

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

Exactech, Inc., *et al.*,¹

Debtors.

Chapter 11

Case No. 24- 12441 (LSS)

(Jointly Administered)

Re: Docket No. 16

**FINAL ORDER (I) AUTHORIZING
THE DEBTORS TO (A) OBTAIN POSTPETITION
FINANCING, (B) USE CASH COLLATERAL, AND
(C) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE
EXPENSE CLAIMS, (II) GRANTING ADEQUATE PROTECTION
TO CERTAIN PREPETITION SECURED PARTIES, (III) MODIFYING
THE AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “DIP Motion”)² of Exactech, Inc. (“Exactech”) and its affiliated debtors and debtors in possession (each, a “Debtor” and collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), pursuant to sections 105, 361, 362, 363, 364, 503, 506, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and Local Rules 4001-2(a), seeking entry of the Interim Order (as defined below) (and a final order (this “Final Order” and, together with the Interim Order, the “DIP Orders”) among other things:

- (i) authorizing Exactech, Inc. (the “Borrower”) to obtain postpetition financing (“DIP Financing”) pursuant to a secured, superpriority, priming debtor in possession financing facility (the “DIP Facility”) subject to the terms and conditions set forth

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Osteon Holdings, Inc. (7042); Osteon Intermediate Holdings I, Inc. (7778); Osteon Intermediate Holdings II, Inc. (1292); Exactech, Inc. (3930); and XpandOrtho, Inc. (4250). The Debtors’ service address is 2320 NW 66th Court, Gainesville, Florida 32653.

² Capitalized terms used but not defined herein are given the meanings ascribed to such terms in the DIP Credit Agreement or in the *Debtors’ Motion for Entry of an Order Approving (I) Bidding Procedures, the Sale Timeline, and the Form and Manner of Noticing Thereof; (II) the Debtors Entry into and Performance Under the Stalking Horse APA; (III) Assumption and Assignment Procedures; and (IV) Granting Related Relief* [Docket No. 145], as applicable.

in the credit agreement attached to the Interim Order as **Exhibit 1** (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time in accordance with the terms therein, the “DIP Credit Agreement”) by and among the Borrower, the DIP Guarantors (as defined below), the financial institutions or other entities from time to time party thereto as “Lenders” (the “DIP Lenders”), and GLAS Trust Company LLC, as administrative agent and collateral agent (in such capacities, together with its successors and permitted assigns, the “DIP Agent” and, together with the DIP Lenders, the “DIP Secured Parties”), consisting of a superpriority multi-draw term loan in an aggregate principal amount of up to \$85 million, of which up to \$35 million was made available in one interim draw immediately upon entry of the Interim Order (subject to certain conditions) (the “Interim Loans”) and the remainder will be available in one final draw upon entry of this Final Order (subject to certain conditions) (the “Final Loans”, together with the Interim Loans, the “DIP Loans”, and the commitment of the DIP Lenders to make the DIP Loans, the “DIP Commitments”), which Final Loans shall be funded into the DIP Funding Account³ and may be withdrawn from the DIP Funding Account on multiple dates subject to the terms and conditions in the DIP Credit Agreement;

- (ii) authorizing the Borrower to incur, and the other Debtors to jointly and severally guarantee (such Debtors, in this capacity, the “DIP Guarantors” and, together with the Borrower, the “Loan Parties”) the DIP Loans, and all extensions of credit, financial accommodations, reimbursement obligations, fees and premiums (including, without limitation, commitment fees or premiums and administrative agency fees), costs, expenses, and other liabilities and obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable under the DIP Documents (as defined below) (collectively, the “DIP Obligations”);
- (iii) authorizing the Loan Parties to execute, deliver, and perform their respective obligations under the DIP Credit Agreement and all other documents and instruments that may be reasonably requested by the DIP Secured Parties in connection with the DIP Facility (in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof, the “DIP Documents”) as may be necessary, appropriate, or desirable in connection therewith;
- (iv) granting to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, allowed superpriority claims pursuant to section 364(c)(1) of the Bankruptcy Code;
- (v) granting to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected security interests and

³ “DIP Funding Account” means the segregated deposit account in the name of GLAS Americas LLC (the “Beneficiary Agent”) acting for the benefit of the Borrower pursuant to the Beneficiary Account Agreement among the Borrower, the Beneficiary Agent and the DIP Agent (or such other segregated account established in a manner reasonably satisfactory to the DIP Agent), in which the net proceeds of the Final Loans shall be deposited and held and used solely for the purposes set forth in the DIP Credit Agreement; it being understood that this definition shall amend and supersede the definition of “DIP Funding Account” set forth in the DIP Credit Agreement.

liens pursuant to sections 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code on the DIP Collateral (as defined below), on the terms described herein;

- (vi) authorizing the DIP Agent, acting at the direction of the Required Lenders, to implement the terms of the DIP Orders;
- (vii) waiving (a) the Debtors' right to surcharge the DIP Collateral and the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;
- (viii) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to the Prepetition Collateral for the benefit of any party other than the Prepetition First Lien Parties (as defined below);
- (ix) authorizing the Debtors to use proceeds of the DIP Facility and Cash Collateral (as defined below) in accordance with the DIP Documents, including the repayment of the Bridge Loans (as defined below);
- (x) authorizing the Debtors to pay the DIP Obligations as they become due and payable in accordance with the DIP Documents;
- (xi) subject to the restrictions and conditions set forth in the DIP Documents and the DIP Orders, authorizing the Debtors to use Prepetition Collateral and provide adequate protection to the Prepetition Secured Parties for diminution in value, if any, of their respective interests in the applicable Prepetition Collateral (including Cash Collateral) as of the Petition Date to the extent provided by the Bankruptcy Code (such diminution, the "Diminution in Value");
- (xii) vacating and/or modifying the automatic stay solely to the extent necessary to permit the Debtors, the DIP Secured Parties, and the Prepetition Secured Parties to implement and effectuate the terms and provisions of the DIP Orders and the DIP Documents; and
- (xiii) waiving any applicable stay (including under Bankruptcy Rule 6004) solely to the extent necessary to implement and effectuate this Final Order.

This Court having considered the relief requested in the DIP Motion, the exhibits attached thereto, the available DIP Documents, the Chopra Declaration, the First Day Declaration, and the evidence submitted and arguments of counsel made at the interim hearing held on the DIP Motion on October 30, 2024 (the "Interim Hearing") and at the final hearing on the DIP Motion held on December 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), and all applicable Local Rules; and

it appearing that no other or further notice is necessary; and the Court having entered the *Interim Order (I) Authorizing The Debtors To (A) Obtain Postpetition Financing, (B) Use Cash Collateral, And (C) Grant Liens And Superpriority Administrative Expense Claims, (II) Granting Adequate Protection To Certain Prepetition Secured Parties, (III) Modifying The Automatic Stay, (IV) Scheduling A Final Hearing, And (V) Granting Related Relief* [Docket No. 100] (the “Interim Order”); and the Final Hearing to consider the relief requested in the DIP Motion having been held and concluded; and all objections and reservations of rights, if any, to the final relief requested in the DIP Motion having been withdrawn, resolved or overruled on the merits by this Court; and it appearing that approval of the final relief requested in the DIP Motion is necessary to avoid irreparable harm to the Debtors and their estates, otherwise is fair and reasonable, in the best interests of the Debtors and their estates, and essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ estates; and it appearing that the Loan Parties’ entry into the DIP Documents is a sound and prudent exercise of the Debtors’ business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FINAL HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:⁴

A. *Petition Date.* On October 29, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court.

⁴ 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.

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

C. *Jurisdiction and Venue.* This Court has jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)-(b) and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. Consideration of the DIP Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). This Court may enter a final order approving the relief sought in the DIP Motion consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(b), 363(c), 363(e), 363(m), 364(c), 364(d)(1), 364(e), 503 and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and Local Rule 4001-2.

D. *Committee Formation.* On November 18, 2024, the Office of 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”).

E. *Notice.* The Final Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Notice of the DIP Motion and relief requested thereby and granted in this Final Order has been provided in accordance with the Bankruptcy Code, Bankruptcy Rules and Local Rules, and no other or further notice was required under the circumstances. The final relief granted herein is necessary to avoid immediate harm to the Debtors and their estates.

F. *Cash Collateral.* As used herein, the term “Cash Collateral” shall mean all of the Debtors’ cash, to the extent such cash is held in deposit accounts subject to duly executed deposit account control agreements, that constitutes “proceeds” of collateral subject to a perfected lien, or that otherwise constitutes or will constitute “cash collateral” of any of the Prepetition Secured Parties or DIP Secured Parties (including, for the avoidance of doubt, cash held in the DIP Funding Account) within the meaning of section 363(a) of the Bankruptcy Code.

G. *Debtors’ Stipulations.* Subject to the provisions and limitations contained in clause (viii) and paragraph 21 hereof, upon entry of the Interim Order, and pursuant to this Final Order, the Debtors admit, stipulate and agree as follows as to each of (i) through (xi) below:

(i) *Prepetition First Lien Credit Agreement.* Pursuant to that certain Credit Agreement, dated as of February 14, 2018 (as amended by that certain Amendment No. 1 to Credit Agreement, dated as of December 17, 2019, that certain Amendment No. 2 to Credit Agreement, dated as of January 19, 2022, that certain Amendment No. 3 to Credit Agreement, dated as of March 3, 2023, and that certain Amendment No. 4 to Credit Agreement, dated as of October 9, 2024 (“Prepetition Amendment No. 4”), and as further amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Prepetition First Lien Credit Agreement” and, collectively with the other “Loan Documents” (as defined in the Prepetition First Lien Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, including that certain Forbearance Agreement dated as of September 9, 2024 (as amended), that certain Guaranty, dated as of February 14, 2018, and that certain Pledge and Security Agreement, dated as of February 14, 2018 (the “Prepetition First Lien Security Agreement”), each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Prepetition First Lien Loan

