the Carve-Out Reserves, the Debtors shall maintain no accounts except those identified in any cash management order entered by the Court (a “Cash Management Order”). The Debtors and the financial institutions where the Debtors’ Cash Collection Accounts are maintained (including those accounts identified in any Cash Management Order) are authorized and directed to remit, without offset or deduction, funds in such Cash Collection Accounts upon receipt of any direction to that effect from the DIP ABL Agent, subject to the terms of this Final Order.

24. Maintenance of DIP Collateral. Until all DIP ABL Obligations and all Prepetition ABL Obligations have been Paid in Full, and the DIP ABL Agent’s and the DIP ABL Lenders’ obligation to extend credit under the DIP ABL Facility has terminated, the Debtors shall: (a) insure the DIP Collateral as required under the DIP ABL Facility, or the Prepetition ABL Documents, or any order of this Court, as applicable; and (b) maintain the cash management system which has been agreed to by the DIP ABL Agent and the Prepetition ABL Agent or as otherwise required by the DIP ABL Documents and the Prepetition ABL Documents.

25. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral (including Prepetition

Collateral) other than in the ordinary course of business without the prior written consent of the DIP ABL Agent, the Required Lenders and Prepetition ABL Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP ABL Agent, DIP ABL Lenders, Prepetition ABL Agent, Prepetition ABL Lenders, or Prepetition ABL Parties, or from any order of this Court), except as otherwise permitted by the DIP ABL Documents, this Final Order or otherwise ordered by the Court.

26. DIP Maturity Date. On the DIP Maturity Date: (a) all DIP ABL Obligations shall be immediately due and payable, all commitments to extend credit under the DIP ABL Facility will terminate, other than as required in paragraph 33 with respect to the Carve-Out, all treasury and cash management, hedging obligations and bank product obligations constituting Obligations (as defined in the DIP ABL Agreement) shall be cash collateralized, and all letters of credit and bankers' acceptances outstanding shall be cash collateralized in an amount equal to 103% of the face amount thereof, and such cash collateral shall not be subject to or subordinate to the Carve-Out; (b) all authority to use Cash Collateral shall cease; *provided, however*, that during the Remedies Notice Period, the Debtors may seek relief as set forth in paragraph 29 below and use Cash Collateral to fund the Carve-Out, pay payroll obligations (other than severance) and sales taxes, and other expenses, in the case of such expenses, that the DIP ABL Agent and DIP ABL Lenders approve as critical to keeping the Debtors' business operating subject to the Budget; and (c) upon the expiration of the Remedies Notice Period, the DIP ABL Agent shall be entitled to exercise rights and remedies under the DIP ABL Documents in accordance with this Final Order (including paragraph 29). For the purposes of this Final Order, "DIP Maturity Date" shall mean the "Maturity Date" as defined in the DIP ABL Agreement.

27. Events of Default. The occurrence of any of the following events, unless waived by the Prepetition ABL Agent or the DIP ABL Agent in writing and in accordance with the terms of the DIP ABL Agreement or otherwise cured as set forth in the DIP ABL Agreement, shall constitute an event of default (an “Event of Default”) of this Final Order: (i) the failure of the Debtors to materially perform, in any respect, any of the terms, provisions, covenants, or obligations under this Final Order, including the failure to comply with the Case Milestones (as defined herein) or the Budget, or (ii) an “Event of Default” under this Final Order or the DIP ABL Agreement has occurred and is continuing.

28. Milestones. It shall be an Event of Default if the Debtors fail to comply with the case milestones, which are set forth on Exhibit B hereto (as may be amended from time to time in accordance with the DIP ABL Documents, the Interim Order, this Final Order or with the consent of the DIP ABL Agent, the “Case Milestones”). For the avoidance of doubt, the failure of the Debtors to comply with any of the Case Milestones shall (a) constitute an Event of Default under the DIP ABL Agreement and this Final Order; (b) subject to the expiration of the Remedies Notice Period, result in the automatic termination of the Debtors’ authority to use Cash Collateral under this Final Order; and (c) permit the DIP ABL Agent, subject to paragraph 29, to exercise the rights and remedies provided for in this Final Order and the DIP ABL Documents.

29. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default under any of the DIP ABL Documents or this Final Order, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, but subject to the terms of this Final Order: (a) the DIP ABL Agent or the Prepetition ABL Agent may declare (any such declaration shall be referred to herein as a “Termination Declaration”) (i) all DIP

ABL Obligations owing under the DIP ABL Documents to be immediately due and payable (including the cash collateralization of all outstanding letters of credit and Bank Product Obligations (as defined in the DIP ABL Agreement) in accordance with the DIP ABL Documents), (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP ABL Facility, (iii) termination of the DIP ABL Facility and any other DIP ABL Documents as to any future liability or obligation of the DIP ABL Agent and the DIP ABL Lenders, but without affecting any of the DIP Liens or the DIP ABL Obligations, and (iv) that the application of the Carve-Out has occurred through the delivery of the Carve-Out Trigger Notice (as defined below) to the Debtors; and (b) the DIP ABL Agent or the Prepetition ABL Agent may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of any such date a Termination Declaration is delivered and the DIP Maturity Date shall be referred to herein as the “Termination Date”). The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the Committee, and the U.S. Trustee. The automatic stay in the Chapter 11 Cases otherwise applicable to the DIP ABL Agent and the Prepetition ABL Agent is hereby modified so that five (5) business days after a Termination Date (the “Remedies Notice Period”), the applicable DIP ABL Agent or Prepetition ABL Agent shall be entitled to exercise their respective rights and remedies to the extent available in accordance with the DIP ABL Documents, Prepetition ABL Documents and this Final Order; *provided*, that until the expiration of the Remedies Notice Period, the Debtors may seek certain remedies with respect to the occurrence of a Termination Date (unless the Event of Default giving rise to the Termination Declaration is the Debtors’ failure to enter into a Stalking Horse Agreement in accordance with the Case Milestones) and continue to use Cash Collateral to make payments in

respect of expenses reasonably necessary to keep the Debtors' business operating in accordance with this Final Order and the Budget; *provided, further*, that the Debtors may continue to use Cash Collateral during and after expiration of the Remedies Notice Period to the extent necessary to fund the Carve-Out Reserves. Notwithstanding anything to the contrary herein, the Debtors' right to contest an Event of Default shall not be a violation of this Final Order in and of itself; *provided, however*, that all rights of the DIP ABL Agent, the DIP ABL Lenders and the Prepetition ABL Agent are reserved and preserved with respect to the Debtors taking such action. During the Remedies Notice Period, the Debtors and the Committee shall be entitled to seek an emergency hearing within the Remedies Notice Period with this Court and the Court may fashion an appropriate remedy; *provided that*, if such emergency hearing is requested to be heard before the end of the Remedies Notice Period but is scheduled for a later date by the Court, the Remedies Notice Period shall be automatically extended to the date of a ruling in respect of such hearing; *provided, further*, that the rights of the DIP ABL Agent, the DIP ABL Lenders and the Prepetition ABL Parties to contest such relief are expressly preserved.

30. Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Final Order. The DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties have acted at arms' length in good faith in connection with the Interim Order and this Final Order and are entitled to rely upon the protections granted herein and by section 364(e) of the Bankruptcy Code.

31. DIP and Other Expenses; Procedures for Payment of DIP ABL Agent's, DIP ABL Lenders' and Prepetition ABL Parties' Professional Fees and Expenses. The Debtors are authorized and directed to pay all reasonable and documented prepetition and postpetition fees and out-of-pocket expenses of the DIP ABL Agent in connection with the Chapter 11 Cases, the

DIP ABL Facility, as provided in the DIP ABL Documents, or incurred in connection with any proposed exit or acquisition financing, chapter 11 plan or transactions contemplated thereunder or sale transaction (including the preparation and negotiation of the documentation relating to any such exit or acquisition financing, plan or sale transaction), whether or not the transactions contemplated hereby are consummated, including reasonable and documented attorneys' fees, monitoring and appraisal fees, financial advisory fees, fees and expenses of other consultants, and indemnification and reimbursement of reasonable and documented fees and out-of-pocket expenses, including the fees and out-of-pocket expenses of the ABL Advisors. Payment of all professional fees and out-of-pocket expenses of the DIP ABL Agent and the Prepetition ABL Agent addressed in the Interim Order or this Final Order (including the ABL Advisors) shall not be subject to allowance by the Court and shall not be limited by the Budget. Any time that professionals for the DIP ABL Agent and the Prepetition ABL Agent (including the ABL Advisors) seek payment of fees and out-of-pocket expenses from the Debtors, each professional shall provide copies of its invoices (which shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney client privilege or of any benefits of the attorney work product doctrine) to the U.S. Trustee and counsel for a Committee contemporaneously with the delivery of such fee and expense statements to the Debtors; *provided, however*, that the U.S. Trustee and the Committee reserve their rights to request additional detail regarding the services rendered and expenses incurred by such professionals. Any objections raised by the Debtors, the U.S. Trustee or the Committee with

respect to the Debtors' payment of the amounts in such invoices must be filed with the Court and served within ten (10) days of such party's receipt of such invoice, and any such objection shall be subject to resolution by the Court. Pending such resolution, the undisputed portion of any such invoice will be paid promptly by the Debtors. Notwithstanding the foregoing, the Debtors were authorized and directed to pay (or authorize the reimbursement from any prepetition retainers) upon closing of the DIP ABL Facility all reasonable, undisputed and documented fees, costs and out-of-pocket expenses, including fees and out-of-pocket expenses of ABL Advisors, the DIP ABL Agent and the Prepetition ABL Agent incurred on or prior to such date without the need for any professional engaged by the DIP ABL Agent or the Prepetition ABL Agent to first deliver a copy of its invoice as provided for herein. No attorney or advisor to the DIP ABL Agent or the Prepetition ABL Agent shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court.

32. Proofs of Claim. Notwithstanding any order entered by this Court in relation to the establishment of a bar date in any of the Chapter 11 Cases or any Successor Cases to the contrary, the DIP ABL Agent, the DIP ABL Lenders, and Prepetition ABL Parties will not be required to file proofs of claim in any of the Chapter 11 Cases or Successor Cases for any claims arising under the DIP ABL Documents or the Prepetition ABL Documents. The Stipulations, admissions, and acknowledgments and the provisions of this Final Order shall be deemed to constitute a timely filed proof of claim for the DIP ABL Agent, the DIP ABL Lenders and the Prepetition ABL Parties with regard to all claims arising under the DIP ABL Documents or the Prepetition ABL Documents. Notwithstanding the foregoing, the Prepetition ABL Agent on behalf of itself and the Prepetition ABL Parties is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a proof of claim

and/or aggregate or master proofs of claim in each of the Chapter 11 Cases or Successor Cases for any claim described herein (with any such aggregate or master proof of claim filed in the Chapter 11 Cases deemed to be filed in all Chapter 11 Cases of the Debtors and asserted against all of the Debtors). Any proof of claim filed by the Prepetition ABL Agent shall be deemed to be in addition to and not in lieu of any other proof of claim that may be filed by any of the Prepetition ABL Parties. Any order entered by the Court in relation to the establishment of a bar date in any of the Chapter 11 Cases or Successor Cases shall not apply to any claim of the DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party in interest or their respective successors-in-interest.

33. Carve-Out.

(a) As used herein, the “Carve-Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the U.S. Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code; (iii) to the extent allowed at any time, whether by interim order, final order, procedural order, or otherwise, all unpaid fees and expenses (excluding any restructuring, sale, success, or other transaction fee of any investment bankers or financial advisors of the Debtors, the Committee or any other statutory committee appointed in the Chapter 11 Cases⁶) (the fees and expenses

⁶ Notwithstanding anything to the contrary herein, Houlihan Lokey Capital, Inc. (“Houlihan”), shall be entitled to (1) in the event of a going concern sale that results in an Acceptable Sale (as defined in Exhibit B), a fee in the amount of \$2,750,000 (the “Sale Fee”), which Sale Fee shall be payable from either (i) the proceeds of the Real Estate Transaction (as defined in Exhibit B) or (ii) the proceeds of the Acceptable Sale (as defined in Exhibit B) and deposited into the Carve-Out Reserve solely for the benefit of Houlihan; or (2) in the event that there is a Liquidation Pivot (as defined in Exhibit B), a fee in the amount of \$2,000,000 (the “Disposition Fee”), of which \$1,000,000 of such Disposition Fee shall be payable from the proceeds of the Real Estate Transaction and deposited into the Carve-Out Reserve

referred to in this clause (iii), the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) or the Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time through (and including) the first business day following the Termination Declaration Date (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice (as defined below), up to the Professional Fee Carve-Out Cap (as defined below); and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed **\$1,500,000** incurred after the earlier of (1) the first business day following the Termination Declaration Date or (2) the Revolver Repayment Date, to the extent allowed at any time, whether by interim order, final order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve-Out Trigger Notice Cap”). For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP ABL Agent or the Prepetition ABL Agent to the Debtors, their lead restructuring counsel (Skadden, Arps, Slate, Meagher & Flom LLP), the U.S. Trustee, and counsel to the Committee, which notice may be delivered (y) following the occurrence and during the continuation of an Event of Default, or (z) upon termination of the Debtors’ right to use Cash Collateral by the Prepetition ABL Agent, in each case stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(b) Fee Estimates. Until the first full week after the Termination Declaration Date, not later than 7:00 p.m. New York time on the third business day of each week

solely for the benefit of Houlihan, and the remaining \$1,000,000 of such Disposition Fee shall, following the occurrence of the DIP ABL Obligations and the Prepetition ABL Obligations being Paid in Full, be funded out of the next proceeds or receipts from any other asset disposition and deposited into the Carve-Out Reserve solely for the benefit of Houlihan.

starting with the first full calendar week following the Petition Date, each Professional Person shall deliver to the Debtors, AlixPartners and BRG a statement setting forth a good-faith estimate of the amount of fees and expenses (collectively, “Estimated Fees and Expenses”) incurred during the preceding week by such Professional Person (through Saturday of such week, the “Calculation Date”), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a “Weekly Statement”); *provided* that following and no earlier than three (3) business days after the Termination Declaration Date, such Weekly Statement shall include the Estimated Fees and Expenses since the most recent Calculation Date through the first business day after the Termination Declaration Date and no additional Weekly Statements shall be required thereafter. If any Professional Person fails to deliver a Weekly Statement within three (3) calendar days after such Weekly Statement is due,⁷ such Professional Person’s entitlement (if any) to any funds in the Carve-Out Reserves (as defined below) with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of professional fees included in the Budget for such period for such Professional Person; *provided that* such Professional Person shall be entitled to be paid any unpaid amount of Allowed Professional Fees in excess of professional fees included in the Budget for such period for such Professional Person from the Pre-Carve-Out Trigger Notice Reserve (as defined below), to the extent there are any excess funds after each Professional Person is paid its Allowed Professional

⁷ For the avoidance of doubt, to the extent any Professional Person submits a Weekly Statement within the three (3) calendar days after such Weekly Statement is due, such Weekly Statement shall be considered timely submitted for purposes of this paragraph 33.

Fees up to the respective weekly amounts set forth in their timely Weekly Statements or as set forth in the Budget, as applicable.