Documents”), by and among (a) Exactech, as borrower, (b) Osteon Intermediate Holdings II, Inc. (“Holdings”) as holdings and guarantor and (c) XpandOrtho, Inc. as subsidiary guarantor (together with Exactech, Holdings, and any other guarantors or grantors under the Prepetition First Lien Loan Documents, the “Prepetition First Lien Loan Parties”), (d) GLAS USA LLC, as successor administrative agent and collateral agent to Goldman Sachs Bank USA (in such capacities, the “Prepetition First Lien Agent”), (e) Goldman Sachs Bank USA, as issuing bank, and swingline lender, and (f) the lenders from time to time party thereto (the “Prepetition First Lien Lenders” and, together with the Prepetition First Lien Agent, the “Prepetition First Lien Parties”), the Prepetition First Lien Loan Parties incurred Obligations (as defined in the Prepetition First Lien Credit Agreement, and together with all accrued but unpaid interest, fees, expenses, indemnification and other obligations due thereon in accordance with the terms of the Prepetition First Lien Credit Agreement and Prepetition First Lien Loan Documents, the “Prepetition First Lien Obligations”);

(ii) *Prepetition Sidecar Credit Agreement.* Pursuant to that certain Credit Agreement, dated as of September 19, 2023 (as amended by that certain Amendment No. 1 to Credit Agreement, dated as of April 23, 2024, and as further amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Prepetition Sidecar Credit Agreement” and, collectively with the other “Loan Documents” (as defined in the Prepetition Sidecar Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, including that certain Guaranty dated as of September 19, 2023, and that certain Pledge and Security Agreement, dated as of September 19, 2023, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Prepetition Sidecar Loan Documents” and, together with the Prepetition

First Lien Loan Documents, the “Prepetition Loan Documents”), by and among (a) Exactech, as borrower, (b) Holdings, as holdings and guarantor (together with Exactech, XpandOrtho, Inc., and any other guarantors or grantors under the Prepetition Sidecar Loan Documents, the “Prepetition Sidecar Facility Parties” and, together with the Prepetition First Lien Loan Parties, the “Prepetition Loan Parties”), (c) TPG VII Osteon Holdings, LP, as administrative agent and collateral agent (in such capacities, the “Prepetition Sidecar Agent” and, together with the Prepetition First Lien Agent, the “Prepetition Agents”), and (d) the lenders from time to time party thereto (the “Prepetition Sidecar Lenders” and, together with the Prepetition Sidecar Agent, the “Prepetition Sidecar Secured Parties” and, together with the Prepetition First Lien Parties, the “Prepetition Secured Parties”), the Prepetition Sidecar Facility Parties incurred Obligations (as defined in the Prepetition Sidecar Credit Agreement, and together with all accrued but unpaid interest, fees, expenses, indemnification and other obligations due thereon in accordance with the terms of the Prepetition Sidecar Credit Agreement and Prepetition Sidecar Loan Documents, the “Prepetition Sidecar Secured Obligations” and, together with the Prepetition First Lien Obligations, the “Prepetition Secured Obligations”).

(iii) *Prepetition First Lien Obligations.* As of the Petition Date, the Prepetition First Lien Loan Parties were justly and lawfully indebted and liable to the Prepetition First Lien Parties without defense, challenge, objection, claim, counterclaim, or offset of any kind, for Prepetition First Lien Obligations in the aggregate principal amount of not less than \$309,997,779.19 (including \$6,500,000 incurred pursuant to the Prepetition Amendment No. 4 (the “Bridge Loans”)), plus accrued and unpaid interest thereon and any fees, premium, expenses and disbursements (including attorneys’, accountants’, appraisers’, auditors’, and financial

advisors' fees), costs, charges, indemnities, and other Prepetition First Lien Obligations incurred under the Prepetition First Lien Loan Documents;

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

(v) *Validity, Perfection and Priority of Prepetition First Liens.* As of the Petition Date, pursuant to the Prepetition First Lien Loan Documents, the Prepetition First Lien Obligations were secured by a first lien security interest in and continuing lien on (the "Prepetition First Liens") and, together with any liens securing or purporting to secure obligations under the Prepetition Sidecar Loan Documents, the "Prepetition Liens") the Debtors' interest in certain collateral to the extent provided by the Prepetition First Lien Loan Documents (the "Prepetition First Lien Collateral") and, together with the Debtors' interest in any collateral secured or purported to be secured by liens under the Prepetition Sidecar Loan Documents, the "Prepetition Collateral" and together with the DIP Collateral, the "Collateral"), junior, subject and subordinate only to any senior liens to the extent such senior liens are (a) valid, perfected, and non-avoidable on the Petition Date or (b) valid and non-avoidable liens in existence on the Petition Date that are

perfected subsequent to the Petition Date in accordance with section 546(b) of the Bankruptcy Code (the “Prepetition First Lien Prior Liens” and, together with similar liens with respect to the Prepetition Sidecar Loan Documents, the “Prepetition Prior Liens”);

(vi) *Equal Priority Intercreditor Agreement.* Pursuant to (and to the extent set forth in) that certain Equal Priority Intercreditor Agreement, dated as of September 19, 2023 (as amended by that certain Amendment No. 1 to Equal Priority Intercreditor Agreement, dated as of October 9, 2024, and as further amended, restated, amended and restated, supplemented, waived, or otherwise modified prior to the Petition Date, the “Equal Priority Intercreditor Agreement”), by and among Exactech, Holdings, the Prepetition First Lien Agent (for itself and on behalf of the Prepetition First Lien Parties), and the Prepetition Sidecar Agent (for itself and on behalf of the Prepetition Sidecar Secured Parties), the parties thereto agreed, among other things, (a) that the proceeds of any sale, collection, or other liquidation of any Shared Collateral (as defined therein) shall be distributed first to the Bridge Loans and thereafter, ratably in respect of the Prepetition First Lien Obligations (other than the Bridge Loans) and Prepetition Sidecar Secured Obligations, (b) to consent to, or not oppose, certain actions taken, or rights asserted, by the Prepetition First Lien Parties or Prepetition Sidecar Secured Parties, as applicable, including with respect to the Bridge Loans, (c) to refrain from taking certain actions with respect to the Shared Collateral (as defined therein), and (d) that, pursuant to section 510 of the Bankruptcy Code, the Equal Priority Intercreditor Agreement shall remain in full force and effect;

(vii) *Waiver of Challenge with Respect to Prepetition First Liens.* None of the Prepetition First Liens are subject to any contest, attack, rejection, recovery, reduction, defense, counterclaim, subordination, recharacterization, avoidance or other cause of action (including any avoidance actions under Chapter 5 of the Bankruptcy Code), choses in action or other challenge

of any nature under the Bankruptcy Code or any applicable non-bankruptcy law; *provided*, that the Debtors make no stipulation, and reserve all rights with respect to the Debtor Reserved Claims (as defined below);

(viii) Notwithstanding anything herein or in the DIP Documents to the contrary, the Debtors' rights are fully preserved with respect to any claims or causes of action relating to (a) with respect to the Prepetition First Lien Collateral, the perfection of liens granted or asserted with respect to (i) intellectual and similar property of every kind and nature now owned by the Debtors, including inventions, designs, patents, copyrights, trademarks, trade secrets, confidential or proprietary technical and business information, knowhow, show how or other data or information, the intellectual property rights in software and databases and related documentation and all additions, improvements and accessions to, and books and records describing any of the foregoing, in each case registered or arising under non-U.S. law, except to the extent perfected by filing of a Uniform Commercial Code financing statement, (ii) commercial tort claims that have not been specified in accordance with the Prepetition First Lien Security Agreement, (iii) proceeds of the Debtors' insurance policies, except to the extent that (x) such proceeds would constitute "proceeds" under (and as defined in) the Uniform Commercial Code or (y) such proceeds have been perfected in accordance with state law by delivery of endorsements to such insurance policies, naming the Prepetition First Lien Agent as additional insured or loss payee, as applicable, or otherwise, and (iv) each of the Debtors' deposit accounts, except to the extent the Prepetition First Lien Agent has "control" under (and as defined in) the Uniform Commercial Code of such deposit accounts, (b) the Prepetition Sidecar Facility, (c) any determination on the value of the Prepetition Collateral securing the Prepetition First Lien Obligations as of the Petition Date or any other time of determination, and (d) the argument that, to the extent any cash payment of interest, fees, or

expenses paid on account of any Prepetition First Lien Obligation is not allowed, such payment should be recharacterized and applied as repayment on account of the secured portion of any Prepetition First Lien Obligation (each of the foregoing clauses (a) through (d), the “Debtor Reserved Claims”);

(ix) *No Control.* None of the Prepetition First Lien Parties control (or have in the past controlled) any of the Debtors or their respective properties or operations, have authority to determine the manner in which any Debtor’s operations are conducted or are control persons or insiders of any Debtor by virtue of any actions taken with respect to, in connection with, related to or arising from any Prepetition First Lien Loan Documents; and

(x) *No Claims or Causes of Action.* Subject to paragraph G(viii) hereof, no claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition First Lien Parties and each of their respective Representatives (as defined below), in each case, in their capacity as such, under or relating to any agreements by and among the Debtors and any Prepetition First Lien Party that is in existence as of the Petition Date;

(xi) *Release.* Without limiting the Debtors’ rights with respect to the Debtor Reserved Claims and, for the avoidance of doubt, subject to the review of the special committee of the board of directors of Debtors Osteon Intermediate Holdings II, Inc., Exactech, Inc., and XpandOrtho, Inc. (the “Special Committee”) with respect to the financing of the Prepetition Sidecar Facility, effective as of the date of entry of the Interim Order (subject to the provisions of paragraph 21 hereof), each of the Debtors and each of their estates, on its own behalf and on behalf of its and their respective predecessors, successors, and heirs (each, solely in their capacities as such) hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition First Lien Parties and each of their respective Representatives (each in their

capacity as such) (collectively, the “Released Parties”), 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 First Lien Loan Documents, Prepetition First Liens, Prepetition First Lien Obligations, the negotiation thereof and the transactions and agreements reflected thereby, that the Debtors or their estates 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, except as a result of bad faith, willful misconduct, fraud, or gross negligence.

H. *Findings Regarding DIP Financing and Use of Cash Collateral.*

(i) Good and sufficient cause has been shown for the entry of this Final Order and for authorization of the Loan Parties to obtain financing pursuant to the DIP Documents, to use the Cash Collateral of the Prepetition Secured Parties, and to authorize the provisions of adequate protection.