(c) Carve-Out Reserves. Upon the entry of the Interim Order, the Debtors established (and shall hereafter continue to maintain) a segregated account with the DIP ABL Agent in trust (the “Pre-Carve-Out Trigger Notice Reserve”) and funded (and shall continue to fund as necessary as provided herein) such account in an amount (the “Pre-Carve-Out Trigger Notice Reserve Amount”) equal to the sum of (i) the aggregate unpaid amount of Estimated Fees and Expenses included in all Weekly Statements timely received by the Debtors, and, to the extent a Weekly Statement was not received (or was not received in a timely manner) for a Professional Person for any given time period, then, on account of such Professional Person, the aggregate amount of professional fees contemplated to be unpaid in the Budget as of the most recent Calculation Date, *plus* (ii) the amounts contemplated under paragraph (a)(i) and (a)(ii) above, funded first with cash on hand and, if insufficient to fully fund to the extent required at such time, with borrowings under the DIP ABL Agreement. Following the Termination Declaration Date, the DIP ABL Agent shall not sweep or foreclose on any available cash of the Debtors until the Pre-Carve-Out Trigger Notice Reserve is fully funded in accordance with this paragraph. Amounts in the Pre-Carve-Out Trigger Notice Reserve shall be held in trust to pay all Allowed Professional Fees incurred prior to the Termination Declaration Date, and such payments shall not reduce the Post-Carve-Out Trigger Notice Cap. The DIP ABL Agent shall also be entitled to maintain a reserve against the borrowing base in an amount equal to (i) the Post-Carve-Out Trigger Notice Cap, *plus* (ii) any additional amount to the extent of any insufficient funding of the Pre-Carve-Out Trigger Notice Reserve as of the most recent DIP Carve-Out Reserve Amount Report Date (as defined below), *plus* (iii) an amount equal to the amount of professional fees set forth in the Budget

for the then current week (*i.e.*, the week commencing after the most recent Calculation Date) and the two weeks succeeding such current week (such amount set forth in (iii) of this sentence, the “Budgeted Cushion Amount”). Not later than 7:00 p.m. New York time on the fourth business day of each week (the “DIP Carve-Out Reserve Amount Report Date”) starting with the first full calendar week following the Petition Date and ending in the first week following the Termination Declaration Date, the Debtors shall deliver to the DIP ABL Agent and the Prepetition ABL Agent a report setting forth the Pre-Carve-Out Trigger Notice Reserve Amount as of such time, and, on the first business day after each DIP Carve-Out Reserve Amount Report Date, the Debtors shall deposit into the Pre-Carve-Out Trigger Notice Reserve an amount sufficient to cause the balance in such account to equal the Pre-Carve-Out Trigger Notice Reserve Amount. Prior to the delivery of the first report setting forth the Pre-Carve-Out Trigger Notice Reserve Amount, the Debtors and the DIP ABL Agent shall calculate the Pre-Carve-Out Trigger Notice Reserve Amount by reference to the Budget for subsection (i) of the Pre-Carve-Out Trigger Notice Reserve Amount. Notwithstanding the occurrence of an Event of Default and taking into account the Funding Condition Carveouts (as defined herein), on the day on which a Carve-Out Trigger Notice is given by either the DIP ABL Agent or the Prepetition ABL Agent to the Debtors, their lead restructuring counsel (Skadden, Arps, Slate, Meagher & Flom LLP), the U.S. Trustee, and counsel to the Committee (the “Termination Declaration Date”), the Carve-Out Trigger Notice shall be deemed a draw request and notice of borrowing for the DIP Revolving Loans under the DIP ABL Agreement (and any such amounts actually advanced constituting DIP Revolving Loans) or authorization for the Debtors’ use of DIP Collateral (including Cash Collateral) to fund the Pre-Carve-Out Trigger Notice Reserve, without duplication and solely to the extent not already funded, in an amount equal to the sum of the unpaid amounts set forth in paragraphs (a)(i), (a)(ii),

and (a)(iii) above (for the avoidance of doubt, such draw request or use of DIP Collateral shall include an amount sufficient to satisfy good-faith unpaid Estimated Fees and Expenses incurred since the most recent Calculation Date through the Termination Declaration Date so long as the amount funded for (a)(iii), in the aggregate and without duplication, does not exceed the Professional Fee Carve-Out Cap). Notwithstanding anything to the contrary herein, any funding request or use of DIP Collateral for unpaid amounts of Allowed Professional Fees under paragraph (a)(iii) above shall be limited to the sum of (I) the aggregate unpaid amount of Estimated Fees and Expenses included in such Weekly Statements timely received by the Debtors prior to the Termination Declaration Date and, to the extent a Weekly Statement was not received (or was not received in a timely manner) for a Professional Person for any given time period, then, on account of such Professional Person for such time period(s), the aggregate amount of professional fees of such Professional Person contemplated to be unpaid in the Budget *plus* (II) the Budgeted Cushion Amount (such amount, the “Professional Fee Carve-Out Cap”). On the Termination Declaration Date, the Carve-Out Trigger Notice shall also be deemed a draw request, notice of borrowing or use of DIP Collateral by the Debtors to fund a segregated account with the DIP ABL Agent in trust (the “Post-Carve-Out Trigger Notice Reserve,” and together with the Pre-Carve-Out Trigger Notice Reserve, the “Carve-Out Reserves”) in an amount equal to the Post-Carve-Out Trigger Notice Cap.⁸ On the first business day following the Termination Declaration Date, notwithstanding anything in the DIP ABL Agreement to the contrary, including with respect to (1)

⁸ In addition, following the occurrence of the DIP ABL Obligations and the Prepetition ABL Obligations being Paid in Full, an additional amount of \$2 million shall be funded out of the next available proceeds or receipts from any asset disposition and deposited into the Post-Carve-Out Trigger Notice Reserve solely for the benefit of Allowed Professional Fees; *provided* that such amount shall not be a condition to the DIP ABL Obligations or the Prepetition ABL Obligations being Paid in Full or to the occurrence of the Revolver Repayment Date (and such amount shall not be deemed to be part of the Carve-Out until the DIP ABL Obligations and the Prepetition ABL Obligations have been Paid in Full).

the existence of a Default (as defined in the DIP ABL Agreement) or Event of Default, (2) the failure of the Debtors to satisfy any or all of the conditions precedent for the making of any DIP Revolving Loan under the DIP ABL Agreement, (3) any termination of the Commitments (as defined in the DIP ABL Agreement) following an Event of Default, or (4) the occurrence of the DIP Maturity Date (clause (1) to (4), the “Funding Condition Carveouts”), each DIP ABL Lender with an outstanding Commitment shall make available to the DIP ABL Agent, such DIP ABL Lender’s *pro rata* share of such DIP Revolving Loans as provided in this paragraph (c) to the extent the Carve-Out Reserves have not yet been funded as provided herein; *provided, however*, that in the event that the Revolver Repayment Date⁹ occurs prior to the Termination Declaration Date, (i) the Commitments shall be deemed terminated and canceled in accordance with a payoff letter in form and substance acceptable to the DIP ABL Agent, (ii) the DIP ABL Agent, the Prepetition ABL Agent, and each of the DIP ABL Lenders and the Prepetition ABL Lenders holding DIP ABL Obligations or Prepetition ABL Obligations, shall each no longer have any further liability whatsoever for any fees or amounts constituting the Carve-Out, regardless of when arising or incurred, and (iii) on and after the Revolver Repayment Date, the Debtors shall be required to maintain at all times a segregated account (which account may be one of the Carve-Out Reserves) in trust in the amount of the Carve-Out Reserves.