(ii) As set forth in the Chopra Declaration and the First Day Declaration, the Debtors have demonstrated that incurring the DIP Financing and the use of Cash Collateral is necessary to avoid irreparable harm to the Debtors’ estates. The incurrence of the DIP Financing and use of Cash Collateral is necessary to, among other things, fund the Debtors’ efforts and activities essential to the viability of these Chapter 11 Cases, permit the orderly continuation of the operation of their businesses, maintain business relationships with vendors, suppliers, and

customers, make payroll, satisfy other working capital and operational needs, and fund administrative expenses of these Chapter 11 Cases, and, but for the incurrence of the DIP Financing and the use of Cash Collateral, the Debtors would likely be obliged to liquidate their estates on an accelerated basis. The ability of the Debtors to obtain sufficient working capital and liquidity under the DIP Documents and other financial accommodations provided under the DIP Documents, as well as through the use of Cash Collateral, is therefore necessary for the avoidance of such immediate irreparable harm to the Debtors' estates and to permit the Debtors to preserve and maintain any going concern value. The Debtors' use of Cash Collateral alone would be insufficient to meet the Debtors' cash disbursement needs during the period of effectiveness of this Final Order. The Debtors and their Estates will, instead, suffer irreparable harm if immediate financing is not obtained and permission to use Cash Collateral is not granted. The terms of the DIP Facility are fair and reasonable, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The Adequate Protection provided in this Final Order and the other benefits and privileges contained herein are consistent with, and authorized by, the Bankruptcy Code.

(iii) As set forth in the Chopra Declaration and the First Day Declaration, the Debtors are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense or secured financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents. The Debtors are also unable to obtain secured credit without granting to the DIP Secured Parties the DIP Liens and the DIP Superpriority Claims (each as defined below) and incurring the Adequate Protection Obligations (as defined herein) on the terms and subject to the conditions set forth in this Final Order and in the DIP Documents.

(iv) The Debtors continue to collect cash, rents, income, offspring, products, proceeds, and profits generated by the Prepetition Collateral and acquire equipment, inventory and other personal property, which may constitute the Prepetition Secured Parties' Cash Collateral. The Debtors desire and need to use the Prepetition Secured Parties' Cash Collateral for general corporate purposes.

(v) Based on the representations and arguments made by the DIP Motion, and based on the Chopra Declaration, the First Day Declaration and the record and argument presented to the Court at the Interim Hearing and the Final Hearing, the terms of the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 16 of this Final Order (collectively, the "Adequate Protection"), and the terms on which the Debtors may continue to use Cash Collateral pursuant to this Final Order and the DIP Documents are consistent with the Bankruptcy Code are fair and reasonable, and reflect the Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties under the circumstances.

(vi) The DIP Financing and the Debtors' use of Cash Collateral to fund the administration of the Debtors' estates, the continued operation of their businesses, repayment of the Bridge Loans (which Bridge Loans shall remain subject to the provisions of paragraph 21 hereof), and the Sale Process (as defined in the DIP Motion) for the Debtors' assets and the incurrence and payment of any Adequate Protection Obligations, including the granting of the Adequate Protection Liens and the 507(b) Claims, in accordance with the terms hereof, to the Prepetition Secured Parties (and their successors and assigns) pursuant to this Final Order, the DIP Credit Agreement, and the DIP Facility, have been negotiated in good faith and at arm's length among the Loan Parties, the DIP Secured Parties, and the Prepetition First Lien Parties (each of

whom acted in good faith in negotiating such documents), and all of the loans and other financial accommodations extended by the DIP Secured Parties to the Loan Parties under, in respect of, or in connection with, the DIP Financing and the DIP Documents (including the granting of Adequate Protection), shall be deemed to have been extended by the DIP Secured Parties in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Secured Parties (and their respective successors and assigns) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code.

(vii) The Prepetition First Lien Parties have acted in good faith regarding the DIP Financing, the Debtors' continued use of Cash Collateral, and the granting of Adequate Protection Liens, and the Prepetition First Lien Parties (and their respective successors and assigns) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code.

(viii) The Prepetition First Lien Parties and the DIP Secured Parties have acted in good faith in connection with the negotiation, implementation, and documentation, and approvals contemplated by this Final Order, the DIP Facility, and the use of Cash Collateral, including in respect of the granting of the DIP Liens and the Adequate Protection Liens, any challenges or objections to the DIP Facility or the use of Collateral (including Cash Collateral), the DIP Documents, and all other documents related to and all transactions contemplated by the foregoing. Accordingly, without limitation to any other right to indemnification, the DIP Secured Parties shall be and hereby are indemnified (as applicable) as provided in the DIP Documents, including, without limitation, section 10.05 of the DIP Credit Agreement.

(ix) The Prepetition Secured Parties are entitled to the Adequate Protection for any Diminution in Value as and to the extent set forth herein pursuant to sections 361, 362, 363

and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed Adequate Protection are fair and reasonable.

(x) The requisite Prepetition Secured Parties have consented to the use of Cash Collateral, the priming of the Prepetition Liens on the Prepetition Collateral by the DIP Liens, and the Adequate Protection provided herein, in each case on the terms set forth in this Final Order and the DIP Documents; *provided*, that nothing in this Final Order or the DIP Documents shall (a) be construed as the affirmative consent by any of the Prepetition First Lien Parties for the use of Cash Collateral other than on the terms set forth in this Final Order and the DIP Documents and in the context of the DIP Financing authorized by this Final Order, (b) be construed as a consent by any party to the terms of any other financing or any other lien encumbering Prepetition Collateral (whether senior or junior) other than as contemplated by this Final Order, or (c) prejudice, limit, or otherwise impair the rights of any Prepetition Secured Party to seek new, different, or additional adequate protection or assert any other right, and the rights of any other party in interest, including the Loan Parties, to object to such relief are hereby preserved, subject to the Equal Priority Intercreditor Agreement (as defined herein). To the extent that any cash payment of interest, fees, and expenses as Adequate Protection to the Prepetition Secured Parties is determined by a final order of the Court to be not allowed under section 506(b) of the Bankruptcy Code and not allowed on any other basis, all parties' rights are fully preserved to argue that such payments should be recharacterized and applied as payments of principal toward the applicable secured claim owed under the applicable Prepetition Loan Document.

(xi) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties and the Committee an initial budget (the "Initial DIP Budget"), attached to the Interim Order as **Schedule 1**. The Initial DIP Budget reflects, among other things, the Debtors' collections,

total operating disbursements, operating cash flow, net cash flow and liquidity for each calendar week covered thereby. The Initial DIP Budget may be modified, amended, extended, and updated from time to time in accordance with the DIP Documents. Each subsequent budget shall modify, replace, supplement or supersede, as applicable, the Initial DIP Budget for the periods covered thereby upon approval of the Required Lenders as provided in the DIP Credit Agreement (the Initial DIP Budget and each subsequent approved budget, an “Approved Budget”). The Required Lenders shall be deemed to approve any updated Budget, unless the Required Lenders (or the Ad Hoc Group Advisors) shall object in writing within five (5) business days after receipt of such proposed budget. The Debtors believe that the Initial DIP Budget is reasonable under the circumstances. In determining to extend postpetition financing under the DIP Documents and the DIP Orders, the DIP Secured Parties are relying, in part, upon the Loan Parties’ undertaking to use Cash Collateral and proceeds of the DIP Facility in a manner consistent with the Approved Budget (including with respect to permitted variances in such budget(s)), it being acknowledged and agreed that any Approved Budget shall not limit nor be deemed to limit the Carve-Out or the Debtors’ obligation to pay or reimburse any obligations otherwise entitled to priority under the Carve-Out.

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

(xiii) The refinancing of the Bridge Loans with the proceeds of the DIP Facility reflects the Loan Parties’ exercise of prudent business judgment consistent with their fiduciary duties. The DIP Lenders would not have consented to extend the DIP Loans and other

accommodations in the DIP Facility and Restructuring Support Agreement to the Debtors without the refinancing of the Bridge Loans with the proceeds of the DIP Facility. The refinancing of the Bridge Loans with the proceeds of the DIP Facility is consideration for the agreement of the DIP Lenders to extend the DIP Loans.

I. *Prepetition Prior Liens; Continuation of Prepetition Liens.* Nothing herein constitutes a finding or ruling by this Court that any alleged Prepetition Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party in interest, including, but not limited to, the Debtors, the DIP Secured Parties, or the other Prepetition Secured Parties, to challenge the validity, priority, enforceability, seniority, avoidability, perfection, or extent of any alleged Prepetition Prior Lien. For the avoidance of doubt, the right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code does not constitute a Prepetition Prior Lien, and such right is expressly subject to the DIP Liens and Prepetition Liens. The Prepetition Liens and the DIP Liens are continuing liens and the Collateral is and will continue to be encumbered by such liens.

J. *Automatic Stay.* For all Adequate Protection and stay relief purposes throughout these cases, the Prepetition Secured Parties shall be deemed to have requested relief from the automatic stay and Adequate Protection as of the Petition Date. For the avoidance of doubt, such request will survive termination of this Final Order.

K. Subject in all respects to the terms of this paragraph K, the Ad Hoc Group agrees that upon the Closing of the Stalking Horse Bid (in the form as of the date hereof or otherwise in a substantially similar form acceptable to the Ad Hoc Group), it will not include (1) any estate claims or causes of action against any current or former Insiders or Affiliates of the Debtors (“Insider Causes of Action”), other than individuals employed by the Debtors as of the Closing of

the Stalking Horse Bid (“Current Employees”) and (2) any Insider Causes of Action against any Current Employees that are either (i) determined by the Court to be “plausible” causes of action based on a motion to dismiss standard or (ii) agreed to be “plausible” causes of action as between the Committee and the Stalking Horse Purchaser, which agreement shall not be binding on any other party. The Committee and the Stalking Horse Purchaser will work in good faith regarding the parameters respecting the timeline and mechanics for the process described in subsection (2) of the immediately preceding sentence with any disagreement between them to be submitted to the Bankruptcy Court for resolution. The foregoing agreement is conditioned on the Committee not objecting to entry of the order approving the Sale to the Stalking Horse Purchaser as set forth in the current form of the Stalking Horse Bid (or in a form otherwise acceptable to the Ad Hoc Group), including, among other things, the purchase of the Debtors’ interests in JointMedica, the supplemental notice program, and the free-and-clear provisions of such order (any such objection to entry of the order approving the Stalking Horse Bid, a “Prohibited Objection”); *provided* that the Committee may object solely with respect to the Debtors’ conduct during the Sale Process or the Auction as being inconsistent with the Bidding Procedures approved by the Court (the “Conduct Objection”), with all parties’ rights with respect to any such objection preserved and not in any way affected by this paragraph K. If the Committee raises a Prohibited Objection (other than a Conduct Objection), the agreement set forth in this paragraph K to not include the Insider Causes of Action as part of the Stalking Horse Bid upon Closing shall be null and void and all such Insider Causes of Action shall be part of the Stalking Horse Bid (subject to entry of the order by the Court approving the Stalking Horse Bid, with the Committee’s and all other parties’ rights reserved respecting a final sale hearing to approve the Stalking Horse Bid, including the right to object to the sale of the Insider Causes of Action in the Stalking Horse Bid). Nothing in this

paragraph K (i) prohibits, restricts, limits, or otherwise alters the Debtors' or any other party in interests' rights with respect to the Insider Causes of Action or (ii) changes or otherwise alters the nature or extent of the DIP Liens or the Ad Hoc Group's rights, remedies, and obligations under the DIP Documents, the Restructuring Support Agreement, or the Stalking Horse APA.