⁹ The “Revolver Repayment Date” shall mean the date upon which the following have occurred or shall occur: (i) the repayment in full in cash of all DIP ABL Obligations and Prepetition ABL Obligations (including all principal, interest, fees, prepayment premiums, expenses, indemnities, other than contingent indemnification obligations for which no claim has been asserted), the cash collateralization or repayment in full in cash of all treasury and cash management obligations, hedging obligations, and bank product obligations, and the cancelation, replacement, backing, or cash collateralization of letters of credit, in each case, in accordance with the terms of the applicable credit facility and this Final Order, and (ii) funds in the amount equal to the then unfunded Carve-Out (calculated as if the Revolver Repayment Date were the Termination Declaration Date) have been deposited into the Carve-Out Reserves exclusively to pay unpaid Allowed Professional Fees prior to any and all other claims in accordance with the Carve-Out, the Interim Order, and this Final Order.

(d) Application of Carve-Out Reserves.

(i) All funds in the Pre-Carve-Out Trigger Notice Reserve shall be used first to pay the obligations set forth in subparagraphs (a)(i) through (a)(iii) of the definition of Carve-Out set forth above (the “Pre-Carve-Out Amounts”), but not, for the avoidance of doubt, the Post-Carve-Out Trigger Notice Cap, until paid in full. Thereafter, if the Pre-Carve-Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii), below, all remaining funds shall be distributed to the DIP ABL Agent or Prepetition ABL Agent (as applicable) on account of any remaining DIP ABL Obligations or Prepetition ABL Obligations, respectively, until such obligations have been Paid in Full.

(ii) All funds in the Post-Carve-Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve-Out set forth above (the “Post-Carve-Out Amounts”). Thereafter, if the Post-Carve-Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii) below, all remaining funds shall be distributed in the same manner as provided above with respect to the Pre-Carve-Out Trigger Notice Reserve.

(iii) Notwithstanding anything to the contrary in the DIP ABL Agreement or this Final Order, if (x) the Pre-Carve-Out Trigger Notice Reserve is not funded in full in the amounts set forth in paragraph (c) above, then, any excess funds in the Post-Carve-Out Trigger Notice Reserve following the payment in full of the Post-Carve-Out Amounts shall be used to fund the Pre-Carve-Out Notice Trigger Reserve Account to the extent of any shortfall in funding prior to making any payments, if any, to the DIP ABL Agent or the Prepetition ABL Agent (as applicable) on account of any remaining DIP ABL Obligations or Prepetition ABL Obligations, respectively, and (y) the Post-Carve-Out Trigger Notice Reserve is not funded in full in the

amounts set forth in paragraph (c) above, then any excess funds in the Pre-Carve-Out Trigger Notice Reserve Account following the payment in full of the Pre-Carve-Out Amounts shall be used to fund the Post-Carve-Out Trigger Notice Reserve to the extent of any shortfall in funding prior to making any payments, if any, to the DIP ABL Agent or the Prepetition ABL Agent on account of any remaining DIP ABL Obligations or Prepetition ABL Obligations, respectively.

(iv) Notwithstanding anything to the contrary in the DIP ABL Agreement or this Final Order, following delivery of a Carve-Out Trigger Notice, the DIP ABL Agent and the Prepetition ABL Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve-Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve-Out Reserves after payment in full of all Pre-Carve-Out Amounts and Post-Carve-Out Amounts, with any excess paid as provided in clauses (i) and (ii) (subject, in all respects, to clause (iii) above).

(v) Carve-Out Priority. Notwithstanding anything to the contrary in this Final Order or the Final Order, (i) the failure of the Carve-Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out, and (ii) in no way shall any Budget, Carve-Out, Post-Carve-Out Trigger Notice Cap or Carve-Out Reserves be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Final Order, the Carve-Out shall be senior to all liens, security interests and superpriority claims hereunder, under the DIP ABL Documents or the Prepetition ABL Agreement, and any and all other forms of adequate protection, liens (including Permitted Prior Liens), or claims securing the DIP ABL Obligations or the Prepetition ABL Obligations.

(vi) No Direct Obligation To Pay Allowed Professional Fees. Other than funding of the Carve-Out and Carve-Out Reserves with the proceeds of the DIP ABL Facility and the DIP Collateral (including, without limitation, Cash Collateral) as provided herein, none of the DIP ABL Lenders and the Prepetition ABL Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Other than funding of the Carve-Out and Carve-Out Reserves with the proceeds of the DIP ABL Facility and the DIP Collateral (including, without limitation, Cash Collateral) as provided herein, nothing in the Interim Order, this Final Order or otherwise shall be construed to obligate the DIP ABL Lenders or Prepetition ABL Parties in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(vii) Payment of Carve-Out On or After the Termination Declaration Date. Following the delivery of the Carve-Out Trigger Notice and until the DIP ABL Obligations and the Prepetition ABL Obligations have been Paid in Full, all Allowed Professional Fees shall be paid from the applicable Carve-Out Reserve and/or any unencumbered collateral, and no Professional Person shall seek payment of any Allowed Professional Fees from any DIP Collateral until the applicable Carve-Out Reserve has been exhausted. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out from DIP Collateral shall be added to, and made a part of, the obligations secured by the DIP Collateral and shall be otherwise entitled to the protections

granted under the Interim Order, this Final Order, the DIP ABL Documents, the Bankruptcy Code, and applicable law.

34. Limitations on Use of DIP Proceeds, Cash Collateral, and Carve-Out. The DIP ABL Facility, the DIP Collateral, the Prepetition Collateral, the Cash Collateral and the Carve-Out may not be used in connection with, except as provided in the Interim Order, this Final Order, or the DIP ABL Documents: (a) preventing, hindering, or delaying any of the DIP ABL Agent's, the DIP ABL Lenders', or the Prepetition ABL Parties' permitted enforcement or realization upon any of the DIP Collateral or Prepetition Collateral; (b) using or seeking to use Cash Collateral or selling or otherwise disposing of DIP Collateral without the consent of the DIP ABL Agent or as permitted by the DIP ABL Documents; (c) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP ABL Agent; (d) incurring Indebtedness (as defined in the DIP ABL Agreement) without the prior consent of the DIP ABL Agent, except to the extent permitted under the DIP ABL Agreement; (e) seeking to amend or modify any of the rights granted to the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties under this Final Order, the DIP ABL Documents, or the Prepetition ABL Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (f) objecting to or challenging in any way the DIP Liens, DIP ABL Obligations, Prepetition ABL Liens, Prepetition ABL Obligations, DIP Collateral (including Cash Collateral) or, as the case may be, Prepetition Collateral, or any other claims or liens, held by or on behalf of any of the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties, respectively; (g) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, any actions under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions to recover or disgorge payments, against any of the DIP ABL Agent, the DIP ABL

Lenders, the Prepetition ABL Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (h) litigating against, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP ABL Obligations, the DIP Liens, the Prepetition ABL Liens, Prepetition ABL Obligations or any other rights or interests of any of the DIP ABL Agent, the DIP ABL Lenders, the Prepetition ABL Parties; or (i) seeking to subordinate, recharacterize, disallow or avoid the DIP ABL Obligations or the Prepetition ABL Obligations; *provided, however*, that the Carve-Out and such collateral proceeds and loans under the DIP ABL Documents may be used for allowed fees and expenses, in an amount not to exceed **\$75,000** in the aggregate, incurred solely by the Committee, in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition ABL Obligations within the Challenge Period.