L. Based upon the DIP Motion, the foregoing findings and conclusions, and the overall record before this Court, and after due consideration, and good and sufficient cause appearing thereof:

IT IS HEREBY ORDERED THAT:

1. *Motion Granted.* The DIP Motion is granted on a final basis on the terms and conditions set forth in this Final Order. The DIP Facility, in an amount up to the Final Loans, is hereby authorized and approved to the extent set forth herein. Any and all objections to entry of this Final Order to the extent not withdrawn, waived, settled, or resolved, and all reservations of rights included therein, are hereby overruled on the merits. This Final Order shall become effective immediately upon its entry.

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

(a) The Loan Parties were authorized, effective upon entry of the Interim Order, and hereby are authorized, to execute, deliver, enter into, and perform all of their obligations under the DIP Documents and perform such other acts as may be necessary, appropriate, or desirable in connection therewith. Effective upon entry of the Interim Order, the Borrower was authorized, and hereby is authorized, to borrow the DIP Loans pursuant to the DIP Documents, and the DIP Guarantors were and hereby are authorized to guarantee the Borrower's obligations under the DIP Documents, subject to any limitations set forth in the DIP Documents. The proceeds of the DIP Loans shall be used for all purposes permitted under the DIP Documents and the DIP Orders,

including the repayment of the Bridge Loans (which Bridge Loans shall remain subject to the provisions of paragraph 21 hereof), and, subject to and in accordance with the applicable Approved Budget (subject to permitted variances), it being acknowledged and agreed that any Approved Budget shall not limit nor be deemed to limit the Carve-Out or the Debtors' obligations to pay or reimburse any obligations otherwise entitled to priority under the Carve-Out.

(b) Following entry of the Interim Order, the Debtors were, and hereby are, authorized to, and shall, use the proceeds of the DIP Facility to (among other things) repay the Bridge Loans; provided that that Bridge Loans shall remain subject to the provisions of paragraph 21 hereof.

(c) In furtherance of the foregoing and without further approval of this Court, each Loan Party is authorized to perform all acts, to make, execute, and deliver all instruments, certificates, agreements, charges, deeds and documents, execute or record pledge and security agreements, mortgages, financing statements and other similar documents, if any, and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable in connection with the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents and any collateral documents contemplated thereby;

(ii) the execution and delivery of, and performance under, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the Loan Parties and the Required Lenders may agree, it being understood that no further approval of this Court shall be required for any such amendments, waivers, consents or other modifications that do not materially modify the DIP Documents; *provided*, that for the avoidance of doubt, updates, modifications, and supplements to each Approved Budget or

amendments to the milestones shall not require any further approval of this Court. Any non-material modification or amendment to the DIP Documents shall be provided (either via e-mail if such parties have consented to email service or otherwise via regular mail) to the U.S. Trustee, counsel to the Committee, and any parties requesting notice pursuant to Bankruptcy Rule 2002 and be filed with the Court. If no objections are filed within five (5) business days of the filing and service of the non-material modification, the Debtors may submit a proposed order to this Court under certification of counsel approving such non-material modification. If an objection is timely filed and served and not resolved, this Court shall hold a hearing on the non-material modification. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a non-material modification on an expedited basis;

(iii) the non-refundable payment to any of the DIP Secured Parties of any reasonable and documented fees in connection with the DIP Facility, including the Backstop Commitment Premium, the Commitment Premium, the Exit Premium, the Maturity Date Extension Premium, and the Agency and Fronting fees (including, subject to the review procedures in paragraph 20 of this Final Order, the reasonable and documented fees and out-of-pocket expenses of professionals retained by, or on behalf of, any of the DIP Secured Parties (in the case of such fees and expenses, limited to those of Milbank LLP, Richards, Layton & Finger, P.A., Evercore, Inc., and any other advisors identified to and agreed upon by the Debtors (e-mail to Ropes & Gray LLP being sufficient) prior to, on, or after, the Petition Date (such agreement not to be unreasonably withheld, conditioned, or delayed) (collectively, the "DIP Fees and Expenses")), in each case, as provided in the DIP Documents, without the need to file retention or fee applications; the payment of the foregoing amounts shall be irrevocable, and were approved upon entry of the Interim Order, whether the obligation for any such payment arose before or after

the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance, disallowance, impairment, or other claim, cause of action or other challenge of any nature under the Bankruptcy Code or applicable non-bankruptcy law; *provided*, that, pursuant to this Final Order and the other DIP Documents, the Backstop Commitment Premium, the Commitment Premium, the Exit Premium, and the Maturity Date Extension Premium shall apply to the full amount of the DIP Commitments or outstanding aggregate principal amount of the DIP Loans, as applicable, in accordance with the DIP Credit Agreement; and

(iv) the repayment of the Bridge Loans (which Bridge Loans shall remain subject to the provisions of paragraph 21 hereof) and the performance of such other and further acts as may be necessary, desirable or appropriate in connection therewith, in each case in accordance with the terms of the applicable DIP Documents.

3. *DIP Obligations.* As approved upon entry of the Interim Order and as set forth herein, upon execution and delivery of the DIP Documents, the DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the Loan Parties, enforceable against each Loan Party and its estate, and any successors thereto, including any trustee appointed in these Chapter 11 Cases, or in any case under chapter 7 of the Bankruptcy Code upon conversion of any of these cases, or in any other proceeding superseding or related to any of the foregoing (collectively, the “Successor Cases”) in accordance with their respective terms and the DIP Orders. Upon execution and delivery of the DIP Documents, the DIP Obligations shall include all loans and any other indebtedness or obligations, contingent or absolute, which may from time to time be owing by any of the Loan Parties to any of the DIP Secured Parties, in such capacities, in each

case, under the DIP Documents and the DIP Orders, including all principal, interest, costs, fees, expenses, premiums, indemnities and other amounts. The Loan Parties shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the other DIP Secured Parties shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any other challenge, whether under the Bankruptcy Code or any other applicable law or regulation by any person or entity for any reason.

4. *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 United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in clause (iv) below); (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iv) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and, with respect to any professionals retained by the

Committee pursuant to Sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”), at any time before or on the first business day following delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined below), whether allowed by this Court prior to or after delivery of a Carve-Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$3.0 million incurred after the first business day following delivery by the DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve-Out Trigger Notice Cap”). For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by e-mail (or other electronic means) by the DIP Agent (acting at the direction of the Required Lenders) to the Debtors, their lead restructuring counsel (Ropes & Gray LLP), counsel to the Ad Hoc Group, the U.S. Trustee, and counsel to the Committee (Brown Rudnick LLP), which notice may be delivered following the occurrence and during the continuation of an Event of Default, stating that the Post-Carve-Out Trigger Notice Cap has been invoked. For the avoidance of doubt, the Debtors’ obligations to pay Allowed Professional Fees or fund the Carve-Out shall not be limited to funds held in the Funded Reserve Account, and amounts held in the Funded Reserve Account shall not in any way act as a cap on Allowed Professional Fees.

(b) *Carve-Out Reserves.* The Debtors shall establish and fund a segregated account (the “Funded Reserve Account”) for purposes of funding the Carve-Out. The Funded Reserve Account will be funded first from the DIP Funding Account. Notwithstanding anything to the contrary in this Final Order, the DIP Documents, or the Prepetition Loan Documents, (i) in no circumstances (which, for the avoidance of doubt, includes but is not limited to an Event of

Default or a termination of the DIP Credit Agreement or DIP Documents) shall the Debtors be prohibited in any way from accessing or drawing upon the DIP Funding Account for the purpose of funding the Funded Reserve Account. Following entry of the Interim Order, the Debtors deposited in the Funded Reserve Account an amount equal to the aggregate amount of Allowed Professional Fees projected to accrue from the Petition Date through November 28, 2024 (the “Initial Funded Reserve Amount”). Commencing November 29, 2024 (or the first business day thereafter), on the first business day of each month, the Debtors shall deposit in the Funded Reserve Account an amount equal to the aggregate amount of Allowed Professional Fees projected to accrue for the following month in the Approved Budget plus twenty percent of such aggregate amount of Allowed Professional Fees projected to accrue in the following month in the Approved Budget (the “Monthly Funded Reserve Amount”). Each Professional Person may deliver to the Debtors a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred in the preceding month (each such statement, a “Fee Statement”), and to the extent the amount of Allowed Professional Fees accrued and claimed in a Fee Statement exceeds the Initial Funded Reserve Amount or the Monthly Funded Reserve Amount for the applicable period or month, respectively, and such fees and expenses have otherwise not been paid by the Debtors, the Debtors shall, within one business day, fund additional amounts into the Funded Reserve Account equal to the difference between, as applicable, the Initial Funded Reserve Amount or the Monthly Funded Reserve Amount and the amount accrued and claimed in the applicable Fee Statement (each, a “Top Off Amount”). At any time, if the Debtors in good faith believe a restructuring, sale, financing, or other success fee has been earned by a Professional Person, the Debtors shall deposit in the Funded Reserve Account an amount equal to such fee. The Funded Reserve Account shall be maintained, and the funds therein (the “Funded Reserve Amount”) shall be held in trust for the

benefit of Professional Persons. Any and all amounts in the Funded Reserve Account shall not be subject to any cash sweep and/or foreclosure provisions in the Prepetition Loan Documents or DIP Documents and neither the Prepetition Secured Parties nor the DIP Secured Parties shall be entitled to sweep or foreclose on such amounts notwithstanding any provision to the contrary in the Prepetition Loan Documents or DIP Financing Agreements.