35. Effect of Stipulations on Third Parties.

(a) *Generally.* The admissions, Stipulations, agreements, releases, and waivers set forth in paragraph F of the Interim Order and this Final Order (collectively, the “Prepetition Lien and Claim Matters”) are and shall be binding on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including, without limitation, the Committee, unless, and solely to the extent that, a party in interest with proper standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtors, as to which any Challenge is irrevocably waived and relinquished) (i) has timely filed the pleadings, and timely commenced the proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the

Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 35 of this Final Order) challenging the Prepetition Lien and Claim Matters (each such proceeding or pleading commencing a proceeding or other contested matter, a “Challenge”), by no later than the earlier of (A) the entry of an order confirming a plan of the Debtors or approving the sale of all or substantially all of the Debtors’ assets, or (B) October 28, 2024 (the earlier to occur of (A) and (B), the “Challenge Deadline” and, such period, the “Challenge Period”), as such applicable date may be extended in writing from time to time in the sole discretion of the Prepetition ABL Agent, or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal; *provided, further, that* any pleadings filed in connection with a Challenge shall set forth with specificity the basis for such Challenge and any Challenges not so specified prior to the expiration of the Challenge Period shall be deemed forever waived, released and barred. Notwithstanding the foregoing, if a chapter 11 trustee is appointed or the Chapter 11 Cases are converted to chapter 7 prior to the expiration of the Challenge Deadline, (1) the chapter 11 trustee or chapter 7 trustee, as applicable, shall have until the later of the Challenge Deadline or the thirtieth (30th) day after the appointment of the chapter 11 trustee or the conversion of the Chapter 11 Case to chapter 7, as applicable, to commence a Challenge, subject to any further extension by order of the Court for cause, and (2) if the Committee has asserted a Challenge prior to the Challenge Deadline, the chapter 11 trustee or chapter 7 trustee will stand in the shoes of the Committee in such Challenge. Nothing in the Interim Order or this Final Order vests or confers on any person or entity (each as defined in the Bankruptcy Code), including any statutory or 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, any Challenges with respect to the Prepetition Lien and Claim Matters, and any ruling on standing, if appealed, shall not stay or otherwise delay any sale of all or substantially all of the Debtors' assets in these Chapter 11 Cases. The filing of a motion seeking standing to file a Challenge before the Challenge Period, which attaches a proposed Challenge, shall extend the Challenge Period solely 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; *provided, further*, that so long as the Committee otherwise satisfies the requirements set forth in this paragraph 35(a), nothing herein shall limit the Committee's ability to (x) file a timely motion seeking standing in respect of any timely Challenge for which it cannot obtain standing as a matter of law because the applicable Debtor is a limited liability company (an "LLC Challenge Motion"), and (y) seek pursuant to such LLC Challenge Motion a mechanism by which to prosecute such Challenge, and the applicable parties shall meet and confer with respect to an appropriate process (if any) for the prosecution of such Challenge.

(b) *Binding Effect.* To the extent no Challenge is timely commenced by the Challenge Deadline, or to the extent such proceeding does not result in a final and non-appealable judgment or order of this Court that is inconsistent with the Prepetition Lien and Claim Matters, then, without further notice, motion, or application to, order of, or hearing before, this Court and without the need or requirement to file any proof of claim, the Prepetition Lien and Claim Matters shall, pursuant to this Final Order, become binding, conclusive, and final on any person, entity, or party in interest in the Chapter 11 Cases, and their successors and assigns, and in any Successor Case for all purposes and shall not be subject to challenge or objection by any party

in interest, including, without limitation, a trustee, responsible individual, examiner with expanded powers, or other representative of the Debtors' estates. Notwithstanding anything to the contrary herein, if any such proceeding is timely commenced, the Prepetition Lien and Claim Matters shall nonetheless remain binding on all other parties in interest and preclusive as provided in subparagraph (a) above except to the extent that any of such Prepetition Lien and Claim Matters is expressly the subject of a timely filed Challenge, which Challenge is successful as set forth in a final judgment as provided in subparagraph (a) above. Upon a successful Challenge brought pursuant to this paragraph 35, the Court may fashion any appropriate remedy.

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

37. Section 506(c) Claims. No costs or expenses of administration which have been or may be incurred in the Chapter 11 Cases at any time shall be charged against the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties, or any of their respective claims, the DIP Collateral, or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent of the DIP ABL Agent, the DIP ABL Lenders or the Prepetition ABL Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders.

38. No Marshaling/Applications of Proceeds. The DIP ABL Agent, the DIP ABL Lenders, and the Prepetition ABL Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral, as the case may be, and proceeds shall be received and applied pursuant to

the Interim Order, this Final Order and the DIP ABL Documents notwithstanding any other agreement or provision to the contrary.

39. Section 552(b). The Prepetition ABL Parties shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition ABL Parties, with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.

40. Access to DIP Collateral. Upon expiration of the Remedies Notice Period, the DIP ABL Agent, DIP ABL Lenders and the Prepetition ABL Parties shall be permitted to (a) access and recover any and all DIP Collateral, and (b) enter onto any leased premises of any Debtor and exercise all of the Debtors’ rights and privileges as lessee under such lease in connection with an orderly liquidation of the DIP Collateral; *provided, however*, that in the case of clause (b), the DIP ABL Agent, DIP ABL Lenders and/or Prepetition ABL Parties shall only be entitled to enter onto a leased premises after an Event of Default in accordance with (i) a separate written agreement by and between the DIP ABL Agent, DIP ABL Lenders and the Prepetition ABL Parties, as applicable, and any applicable landlord, (ii) pre-existing rights of the DIP ABL Agent, DIP ABL Lenders and the Prepetition ABL Parties, as applicable, and any applicable landlord under applicable non-bankruptcy law, (iii) consent of the applicable landlord, or (iv) entry of an order of this Court obtained by motion of the applicable DIP ABL Agent, DIP ABL Lender, or Prepetition ABL Party on such notice to the landlord as shall be required by this Court; *provided, however*, that solely with respect to rent due to a landlord of any such leased premises, the DIP ABL Agent, DIP ABL Lenders, and/or the Prepetition ABL Parties, as applicable, shall be obligated only to reimburse the Debtors for the payment of rent of the Debtors that first accrues after delivery of the Termination Declaration in accordance with paragraph 29 herein that is payable during the period

of such occupancy by the DIP ABL Agent, DIP ABL Lenders, and/or Prepetition ABL Parties, as applicable, calculated on a daily per diem basis; *provided, further, that* nothing herein shall relieve the Debtors of their obligations pursuant to section 365(d)(3) of the Bankruptcy Code for the payment of rent that accrues prior to delivery of the Termination Declaration through and including any assumption and/or rejection of any unexpired lease. Nothing herein shall require the DIP ABL Agent, DIP ABL Lenders or the Prepetition ABL Parties to assume any unexpired lease as a condition to the rights afforded in this paragraph.

41. Surety LC Collateral. Notwithstanding anything set forth to the contrary in the Motion, the DIP ABL Agreement, the Interim Order, or this Final Order, nothing therein shall be deemed to limit, impair, or prime Capitol Indemnity Corporation and/or Argonaut Insurance Company's (the "Sureties") rights or interests in any letters of credit, or any other collateral or the proceeds of such collateral, securing existing surety bonds and existing indemnity agreements (the "Surety Collateral"), including, without limitation, the right to draw or use any Surety Collateral to reimburse any claim of a Surety under or in respect of the Surety Collateral.

42. Texas Taxing Authorities. Notwithstanding any other provisions in this Final Order or any final orders pertaining to the use of cash collateral in these Chapter 11 Cases, any statutory liens on account of ad valorem taxes held by the Texas Taxing Authorities¹⁰ (the "Tax Liens") shall neither be primed by nor made subordinate to any liens

¹⁰ The term "Texas Taxing Authorities" shall refer to: Potter County Tax Office, Randall County Tax Office, Carrollton-Farmers Branch Independent School District, Plano Independent School District, Harris-Fort Bend Counties Municipal Utility District #3, Spring Independent School District, Lubbock Central Appraisal District, Tyler Independent School District, Bell County Tax Appraisal District, Brazos County, Denton County, Guadalupe County, City of Waco and Waco Independent School District, Taylor County Central Appraisal District, Bexar County, Cypress-Fairbanks Independent School District, Dallas County, City of El Paso, Fort Bend County, Grayson County, Harris County Emergency Service District #07, Harris County Emergency Service District #09, Harris County Emergency Service District #11, Harris County Emergency Service District #48, Hidalgo County, City of Houston, Houston Community College System, Houston Independent School District, Katy

granted to any party hereby to the extent the Tax Liens are valid, senior, perfected, and unavoidable, and all parties' rights to object to the priority, validity, amount, and extent of the claims and liens asserted by the Texas Taxing Authorities are fully preserved. Furthermore, from the proceeds of the sale of any of the Debtors' assets or closing of any store located in the state of Texas and in the jurisdictions of the Texas Taxing Authorities, the amount of \$198,712.51 shall be set aside by the Debtors in a segregated account (the "Texas Tax Reserve") as adequate protection for the asserted secured tax claims of the Texas Taxing Authorities to such Tax Liens (the "Tax Claims"). The Tax Liens of the Texas Taxing Authorities shall attach to the Texas Tax Reserve to the same extent and with the same priority as the liens attached to the Debtors' assets securing the Tax Liens. The funds in the Texas Tax Reserve shall be on the order of adequate protection and shall constitute neither the allowance of the Tax Claims nor a cap on the amounts the Texas Taxing Authorities may be entitled to receive. The funds from the Texas Tax Reserve may be distributed only upon agreement between the Texas Taxing Authorities, the DIP ABL Agent and the Debtors upon notice to the Committee with an opportunity to object, 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 Texas 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 until the Tax Claims are paid in full. Any payment made to the Texas Tax Authorities from sources other than the Texas Tax Reserve shall reduce the Texas Tax Reserve dollar for dollar.

43. Limits on Lender Liability. Nothing in the Interim Order, this Final Order, any of the DIP ABL Documents, the Prepetition ABL Documents, or any other documents related

Independent School District, Lone Star College System, City of McAllen, McLennan County, Northwest Independent School District, Nueces County, Smith County, Tarrant County.

thereto shall in any way be construed or interpreted to impose or allow the imposition upon the DIP ABL Agent, the DIP ABL Lenders or the Prepetition ABL Parties of any liability for any claims arising from any activities by the Debtors in the operation of their business or in connection with the administration of these Chapter 11 Cases. The DIP ABL Agent, the DIP ABL Lenders and the Prepetition ABL Parties shall not, solely by reason of having made loans under the DIP ABL Facility or permitting the use of Cash Collateral, be deemed in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, as amended, or any similar federal or state statute). Nothing in the Interim Order, this Final Order or the DIP ABL Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP ABL Agent, the DIP ABL Lenders, or any of the Prepetition ABL Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

44. Insurance Proceeds and Policies. Upon entry of the Interim Order and this Final Order and to the fullest extent provided by applicable law, the DIP ABL Agent (on behalf of the DIP ABL Lenders) and the Prepetition ABL Agent (on behalf of the Prepetition ABL Parties) shall be, and shall be deemed to be, without any further action or notice, named as additional insured, lender loss payee, mortgagee and loss payee on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral (which shall not include directors and officers policies); *provided, however*, that the rights and liens granted on proceeds herein shall not impair or diminish any rights held by a landlord under applicable law to insurance proceeds for damage

to the landlord's property, as provided in the Debtors' nonresidential real property leases and to the fullest extent permitted by applicable law.

45. Joint and Several Liability. Nothing in the Interim Order or this Final Order shall be construed to constitute a substantive consolidation of any of the Debtors' estates, it being understood, however, that Debtors shall be jointly and severally liable for the obligations hereunder and all DIP ABL Obligations in accordance with the terms hereof and of the DIP ABL Facility and the DIP ABL Documents.

46. No Superior Rights of Reclamation. Based on the findings and rulings herein regarding the integrated nature of the DIP ABL Facility and the Prepetition ABL Documents, the right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code is not a Permitted Prior Lien; rather, any such alleged claims arising or asserted as a right of reclamation (whether asserted under section 546(c) of the Bankruptcy Code or otherwise) shall have the same rights and priority with respect to the DIP Liens as such claim had with the Prepetition ABL Liens.

47. Rights Preserved. Notwithstanding anything herein to the contrary, the entry of the Interim Order or this Final Order are without prejudice to, and do not constitute a waiver of, expressly or implicitly: (a) the DIP ABL Agent's, DIP ABL Lenders' and Prepetition ABL Parties' right to seek any other or supplemental relief in respect of the Debtors; (b) any of the rights of any of the DIP ABL Agent, DIP ABL Lenders and/or the Prepetition ABL Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Chapter 11 Cases or Successor Cases, conversion of any of the Chapter 11 Cases to cases under Chapter 7, or appointment of a Chapter 11 trustee or examiner with expanded

powers, or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (c) any other rights, claims or privileges (whether legal, equitable or otherwise) of any of the DIP ABL Agent, DIP ABL Lenders or Prepetition ABL Parties.

48. No Waiver by Failure to Seek Relief. The failure of the DIP ABL Agent, DIP ABL Lenders, or Prepetition ABL Parties to seek relief or otherwise exercise their rights and remedies under the Interim Order, this Final Order, the DIP ABL Documents, the Prepetition ABL Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP ABL Agent, DIP ABL Lenders, Prepetition ABL Parties, the Committee or any party in interest.

49. Binding Effect of Final Order. Subject to paragraph 35, immediately upon execution by this Court, the terms and provisions of this Final Order shall become valid and binding upon and inure to the benefit of the Debtors, DIP ABL Agent, DIP ABL Lenders, Prepetition ABL Parties, all other creditors of any of the Debtors, the Committee (or any other court appointed committee in the Chapter 11 Cases), and all other parties in interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Chapter 11 Cases, any Successor Cases, or upon dismissal of any Chapter 11 Case or Successor Case.

50. No Modification of Final Order. Until and unless the DIP ABL Obligations and the Prepetition ABL Obligations have been Paid in Full and all commitments to extend credit under the DIP ABL Facility have been terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly: (a) without the prior written consent of the DIP ABL Agent or the Prepetition ABL Agent, (i) any modification, stay, vacatur or amendment to this Final Order; or (ii) a priority claim for any administrative expense or unsecured claim

against the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in sections 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code) in any of the Chapter 11 Cases or Successor Cases, equal or superior to the DIP Superpriority Claims or Adequate Protection Superpriority Claims, other than the Carve-Out; (b) without the prior written consent of the DIP ABL Agent or the Prepetition ABL Agent, for any order allowing use of Cash Collateral (other than as permitted during the Remedies Notice Period) resulting from DIP Collateral or Prepetition Collateral in a manner inconsistent with the Interim Order or this Final Order, as applicable; (c) without the prior written consent of the DIP ABL Agent, any lien on any of the DIP Collateral with priority equal or superior to the DIP Liens, except as specifically provided in the DIP ABL Documents; or (d) without the prior written consent of the Prepetition ABL Agent, any lien on any of the DIP Collateral with priority equal or superior to the Prepetition ABL Liens or Adequate Protection Liens. The Debtors irrevocably waive any right to seek any amendment, modification or extension of this Final Order without the prior written consent, as provided in the foregoing, of the DIP ABL Agent or the Prepetition ABL Agent, and no such consent shall be implied by any other action, inaction or acquiescence of the DIP ABL Agent or the Prepetition ABL Agent.

51. Final Order Controls. In the event of any inconsistency between the terms and conditions of the DIP ABL Documents and of this Final Order, the provisions of this Final Order shall govern and control.

52. Discharge. The DIP ABL Obligations, and the obligations of the Debtors with respect to the adequate protection provided herein shall not be discharged by the entry of an order confirming any plan of reorganization in any of the Chapter 11 Cases, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been

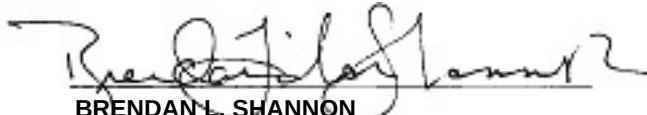
indefeasibly Paid in Full in cash, on or before the effective date of such confirmed plan of reorganization, or each of the DIP ABL Agent, DIP ABL Lenders, and the Prepetition ABL Agent, as applicable, has otherwise agreed in writing. None of the Debtors shall propose or support any plan of reorganization or sale of all or substantially all of the Debtors' assets, or order confirming such plan or approving such sale, that is not conditioned upon the DIP ABL Obligations being Paid in Full, and the payment of the Debtors' obligations with respect to the adequate protection provided for herein, in full in cash within a commercially reasonable period of time (and in no event later than the effective date of such plan of reorganization or sale) (a "Prohibited Plan or Sale") without the written consent of each of the DIP ABL Agent, DIP ABL Lenders, and the Prepetition ABL Agent, as applicable. For the avoidance of doubt, the Debtors' proposal or support of a Prohibited Plan or Sale, or the entry of an order with respect thereto, shall constitute an Event of Default hereunder and under the DIP ABL Documents.

53. Survival. The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Chapter 11 Cases; (b) converting any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code; (c) dismissing any of the Chapter 11 Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Chapter 11 Cases or Successor Cases. The terms and provisions of this Final Order, including the claims, liens, security interests and other protections granted to the DIP ABL Agent, DIP ABL Lenders and Prepetition ABL Parties granted pursuant to this Final Order and/or the DIP ABL Documents, notwithstanding the entry of any such order, shall continue in the Chapter 11 Cases, in any Successor Cases, or following dismissal of the Chapter 11 Cases or any Successor Cases, and shall maintain their priority as provided by this Final Order until: (i) in respect of the DIP ABL Facility,

all the DIP ABL Obligations, pursuant to the DIP ABL Documents and this Final Order, have been Paid in Full (such payment being without prejudice to any terms or provisions contained in the DIP ABL Facility which survive such discharge by their terms), and all commitments to extend credit under the DIP ABL Facility are terminated; and (ii) in respect of the Prepetition ABL Facility, all of the Prepetition ABL Obligations pursuant to the Prepetition ABL Documents and this Final Order, have been Paid in Full. The terms and provisions concerning the indemnification of the DIP ABL Agent and DIP ABL Lenders shall continue in the Chapter 11 Cases, in any Successor Cases, following dismissal of the Chapter 11 Cases or any Successor Cases, following termination of the DIP ABL Documents and/or the indefeasible repayment in full in cash of the DIP ABL Obligations.

54. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce the terms of, any and all matters arising from or related to the DIP ABL Facility, and/or this Final Order.

Dated: September 4th, 2024
Wilmington, Delaware



BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Budget

04/24

Page 2 of 2

	Forecast week:		Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	13 Weeks
	Beginning of week:	End of week:	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Total
	11-Aug-24	18-Aug-24	24-Aug-24	31-Aug-24	7-Sep-24	14-Sep-24	21-Sep-24	28-Sep-24	5-Oct-24	12-Oct-24	19-Oct-24	26-Oct-24	27-Oct-24	3-Nov-24	9-Nov-24	11-Aug-24
Operating Cash Flow																
Operating Receipts	\$ 11,244	\$ 10,139	\$ 10,290	\$ 11,949	\$ 14,124	\$ 15,770	\$ 115,405	\$ 15,043	\$ 17,160	\$ 17,337	\$ 16,541	\$ 14,888	\$ 13,275	\$ 283,166		
Operating Disbursements	\$ (12,787)	\$ (11,007)	\$ (7,632)	\$ (15,523)	\$ (8,957)	\$ (11,819)	\$ (7,588)	\$ (13,701)	\$ (8,125)	\$ (8,101)	\$ (12,255)	\$ (8,597)	\$ (7,251)	\$ (133,342)		
Non-Operating Cash Flows	\$ 3,360	\$ (1,665)	\$ (2,500)	\$ 3,422	\$ (3,310)	\$ (3,360)	\$ (109,260)	\$ (1,456)	\$ (1,385)	\$ (11,978)	\$ (915)	\$ (918)	\$ (790)	\$ (130,755)		
Total Cash Flow	\$ 1,817	\$ (2,533)	\$ 159	\$ (152)	\$ 1,857	\$ 591	\$ (1,443)	\$ (113)	\$ 7,649	\$ (2,741)	\$ 3,371	\$ 5,373	\$ 5,234	\$ 19,069		
Liquidity																
Cash Balance (Book)																
Beginning Balance	\$ 3,549	\$ 5,367	\$ 2,834	\$ 2,993	\$ 2,841	\$ 4,697	\$ 5,289	\$ 3,846	\$ 3,732	\$ 11,382	\$ 8,640	\$ 12,012	\$ 17,385	\$ 3,549		
Operating Receipts	11,244	10,139	10,290	11,949	14,124	15,770	115,405	15,043	17,160	17,337	16,541	14,888	13,275	283,166		
Operating Disbursements	(12,787)	(11,007)	(7,632)	(15,523)	(8,957)	(11,819)	(7,588)	(13,701)	(8,125)	(8,101)	(12,255)	(8,597)	(7,251)	(133,342)		
Non-Operating Cash Flows	3,360	(1,665)	(2,500)	3,422	(3,310)	(3,360)	(109,260)	(1,456)	(1,385)	(11,978)	(915)	(918)	(790)	(130,755)		
Ending Balance (Book)	\$ 5,367	\$ 2,834	\$ 2,993	\$ 2,841	\$ 4,697	\$ 5,289	\$ 3,846	\$ 3,732	\$ 11,382	\$ 8,640	\$ 12,012	\$ 17,385	\$ 22,619	\$ 22,619		
Availability	8,623	3,949	1,903	(6,304)	(11,038)	(17,489)								-		
Liquidity	\$ 13,990	\$ 6,783	\$ 4,895	\$ (3,464)	\$ (6,340)	\$ (12,201)	\$ 3,846	\$ 3,732	\$ 11,382	\$ 8,640	\$ 12,012	\$ 17,385	\$ 22,619	\$ 22,619		

Exhibit B

Case Milestones

Each of the following DIP Milestones, Other Milestones, Sale Milestones, Liquidation Pivot Milestones, Required Store Closure Milestones and Real Estate Milestones (each as defined herein), a “Case Milestone” and collectively, the “Case Milestones”:

(a) The Debtors shall achieve each of the following milestones (as the same may be extended from time to time with the consent of the DIP ABL Agent (in its sole and absolute discretion) the “DIP Milestones”), in each case on terms and conditions, and subject to documentation in form and substance, reasonably acceptable to the DIP ABL Agent in all respects.

- (i) On the Petition Date, the Debtors shall file a motion seeking approval of the facility evidenced by the DIP ABL Facility.
- (ii) On or before three (3) days after the Petition Date, the Interim Order shall have been entered by the Court.
- (iii) On or before thirty-five (35) days after the Petition Date, the Final Order authorizing and approving the DIP ABL Facility on a final basis shall have been entered by the Court.
- (iv) On or before September 30, 2024, the DIP ABL Obligations and the Prepetition ABL obligations shall have been repaid in cash in full (other than the cash collateralization of all letters of credit and contingent exposure).
- (v) On or before October 18, 2024, the Revolver Repayment Date shall have occurred.

(b) The Debtors shall achieve each of the following milestones (as the same may be extended from time to time with the consent of the DIP ABL Agent (in its sole and absolute discretion), the “Other Milestones”), in each case on terms and conditions, and subject to documentation in form and substance, reasonably acceptable to the DIP ABL Agent in all respects.