(c) On the day on which a Carve-Out Trigger Notice is given by the DIP Agent to the Debtors with a copy to counsel to the Committee (the “Termination Declaration Date”), the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees in excess of the Funded Reserve Amount; *provided*, that, in the event that a Termination Declaration Date occurs, Professional Persons shall have two (2) business days to deliver additional Fee Statements to the Debtors, and the Debtors shall fund into the Funded Reserve Amount any Top Off Amounts. The Debtors shall deposit and hold such amounts in the Funded Reserve Account in trust to pay such then unpaid Allowed Professional Fees (the “Pre-Carve-Out Trigger Notice Reserve”) prior to any and all other claims. On the Termination Declaration Date, after funding the Pre-Carve-Out Trigger Notice Reserve, the Debtors shall utilize all remaining cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the Post-Carve-Out Trigger Notice Cap to the extent not already fully funded (the “Post-Carve-Out Trigger Notice Reserve”) and, together with the Pre-Carve-Out Trigger Notice Reserve, the “Carve-Out Reserves”) prior to any and all other claims. All funds in the Pre-Carve-Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (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 indefeasibly paid in full, and only after such obligations have been indefeasibly paid in full, and to the extent the Pre-Carve-Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all DIP Commitments have been terminated, in which case any such excess shall be paid to the Debtors' estates. 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"), and then, to the extent the Post-Carve-Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all DIP Commitments have been terminated, in which case any such excess shall be paid to the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Documents or this Final Order, if either of the Carve-Out Reserves is not funded in full in the amounts set forth in this paragraph 4(c), then any excess funds in one of the Carve-Out Reserves following the payment of the Pre-Carve-Out Amounts and Post-Carve-Out Amounts, respectively, shall be used to fund the other Carve-Out Reserve, up to the applicable amount set forth in this paragraph 4(c), prior to making any payments to the DIP Agent or the Prepetition Secured Parties, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Final Order, following delivery of a Carve-Out Trigger Notice, the DIP Agent and the Prepetition Secured Parties 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, with any excess paid to the DIP Agent for application in accordance with the DIP Documents. Further, notwithstanding

anything to the contrary in this Final Order, (i) disbursements by the Debtors from the Carve-Out Reserves shall not constitute Loans (as defined in the DIP Credit Agreement) or increase or reduce the DIP Obligations, (ii) 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 (iii) in no way shall the Approved Budget, Carve-Out, Post-Carve-Out Trigger Notice Cap, Carve-Out Reserves, or any of the foregoing 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 DIP Facility or in any Prepetition Loan Documents, the Carve-Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, and the 507(b) Claims, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Secured Obligations.

(d) *Payment of Allowed Professional Fees Prior to the Termination Declaration Date.* Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve-Out.

(e) *No Direct Obligation To Pay Allowed Professional Fees.* None of the DIP Agent, DIP Lenders, or the Prepetition First Lien Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases. Nothing in this Final Order or otherwise shall be construed to obligate the DIP Agent, the DIP Lenders, or the Prepetition First Lien 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.

(f) *Payment of Carve-Out On or After the Termination Declaration Date.* 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 shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Final Order, the DIP Documents, the Bankruptcy Code, and applicable law.

5. *DIP Superpriority Claims.* Subject to and subordinate to the Carve-Out, pursuant to section 364(c)(1) of the Bankruptcy Code, as approved upon entry of the Interim Order and as set forth in this Final Order, all of the DIP Obligations shall constitute allowed superpriority claims (the “DIP Superpriority Claims”) against the Loan Parties on a joint and several basis (without the need to file any proof of claim). The DIP Superpriority Claims shall, subject only to the Carve-Out and the Prepetition Prior Liens, be payable from, and have recourse to, proceeds of all DIP Collateral (as defined herein) (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code, collectively, the “Avoidance Actions”) but including any proceeds or property recovered as a result of any Avoidance Actions, whether by judgment, settlement or otherwise (the “Avoidance Proceeds”) or any surcharge of collateral pursuant to section 506(c) of the Bankruptcy Code; *provided*, that for the avoidance of doubt, the DIP Superpriority Claims shall not have recourse to the proceeds of the Excluded Assets (as defined in the DIP Credit Agreement). The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code.

6. *[Reserved]*.

7. *DIP Liens.* As security for the DIP Obligations, as approved upon entry of the Interim Order and as set forth in this Final Order, perfected on the date the Interim Order was entered, and without the necessity of execution, recordation or filing of any perfection documents, security agreements, pledge agreements, financing statements, control agreements or other agreements or instruments, or the possession or control by the DIP Agent of, or over, any DIP Collateral, without any further action by the DIP Secured Parties, the following valid, binding, continuing, duly perfected, enforceable and non-avoidable security interests and liens (the “DIP Liens”) are hereby granted to the DIP Agent for the benefit of the DIP Secured Parties (all property identified in clauses (a) through (c) below being collectively referred to as the “DIP Collateral”); *provided*, that, the DIP Collateral shall include membership interests or other equity ownership interests in non-wholly owned subsidiaries of the Loan Parties (including joint ventures); *provided*, *further* that in no case shall DIP Collateral include Excluded Assets or the proceeds of Excluded Assets.

8. *Provisions respecting Insider and Affiliate Claims.* Nothing in this Final Order shall be deemed to be a finding, or a ruling, as to the Debtors’ estates’ interest, or not, in any claims against any current or former insider or affiliate of the Debtors, as such terms are defined in 11 U.S.C. §§ 101(2) and (31) (each an “Insider” or “Affiliate,” as applicable). To the extent a creditor, or group or creditors, may assert a claim or claims under applicable law that is not or are not estate cause(s) of action, nothing in this Final Order will be deemed to render such claim or claims as estate causes of action. All parties’ rights to argue, dispute, or assert that any claims referenced in the immediately preceding sentence are or are not property of the Debtors or the Debtors’ estates are fully preserved, and this Final Order shall not prejudice the rights of any party to contend that any such claims are not property of the Debtors or the Debtors’ estates. All parties’ rights to object

to any proposed sale, transfer, disposition, settlement, or other resolution of any estate claims or causes of action against any current or former Insiders or Affiliates of the Debtors are fully preserved.

9. For the avoidance of doubt, the DIP Obligations shall not have recourse to the Excluded Assets and the liens securing the DIP Obligations shall not encumber the Excluded Assets:

(a) *Liens on Unencumbered Property.* Subject and subordinate only to the Carve-Out, pursuant to section 364(c)(2) of the Bankruptcy Code, as approved upon entry of the Interim Order and as set forth in this Final Order, a valid, binding, continuing, enforceable, duly perfected first priority lien on and security interest in any and all tangible and intangible prepetition and postpetition property of the Loan Parties, whether existing on the Petition Date or thereafter acquired, and the proceeds, products, rents, and profits thereof, that, on or as of the Petition Date, is not subject to (i) a valid, perfected, and non-avoidable lien or (ii) a valid and non-avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, other than the Avoidance Actions, but including the Avoidance Proceeds (collectively, the “Unencumbered Property”); *provided that*, for the purposes of this Final Order, the DIP Liens shall encumber (1) any proceeds of the Debtors’ interests in JointMedica Ltd. and (2) to the extent permitted under applicable bankruptcy law, applicable non-bankruptcy law, or the relevant contracts, the Debtors’ interests in JointMedica Ltd. The DIP Secured Parties shall use commercially reasonable efforts to collect from DIP Collateral other than Avoidance Proceeds or Insider Causes of Action (or the proceeds thereof) before turning to Avoidance Proceeds or Insider Causes of Action (or the proceeds thereof).

(b) *Liens Junior to Certain Other Liens.* Subject and subordinate to the Carve-Out, pursuant to Bankruptcy Code section 364(c)(3), as approved upon entry of the Interim Order and as set forth in this Final Order, a valid, binding, continuing, enforceable, duly perfected security interest in and lien upon all tangible and intangible prepetition and postpetition property of the Loan Parties that, on or as of the Petition Date, is subject to Prepetition Prior Liens, which shall be immediately junior and subordinate to the Prepetition Prior Liens, but senior to the Prepetition Liens and Prepetition Adequate Protections Liens on all Prepetition Collateral subject to such Prepetition Prior Liens.

(c) *Liens Priming Prior Liens.* Subject and subordinate to the Carve-Out and any applicable Prepetition Prior Liens, pursuant to Bankruptcy Code section 364(d)(1), as approved upon entry of the Interim Order and as set forth in this Final Order, a valid, binding, continuing, enforceable, duly perfected first priority senior priming lien on and security interest in, to, and under all Collateral secured by Prepetition Liens (the “DIP Priming Liens”). Notwithstanding anything herein to the contrary, but subject and subordinate to the Carve-Out in all respects, the DIP Priming Liens shall (i) be senior in all respects to the Prepetition Liens, other than the Prepetition Prior Liens, on the Prepetition Collateral, (ii) be senior to any Adequate Protection Liens on the Prepetition Collateral, and (iii) not subordinate to any lien, security interest or mortgage that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code with respect to the DIP Collateral. The Prepetition Liens with respect to the Prepetition Collateral, other than the Prepetition Prior Liens, shall be primed by and made subject and subordinate to the DIP Priming Liens.

(d) *No Senior Liens.* Other than the Prepetition Prior Liens and the Carve-Out, the DIP Liens shall not be subject or subordinate to or made *pari passu* with (A) any lien or security

interest that is avoided and preserved for the benefit of the Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents, this Final Order, or other order of the Court, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit (including any regulatory body), commission, board or court for any liability of the Loan Parties, or (C) any intercompany liens. It shall be an Event of Default if the DIP Liens are subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code.

10. *Protection of DIP Lenders' and Prepetition Secured Parties' Rights.*

(a) So long as there are any DIP Obligations outstanding or the DIP Lenders have any outstanding DIP Commitments, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Loan Documents or this Final Order, or otherwise seek to exercise or enforce any rights or remedies against Collateral, including in connection with the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, any Collateral (but not any proceeds of such transfer, disposition or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments) to the extent such transfer, disposition, sale or release is authorized under the DIP Documents; (iii) not file any financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the Collateral other than (A) to perfect the liens granted pursuant to this Final Order or (B) as may be required by applicable state or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-avoidable liens or security interests

existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the Loan Parties' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the Collateral subject to any sale or disposition permitted by the DIP Documents and this Final Order.

(b) Except as set forth in clause (c) immediately below, to the extent any Prepetition Secured Party has possession of, or control over, any Collateral, or has been listed as a secured party on any certificate of title for a titled good constituting Collateral, such Prepetition Secured Party shall be deemed to have such possession or be so listed or have such possession or control as a gratuitous bailee and/or gratuitous agent for the benefit of the DIP Secured Parties, and such Prepetition Secured Party shall comply with the instructions of the DIP Agent, acting at the direction of the Required Lenders, with respect to any of the foregoing.

(c) Any proceeds of Prepetition Collateral received by any Prepetition Secured Party, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Collateral or otherwise, shall be segregated and held in trust for the benefit of, and forthwith paid over to, the DIP Agent for the benefit of the DIP Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The DIP Agent is hereby authorized to make any such endorsements as agent for the applicable Prepetition Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) Upon the occurrence and during the continuation of an Event of Default under any of the DIP Documents that has not been waived by the Required Lenders and following delivery of written notice (a "Termination Notice") (including by e-mail) on not less than five (5)

business days' notice (such five (5) business day period, the "DIP Agent Remedies Notice Period") to lead restructuring counsel to the Debtors, lead restructuring counsel to each of the Prepetition Agents, lead counsel to the Committee, and the U.S. Trustee, the DIP Agent (at the direction of the respective Required Lenders) may (and any automatic stay otherwise applicable to the DIP Secured Parties, whether arising under section 362 of the Bankruptcy Code or otherwise, but subject to the terms of this Final Order (including this paragraph) is hereby modified), without further notice to, hearing of, or order from this Court, unless the Court orders otherwise, *provided* that during the DIP Agent Remedies Notice Period, the Debtors, the Committee, and/or any party in interest shall be entitled to seek an emergency hearing (and the DIP Agent is deemed to consent to any such emergency hearing) with the Court: (a) immediately terminate and/or revoke the Debtors' right under this Final Order and any other DIP Documents to use any Cash Collateral (subject to the Carve-Out), (b) terminate the DIP Commitments and any DIP Documents as to any future liability or obligation of the DIP Secured Parties but without affecting any of the DIP Obligations or the DIP Liens securing such DIP Obligations; (c) declare all DIP Obligations to be immediately due and payable; (d) invoke the right to charge interest at the default rate under the DIP Documents; (e) freeze monies or balances in the Debtors' accounts other than the Funded Reserve Account (to the extent permitted under non-bankruptcy law (including pursuant to the Beneficiary Account Agreement)); (f) immediately set-off any and all amounts in accounts maintained by the Debtors with the DIP Agent or the DIP Secured Parties against the DIP Obligations; (to the extent permitted under non-bankruptcy law) (g) enforce any and all rights against the DIP Collateral, including, without limitation, foreclosure on all or any portion of the DIP Collateral, occupying the Debtors' premises, sale or disposition of the DIP Collateral (to the extent permitted under non-bankruptcy law); and (h) except as otherwise ordered by the Court,

take any other actions or exercise any other rights or remedies permitted under this Final Order, the DIP Documents or applicable law. After delivery of such Termination Notice by the DIP Agent and expiration of the DIP Agent Remedies Notice Period and except as otherwise ordered by the Court, the DIP Secured Parties' and the Prepetition Secured Parties' consent to use their respective Cash Collateral and the Debtors' ability to incur additional DIP Obligations will, unless the Court orders otherwise, automatically terminate; *provided*, that, notwithstanding anything to the contrary in this Final Order, the Debtors shall continue to have the right to use Cash Collateral solely to pay necessary expenses to avoid irreparable harm to the Debtors' estates, fund the Carve-Out, and meet payroll obligations, in each case in accordance with the terms of this Final Order and the Approved Budget (including any permitted deviations) during the DIP Agent Remedies Notice Period and pending any final determination from the Court. As soon as reasonably practicable following receipt of a Termination Notice, the Debtors shall file a copy of the same on the docket.

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

(f) Notwithstanding anything set forth in the DIP Documents or herein, the initiation or prosecution of a Challenge respecting solely the Prepetition Sidecar Secured

Obligations shall not constitute a Default or Event of Default under the DIP Documents or with respect to the DIP Obligations.

11. *Limitation on Charging Expenses Against Collateral.* Without limiting the scope of the Carve-Out, no costs or expenses of administration of these Chapter 11 Cases or any Successor Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Collateral (including Cash Collateral) pursuant to section 506 of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent and the Prepetition First Lien Agent, and no such consent shall be implied from any action, inaction or acquiescence by any of the DIP Secured Parties or Prepetition Secured Parties, and nothing contained in this Final Order shall be deemed to be a consent by the DIP Secured Parties or Prepetition Secured Parties to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise.

12. *No Marshaling.* Effective as of the Petition Date, in no event shall the DIP Secured Parties or the Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to any of the DIP Collateral, the DIP Obligations, the Prepetition First Lien Obligations, or the Prepetition First Lien Collateral, as applicable.

13. *Equities of the Case.* In no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Secured Parties.

14. *Payments Free and Clear.* Subject to the Carve-Out in all respects, any and all payments remitted to the DIP Secured Parties or Prepetition Secured Parties pursuant to the provisions of the Interim Order, this Final Order, the DIP Documents or any subsequent order of this Court shall be irrevocable, received free and clear of any claim, charge, assessment or other

liability, including without limitation, any claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtors; *provided* that the Bridge Loans shall be subject to the provisions of paragraph 21 hereof.

15. *Use of Cash Collateral.* The Debtors are hereby authorized, solely on the terms and conditions of this Final Order, to use all Cash Collateral in a manner consistent with the Approved Budget (including with respect to permitted variances in such budget(s)), it being acknowledged and agreed that any Approved Budget shall not limit nor be deemed to limit the Carve-Out or the Debtors' obligation to pay or reimburse any obligations otherwise entitled to priority under the Carve-Out.

16. *Adequate Protection of Prepetition Secured Parties.* Subject only to the Carve-Out, the Prepetition Prior Liens and the terms of this Final Order, pursuant to sections 361, 362, 363(e), 364(d)(1), and 507 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, as adequate protection for the Diminution in Value, if any, and as an inducement to the Prepetition Secured Parties to consent or not object to the priming of the Prepetition Liens and the use of their Cash Collateral, as approved upon entry of the Interim Order and as set forth in this Final Order, the Prepetition Secured Parties are granted the following Adequate Protection (collectively, the "Adequate Protection Obligations"). The Prepetition Secured Parties shall not assert any respective 507(b) Claims, for any Diminution in Value, to the extent that (i) the DIP Obligations and Prepetition Obligations are paid in full in cash on the earlier to occur of the maturity of the DIP Facility and the effective date of the Debtors' chapter 11 plan or (ii) the Closing of the Stalking Horse Bid in the form as of the date hereof or otherwise in a substantially similar

form acceptable to the Ad Hoc Group. All parties' rights are fully preserved respecting the extent of any Diminution in Value (if any).

(a) *Prepetition First Lien Parties' Adequate Protection Liens.* The Prepetition First Lien Agent is hereby granted, for the benefit of the Prepetition First Lien Parties, and in each case solely to the extent of Diminution in Value, if any, effective and perfected upon the date of entry of the Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements, a valid, duly perfected replacement security interest in and lien on account of the Prepetition First Lien Parties' Diminution in Value, if any, upon all of the DIP Collateral (the "First Lien Adequate Protection Liens"), junior, subject, and subordinate solely to the Carve-Out, the DIP Liens, and the Prepetition Prior Liens, but senior to all other liens and *pari passu* with the Sidecar Adequate Protection Liens (as defined below).

(b) *Prepetition First Lien Parties' Section 507(b) Claim.* The Prepetition First Lien Agent, for the benefit of the Prepetition First Lien Parties, and in each case solely to the extent of Diminution in Value, if any, is hereby granted an allowed superpriority administrative expense claim against the Loan Parties on a joint and several basis (without the need to file any proof of claim) on account of the Prepetition First Lien Parties' Diminution in Value under section 507(b) of the Bankruptcy Code (the "First Lien 507(b) Claim"), which shall be payable from and have recourse to all DIP Collateral and all proceeds thereof (excluding, for the avoidance of doubt, Avoidance Actions but including the Avoidance Proceeds). The First Lien 507(b) Claim shall be *pari passu* with the Sidecar 507(b) Claim (as defined below).

(c) *Prepetition First Lien Parties' Fees and Expenses.* As further adequate protection, the Loan Parties shall currently pay, in cash, all reasonable and documented

professional fees and out-of-pocket expenses payable to one counsel and one local counsel (if necessary) to the Prepetition First Lien Agent and the reasonable and documented fees and out-of-pocket expenses of professionals retained by the Ad Hoc Group, including, but not limited to Milbank LLP, Richards, Layton & Finger, P.A., Evercore, Inc., and any other advisors identified to and agreed upon by the Debtors (e-mail to Ropes & Gray LLP being sufficient) prior to, on, or after the Petition Date (such agreement not to be unreasonably withheld, conditioned, or delayed) (collectively, the “First Lien Adequate Protection Fees and Expenses”), in each case promptly upon receipt of summary form invoices which may be redacted for privileged information, subject to the review procedures set forth in paragraph 20 of this Final Order.

(d) *Prepetition Sidecar Secured Parties’ Adequate Protection Liens.* The Prepetition Sidecar Agent is hereby granted, for the benefit of the Prepetition Sidecar Secured Parties, effective and perfected upon the date of entry of the Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements, a valid, duly perfected replacement security interest in and lien on account of the Prepetition Sidecar Secured Parties’ Diminution in Value upon all of the DIP Collateral (the “Sidecar Adequate Protection Liens” and, together with the First Lien Adequate Protection Liens, the “Adequate Protection Liens”), junior, subject, and subordinate solely to the Carve-Out, the DIP Liens, and the Prepetition Prior Liens, but senior to all other liens and *pari passu* with the First Lien Adequate Protection Liens. With respect to any Adequate Protection Liens or any 507(b) Claims, the Prepetition Secured Parties shall use commercially reasonable efforts to collect from DIP Collateral other than Avoidance Proceeds or Insider Causes of Action (or the proceeds thereof) before turning to Avoidance Proceeds or Insider Causes of Action (or the proceeds thereof).