- (i) On the Petition Date, file a motion with the Court seeking (A) approval of bid procedures for the sale of all of the assets of the Debtors on a going-concern basis (other than the assets subject to the Required Store Closing Sales (as defined below) described below, the “Sale Assets”) in accordance with the Sale Milestones set forth below (the “Bid Procedures”), which bid procedures shall specify that acceptable bids must (x) contemplate minimum net cash proceeds from the initial payment thereunder in an amount sufficient to repay in full the “Obligations” under the Prepetition ABL Agreement and DIP ABL Obligations (including cash collateralization of all obligations relating to the letters of credit and contingent exposure) and (y) be on terms and conditions acceptable to the

DIP ABL Agent, and (B) approval of the sale of the Sale Assets. Each of such motions to be in form and substance satisfactory to the DIP ABL Agent.

- (ii) On or before September 4, 2024, obtain an order of the Court approving Bid Procedures, such order to be in form and substance reasonably satisfactory to the DIP ABL Agent.

(c) Achieve each of the following milestones (as the same may be extended from time to time with the consent of the DIP ABL Agent (in its sole and absolute discretion), the “Sale Milestones”), in each case on terms and conditions, and subject to documentation in form and substance, reasonably acceptable to the DIP ABL Agent in all respects.

- (i) The Debtors shall solicit liquidation bids (on a fee or equity basis) (the “Liquidation Bids”) for the commencement of a full wind-down and liquidation of the Debtors’ business to be delivered on or before August 28, 2024 at 5:00pm ET.

- (ii) On or before August 29, 2024 at 11:59 pm ET, unless waived by the DIP ABL Agent, the Debtors shall:

1. Enter into a stalking horse agreement, in form and substance satisfactory to the DIP ABL Agent, which shall, among other things, (A) contemplate the sale of the Sale Assets on a going-concern basis and which shall contemplate minimum net cash proceeds in an amount sufficient to repay in full, in combination with the net cash proceeds from the Real Estate Transaction (defined below), the “Obligations” under the Prepetition ABL Agreement and DIP ABL Obligations (including cash collateralization of all letters of credit and contingent exposure) and (B) not be subject to any financing contingency or any other contingencies not approved by the DIP ABL Agent, and the DIP ABL Agent shall be reasonably satisfied that such sale shall be consummated not later than September 30, 2024 (collectively, the “Stalking Horse Agreement”), and file a notice of such Stalking Horse Agreement on or before August 30, 2024 at 12:00 pm ET; or
2. Select the highest or otherwise best Liquidation Bid (with the consent of the DIP ABL Agent, which consent shall not be unreasonably withheld), and, on or before August 30, 2024 at 12:00 pm ET (the “Liquidation Pivot Milestones”), (A) file an emergency motion with the Court (to be heard on September 4, 2024) seeking approval of the winning Liquidation Bid and the commencement of the full wind-down and liquidation of the Debtors’ business; or (B) if the winning bid is the Hilco Agreement (as defined below), provide notice of the Debtors’

intent to amend (if necessary) and/or modify the Hilco Agreement to provide for the wind-down and liquidation of the Debtors' business; *provided*, in the event that a Liquidation Bid or the Hilco Agreement are selected for the full wind-down and liquidation of the Debtors' business (either of (A) or (B), a "Liquidation Pivot"), the Sale Milestones in clauses (iv) through (vii) below shall no longer apply.

- (iii) On or before September 4, 2024, obtain an order of the Court approving the Stalking Horse Agreement, Liquidation Bid or modification of the Hilco Agreement (if applicable), such order to be in form and substance satisfactory to the DIP ABL Agent.
- (iv) On or before September 9, 2024, receive going concern bids for the sale of the Sale Assets, and determine which bids shall be acceptable to the Debtors and the DIP ABL Agent, each of which shall, among other things (i) provide for minimum net cash proceeds in an amount sufficient to repay in full, in combination with the net cash proceeds from the Real Estate Transaction, the "Obligations" under the Prepetition ABL Agreement and DIP ABL Obligations (including cash collateralization of all letters of credit and contingent exposure) and (ii) otherwise be in form and substance acceptable to the DIP ABL Agent.
- (v) On or before September 12, 2024, hold an auction for the sale of the Sale Assets on a going concern basis and declare a winning bidder or bidders thereof, which shall (i) provide for minimum net cash proceeds in an amount sufficient to repay in full, in combination with the net cash proceeds from the Real Estate Transaction, the "Obligations" under the Prepetition ABL Agreement and DIP ABL Obligations (including cash collateralization of all letters of credit and contingent exposure) and (ii) otherwise be in form and substance acceptable to DIP ABL Agent (collectively, the "Winning Bid").
- (vi) On or before September 16, 2024, obtain an order of the Court, in form and substance satisfactory to the DIP ABL Agent, approving the sale of the Sale Assets pursuant to the Winning Bid.
- (vii) On or before September 30, 2024, consummate the sale of the Sale Assets, with sufficient net cash proceeds in an amount sufficient to repay in full, in combination with the net cash proceeds from the Real Estate Transaction, the "Obligations" under the Prepetition ABL Agreement and DIP ABL Obligations (and result in sufficient cash proceeds to permit the cash collateralization of all letters of credit and contingent exposure on or before October 18, 2024) (an "Acceptable Sale").

(d) The Debtors shall achieve each of the following milestones ((as the same may be extended from time to time with the consent of the DIP ABL Agent (in its sole and absolute

discretion), the “Required Store Closure Milestones”), in each case on terms and conditions, and subject to documentation (including, in all cases, forms of all applicable orders) in form and substance, acceptable to the DIP ABL Agent in all respects:

- (i) Prior to the Petition Date, the Debtors shall have commenced, and shall thereafter pursue, the Required Store Closing Sales (as defined below).
- (ii) On or before August 14, 2024, the Debtors shall have obtained an order from the Court to assume the agency agreement, executed on August 8, 2024, between the Debtors and Hilco Merchant Resources, LLC (“Hilco” and, such agreement, the “Hilco Agreement”), which provides for Hilco to serve as the Debtors’ agent in conducting liquidation sales at 94 of the Debtors’ stores (the closing of such stores, the “Required Store Closing Sales”).
- (iii) On or before September 28, 2024, the Debtors shall have completed the Required Store Closing Sales, pursuant to the terms of the Hilco Agreement or, in the event of any conflict of terms, the final Court order approving the assumption of the Hilco Agreement.
- (iv) If the Liquidation Pivot has occurred, on or before ninety-three (93) days from the Liquidation Pivot, which date shall be November 30, 2024 in the event the Liquidation Pivot results from the Debtors’ failure to enter into a Stalking Horse Agreement on or before August 29, 2024, the Debtors shall have completed the closing of all remaining stores of the Debtors’ business other than those stores referenced in clause (d)(ii) above.

(e) The Debtors shall achieve each of the following milestones ((as the same may be extended from time to time with the consent of the DIP ABL Agent (in its sole and absolute discretion), the “Real Estate Milestones”), in each case on terms and conditions, and subject to documentation (including, in all cases, forms of all applicable orders) in form and substance, acceptable to the DIP ABL Agent in all respects:

- (i) On or prior to September 7, 2024, the Debtors shall have entered into a binding purchase and sale agreement, or other similar binding agreement, with respect to the sale by the Debtors of the Owned Real Estate (as defined in the DIP ABL Agreement), which shall be in form and substance acceptable to the DIP ABL Agent (the “Real Estate Transaction”).
- (ii) On or prior to September 7, 2024, the Debtors shall have filed a motion (in form and substance acceptable to the DIP ABL Agent), seeking approval of the Real Estate Transaction;
- (iii) On or prior to September 16, 2024, the Debtors shall have obtained an order of the Court approving the Real Estate Transaction, such order to be in form and substance acceptable to the DIP ABL Agent;
- (iv) On or prior to September 30, 2024, the Debtors shall consummate the Real Estate Transaction.

The Debtors shall provide the DIP ABL Agent with any information or materials reasonably requested by the DIP ABL Agent in connection with the Debtors' progress on achieving any Case Milestone, subject to all applicable privileges and any confidentiality restrictions with third parties.