(e) *Prepetition Sidecar Secured Parties' Section 507(b) Claim.* The Prepetition Sidecar Agent, for the benefit of the Prepetition Sidecar Secured Parties, is hereby granted an allowed superpriority administrative expense claim against the Loan Parties on a joint and several basis (without the need to file any proof of claim) on account of the Prepetition Sidecar Secured Parties' Diminution in Value under section 507(b) of the Bankruptcy Code (the "Sidecar 507(b) Claim") and, together with the First Lien 507(b) Claim, the "507(b) Claims"), which shall be payable from and have recourse to all DIP Collateral and all proceeds thereof (excluding, for the avoidance of doubt, Avoidance Actions but including Avoidance Proceeds). The Sidecar 507(b) Claim shall be *pari passu* with the First Lien 507(b) Claim.

(f) *Prepetition Sidecar Secured Parties' Fees and Expenses.* As further adequate protection, the Loan Parties shall currently pay, in cash, reasonable and documented professional fees and out-of-pocket expenses of Kirkland & Ellis LLP, solely in its capacity as counsel to the Prepetition Sidecar Agent (the "Sidecar Adequate Protection Fees and Expenses") and, together with the First Lien Adequate Protection Fees and Expenses, the "Adequate Protection Fees and Expenses"), promptly upon receipt of summary form invoices which may be redacted for privileged information, subject to the review procedures set forth in paragraph 20 of this Final Order; *provided*, that, the Sidecar Adequate Protection Fees and Expenses payable by the Loan Parties shall not exceed \$1,200,000 in the aggregate.

17. *Maintenance of Collateral.* The Loan Parties shall continue to maintain and insure the DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Loan Documents and the DIP Documents, as applicable.

18. *Perfection of DIP Liens and Adequate Protection Liens.*

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

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

19. *Preservation of Rights Granted Under this Final Order.*

(a) Other than the claims and liens expressly granted or permitted by this Final Order, including the Carve-Out, it shall be an Event of Default if any claim or lien having a priority superior to or *pari passu* with those granted by this Final Order is permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in or permitted under this Final Order, the DIP Liens and the Adequate Protection Liens (A) shall not be senior to the Prepetition Prior Liens; and (B) it shall be an Event of Default if the DIP Liens or the Adequate Protection Liens are (i) made junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise (except for the Prepetition Prior Liens); (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the Loan Parties; or (iv) made junior to any intercompany liens or security interests of the Loan Parties.

(b) The occurrence and continuance of any Event of Default shall, after written notice by the DIP Agent (acting at the direction of Required Lenders) to the Borrower, counsel to the Borrower, the U.S. Trustee, and lead counsel to the Committee constitute an event of default under this Final Order (each an "Event of Default") and, upon such notice, interest, including, where applicable, default interest, shall accrue and be payable as set forth in the DIP Credit Agreement. Notwithstanding any order that may be entered dismissing any of these Chapter 11 Cases under section 1112 of the Bankruptcy Code or converting any of these cases to a Successor Case: (i) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate

Protection Liens shall continue in full force and effect, shall maintain their priorities as provided in this Final Order, and shall remain binding on all parties in interest until all DIP Obligations and Adequate Protection Obligations shall have been indefeasibly paid in full; (ii) the other rights granted by this Final Order, including with respect to the Carve-Out, shall not be affected; and (iii) this Court shall retain jurisdiction, notwithstanding any dismissal, for the purposes of enforcing the claims, liens and security interests granted by this Final Order.

(c) The DIP Secured Parties and the Prepetition Secured Parties shall be entitled to, and are hereby granted, all the rights, remedies, privileges and benefits arising under sections 364(e) of the Bankruptcy Code.

(d) Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the 507(b) Claims, and all other rights and remedies of the DIP Secured Parties and the Prepetition Secured Parties granted by this Final Order and the DIP Documents, including the Carve-Out, shall survive, and shall not be modified, impaired or discharged by the entry of an order (i) converting or dismissing any of these cases, or terminating the joint administration of these cases; (ii) approving the sale of any Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents); or (iii) confirmation of a chapter 11 plan in any of these cases. The terms and provisions of this Final Order and the DIP Documents shall continue in full force and effect in these cases and in any Successor Cases until all DIP Obligations and Adequate Protection Obligations are indefeasibly paid in full in cash, and the DIP Commitments are terminated. Any confirmation order entered in these cases shall not discharge or otherwise affect in any way the joint and several obligations of the Loan Parties to the DIP Secured Parties under the DIP Facility

and the DIP Documents, other than after the payment in full and in cash of all DIP Obligations and the termination of the DIP Commitments.

20. *Payment of Fees and Expenses.* The Loan Parties were, to the extent set forth in the Interim Order, and hereby are, authorized and directed to pay the DIP Fees and Expenses and the Adequate Protection Fees and Expenses. Subject to the review procedures set forth in this paragraph 20, payment of the DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and Prepetition Secured Parties shall not be required to comply with the U.S. Trustee's fee guidelines with respect to such fees and expenses; however, any time that any such professional seeks payment of fees and expenses from the Debtors prior to confirmation of a chapter 11 plan, each such professional shall provide summary copies of its invoices (including aggregate amounts of fees and expenses and total amount of time on a per-professional basis), which are not required to contain time detail and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, to counsel to the Loan Parties, counsel to the Committee, and the U.S. Trustee (together, the "Review Parties"); *provided, however*, that the provision of such invoices shall not constitute a waiver of the attorney client privilege or of any benefits of the attorney work product doctrine or any other evidentiary privilege or protection recognized under applicable law; and *provided further that*, the Review Parties shall have the right to request additional details regarding the services rendered and expenses incurred by such professionals (each, an "Information Request"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after receipt (the

“Review Period”), which shall not be extended by the delivery of an Information Request. If no written objection is received by 12:00 p.m., prevailing Eastern Time, on the last date of the Review Period, the Debtors shall pay such invoices within five (5) business days. If an objection to a professional’s invoice is received within the Review Period, the Debtors shall promptly pay the undisputed portion of the invoice without the necessity of filing formal fee applications, regardless of whether the invoiced amount arose or was incurred before or after the Petition Date, and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtors were, upon entry of the Interim Order, and hereby are, authorized and directed to pay, on or prior to the Closing Date (as defined in the DIP Credit Agreement) (a) solely to the extent incurred prepetition, any and all costs, fees, expenses (including reasonable and documented legal fees and expenses) of the DIP Agent and the Ad Hoc Group associated with the preparation, execution, delivery and administration of the DIP Loan Documents and any amendment or waiver with respect thereto (including the reasonable and documented expenses of and fees payable to the Ad Hoc Group Advisors and DIP Agent Advisors), (b) solely to the extent incurred prepetition, any and all costs, fees, expenses (including reasonable and documented legal fees and expenses) of the DIP Agent and the Ad Hoc Group in connection with the enforcement of the DIP Orders or protection of rights under the DIP Facility (including the reasonable and documented expenses of and fees payable to the Ad Hoc Group Advisors and DIP Agent advisors), and (c) other compensation contemplated by the DIP Documents. No attorney or advisor to any DIP Secured Party or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Subject to the provisions of paragraph 21 hereof, any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to (a) the

DIP Secured Parties in connection with the DIP Facility, or (b) the Prepetition Secured Parties in connection with these cases, are hereby authorized in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtors or any other person.

21. *Effect of Stipulations on Third Parties.* Subject to the reservation of rights set forth in paragraph 30 of this Final Order, the Debtors' stipulations, admissions, agreements, and releases contained in the Interim Order and this Final Order shall be binding upon the Debtors as of the date of entry of the applicable DIP Order. Subject to the reservation of rights set forth in paragraph 30, upon entry of this Final Order, the Debtors' stipulations, admissions, agreements, and releases contained in the Interim Order and this Final Order shall be binding upon all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in these cases and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors, in all circumstances and for all purposes unless a party in interest with requisite standing has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein), or filed a motion seeking standing to file such adversary proceeding or contested matter, by no later than (a) (i) 75 calendar days after the entry of the Interim Order; provided, however, in the case of the Committee, by no later than February 1, 2025, and (ii) if a chapter 7 or a chapter 11 trustee is appointed or elected prior to the end of the Challenge Period (as defined below), the later of (A) 75 calendar days after entry of the Interim Order, or (B) the date that is 21 calendar days after such trustee's appointment and (b) any such later date as has been agreed to by the Prepetition First Lien Agent with respect to the Prepetition First Lien Obligations (the time period established by the foregoing clauses (a)-(b) (the "Challenge Period"), (x) objecting to or

challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Secured Obligations or the Prepetition Liens, or (y) asserting or prosecuting any Avoidance Action or any other claims, counterclaims or causes of action, objections, contests, or defenses (collectively, the “Challenges”) against any Prepetition Secured Party or their respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case solely in their respective capacity as such (collectively, the “Representatives”) in connection with or related to the Prepetition Loan Documents, the Prepetition Secured Obligations, the Prepetition Liens, and the Prepetition Collateral; and (b) a final non-appealable order in favor of the plaintiff sustaining any such Challenge is entered; *provided, however*, that any pleadings filed in connection with a Challenge shall set forth with specificity the basis for such Challenge and any potential Challenges not so specified prior to the expiration of the Challenge Period shall be deemed forever waived, released and barred. If no Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such Challenge then: (a) the Debtors’ stipulations, admissions, agreements and releases contained in the Interim Order and this Final Order shall be binding on all parties in interest; (b) the Prepetition First Lien Obligations shall constitute allowed claims not subject to defense, avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise, except as provided in the Equal Priority Intercreditor Agreement), disallowance, impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity for all purposes in these cases and any Successor Case(s); (c) the Prepetition First Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, duly

perfected, security interests and liens, not subject to any defense, avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity, including any statutory or non-statutory committees appointed or formed in these cases or any other party in interest acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any chapter 7 or chapter 11 trustee or examiner, and any defense, avoidance, reduction, setoff, recoupment, recharacterization, subordination (whether equitable, contractual (other than as provided in the Equal Priority Intercreditor Agreement), or otherwise), disallowance, impairment, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any statutory or non-statutory committees appointed or formed in these cases or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any chapter 7 or chapter 11 trustee or examiner, whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition First Lien Parties and their Representatives shall be deemed forever waived, released and barred. If any Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements, and releases contained in the Interim Order and this Final Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on each person or entity, except, solely with respect to the person or entity who made such Challenge to the extent that such challenged stipulations, admissions, agreements, and releases were expressly sustained in a final, non-appealable order of a court of competent jurisdiction. Nothing in 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 cases, standing or authority to pursue any claim or causes of action belonging to the

Debtors or their estates, including, without limitation, any Challenges with respect to the Prepetition Loan Documents, Prepetition Secured Obligations, or Prepetition Liens, and any ruling on standing, if appealed, shall not stay or delay confirmation of any plan in these cases (unless otherwise ordered by the Court). For the avoidance of doubt, and without limiting the effect of Section G.(xi) hereof, a Challenge shall not include, and the Challenge Period shall not apply to, any actions against any Affiliates or Insiders in their capacities other than as Prepetition Secured Parties, and nothing contained in this Final Order shall be deemed to limit or prohibit a party's ability to bring such actions.

22. *Limitation on Use of DIP Financing Proceeds and Collateral.* Subject to the reservation of rights set forth in paragraph 30 of this Final Order, no DIP Loans, DIP Collateral, Prepetition Collateral (including Cash Collateral), or any portion of the Carve-Out, may be used directly or indirectly, including, without limitation, through reimbursement of professional fees of any non-Debtor party, in connection with:

(a) the investigation, threatened initiation or the prosecution of any claims, causes of action, adversary proceedings or other litigation (i) other than with respect to the Debtor Reserved Claims, against any of the DIP Secured Parties, or the Prepetition Secured Parties, or their respective Representatives, or any action purporting to do any of the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition First Lien Obligations, Prepetition First Liens, Adequate Protection Liens, or 507(b) Claims or (ii) other than with respect to the Debtor Reserved Claims, challenging the amount, validity, perfection, priority, or enforceability of or asserting any defense, counterclaim or offset with respect to the DIP Obligations, the Prepetition Secured Obligations and/or liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under the DIP Orders, the DIP Documents or

the Prepetition Loan Documents in respect of the Prepetition Secured Obligations, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise, *provided, however*, that notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and Cash Collateral may be used (I) by the Debtors, with respect to the Debtor Reserved Claims and (II) by the Committee to investigate, but not to prosecute, (A) claims and liens of the Prepetition Secured Parties, (B) potential claims, counterclaims, causes of action, or defenses against the Prepetition Secured Parties, up to an aggregate cap of no more than \$150,000 (the “Investigation Cap”);

(b) attempts to prevent, hinder or otherwise delay or interfere with the Prepetition Secured Parties’ or the DIP Secured Parties’, as applicable, enforcement or realization on the Prepetition First Lien Obligations, Prepetition First Lien Collateral, DIP Obligations, DIP Collateral, as applicable, and the liens, claims and rights granted to such parties under the DIP Orders;

(c) attempts to seek to modify any of the rights and remedies granted to the Prepetition Secured Parties or the DIP Secured Parties under this Final Order, the Prepetition Loan Documents or the DIP Documents, as applicable, other than in accordance with this Final Order;

(d) to apply to the Court for authority to approve superpriority claims or grant liens on or security interests in (other than the liens and or security interests permitted by the DIP Documents) the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims; or

(e) to pay or to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are authorized by the Court, agreed to in writing by the

DIP Lenders, expressly permitted under this Final Order or under the DIP Documents (including the applicable Approved Budget, subject to permitted variances and to the Allowed Professional Fees), in each case unless all DIP Obligations, Prepetition First Lien Obligations, and Adequate Protection Obligations have been paid in full in cash or otherwise agreed to in writing by the DIP Secured Parties.

23. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Secured Parties, the Prepetition Secured Parties, the Committee, any other statutory or non-statutory committees appointed or formed in these cases, the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any Debtor, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any Debtor or with respect to the property of the estate of any Debtor) and shall inure to the benefit of the DIP Secured Parties, the Prepetition Secured Parties, the Debtors, and their respective successors and assigns; *provided*, that the DIP Secured Parties and the Prepetition Secured Parties shall have no obligation to permit the use of the Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee or chapter 11 trustee or similar responsible person appointed for the estates of any Debtor; provided that the DIP Secured Parties and the Prepetition Secured Parties shall be restricted from assigning any portion or participation in the DIP Facility to an Insider or Affiliate of the Debtors.

24. Nothing in this Final Order, the DIP Documents, the Prepetition First Lien Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Secured Party or

Prepetition First Lien Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts.

25. *Release; Limitation of Liability.* Upon entry of the Interim Order, and as set forth in this Final Order, each of the Debtors and their estates, on their own behalf and on behalf of their respective predecessors, successors, and heirs, hereby absolutely, unconditionally and irrevocably releases and forever discharge and acquit the DIP Secured Parties and their Representatives (each, solely in their capacities as such), 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, as applicable, the DIP Facility, the DIP Documents, the DIP Loans, the DIP Liens, 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 may have against any of the DIP Secured 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, except as a result of bad faith, willful misconduct, fraud, or gross negligence. In determining to make any loan or other extension of credit under the DIP Documents or to permit the use of the Collateral (including Cash Collateral), none of the DIP Secured Parties or Prepetition Secured Parties shall (a) have any liability to any third party or be deemed to be in “control” of the operations of the Debtors; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (c) be deemed to be acting

as a “Responsible Person” or “Owner” or “Operator” or “managing agent” with respect to the operation or management of any of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in this Final Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Secured Parties or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective Representatives.

26. *Master Proofs of Claim.* Neither the Prepetition Agents nor any other Prepetition Secured Party shall be required to file proofs of claim in these cases or any Successor Cases in order to assert claims for payment of any of the Prepetition Secured Obligations, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts payable under the Prepetition Loan Documents. The description of claims and liens in respect of the Prepetition Secured Obligations set forth in this Final Order is deemed to constitute informal proofs of claim in respect of such indebtedness and its secured status. However, in order to facilitate the processing of claims, the Prepetition Agents are authorized, but not directed or required, to file master proofs of claim in the Debtors’ lead case, Case No. 24-12441 (LSS), on behalf of the applicable Prepetition Secured Parties (each, a “Master Proof of Claim”), which shall be deemed to have been filed against each Debtor. The provisions of this paragraph 26 and the filing of Master Proofs of Claim, if any, are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or their respective successors in interest) to vote separately on any plan filed in these cases. The Master Proofs of Claim shall not be required to include any instruments, agreements or other documents evidencing the obligations owing by each

Debtor to the Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the Prepetition Agents. The DIP Secured Parties shall not be required to file proofs of claim with respect to the DIP Obligations.

27. *Insurance.* To the extent that any Prepetition Agent is listed as a loss payee under the insurance policies of any of the Loan Parties, the DIP Agent shall also be deemed to be a loss payee under such insurance policies until the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments and shall act in that capacity and distribute any proceeds recovered or received in respect of such insurance policies in accordance with the applicable Prepetition Loan Documents.

28. *Credit Bidding.* Subject to the lien priorities set forth herein and the terms of the Equal Priority Intercreditor Agreement, (a) upon entry of the Interim Order, and as set forth in this Final Order, the DIP Agent shall have the right to credit bid up to the full amount of the DIP Loans actually advanced to the Loan Parties (either directly or through one or more acquisition vehicles) as part of any asset sale process or plan sponsorship process including the DIP Collateral (including, for the avoidance of doubt, (1) any proceeds of the Debtors' interests in JointMedica Ltd. and (2) the Debtors' interests in JointMedica Ltd., subject to any determination by the Court regarding the extent of the DIP Liens on the Debtors' interests in JointMedica Ltd. pursuant to paragraph 9(a)(2)), subject to the provisions of paragraph 21 hereof (including, for the avoidance of doubt, with respect to the Bridge Loans) and section 363(k) of the Bankruptcy Code, the Prepetition First Lien Agent shall have the right to credit bid, up to the full amount of the Prepetition First Lien Obligations, in the sale of the applicable Prepetition First Lien Collateral, except as otherwise ordered for cause pursuant to section 363(k) of the Bankruptcy Code, in each

case, without the need for further Court order authorizing the same, whether any such sale is effectuated through sections 363(k), 1123 or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code or otherwise.

29. *Special Committee.* Counsel to the Special Committee shall consult with the Committee and the DIP Lenders as reasonably requested by such parties respecting any investigation it has conducted, or may be conducting, in respect to the Debtor Reserved Claims, or any other claims against any Insiders or Affiliates of the Debtors.

30. *Exit Fee and Applicable Premium.* Notwithstanding anything herein or in the DIP Documents to the contrary, the Debtors, the Prepetition First Lien Parties, and the Prepetition Sidecar Secured Parties acknowledge and agree that the Debtors, the Prepetition First Lien Parties, and the Committee reserve the right to object to the extent, allowability, validity, and enforceability of the Exit Fee and the Applicable Premium (each as defined in the Prepetition Sidecar Credit Agreement) and that nothing in this Final Order or any of the DIP Documents shall serve to limit the foregoing reservation of rights.

31. *Information.* The Debtors shall provide counsel to the Committee, solely for distribution to members of the Committee, with any and all written reports required to be delivered to the DIP Secured Parties under the DIP Credit Agreement, including the Initial Budget, any subsequent Approved Budget and variance reports.

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

33. *Governing Order.* In the event of any inconsistency between the provisions of this Final Order, the DIP Documents or Prepetition Loan Documents, the provisions of this Final Order shall govern.

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

35. *Payments Held in Trust.* Except as expressly permitted in this Final Order or the DIP Documents and except with respect to the Loan Parties, in the event that any person or entity receives any payment on account of a security interest in the DIP Collateral that is junior to the DIP Liens, receives any DIP Collateral or any proceeds of any DIP Collateral other than on account of a security interest senior to the DIP Liens, or receives any other payment with respect thereto from any source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any of the foregoing in trust for the benefit of the DIP Secured Parties and, subject to further order of the Court, shall immediately turn over such collateral, its proceeds, or other payment to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Final Order.

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

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

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

39. *Retention of Jurisdiction.* This Court shall retain jurisdiction to enforce the provisions of this Final Order, and, to the fullest extent permitted by law, this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

Dated: December 10th, 2024
Wilmington, Delaware


LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE