

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

In re:)
	) Chapter 11
GULF CHEMICAL & METALLURGICAL)
CORPORATION, a Texas corporation, <i>et al.</i> , ¹	) Case Nos. 16-22192-JAD & 16-22195-JAD
	) (Jointly Administered under
Debtors.	) Case No. 16-22192-JAD)
)
GULF CHEMICAL & METALLURGICAL)
CORPORATION, a Texas corporation, <i>et al.</i>,	) Docket No. ____
)
Movants,)
)
v.)
)
COMILOG HOLDING, AIR LIQUIDE)
INDUSTRIAL US LP, U.S. BANK)
EQUIPMENT FINANCE, DE LAGE)
LANDEN FINANCIAL SERVICES, INC.,)
TEXAS COMPTROLLER, TEXAS)
ATTORNEY GENERAL ENVIRONMENTAL)
PROTECTION DIVISION, NMHG)
FINANCIAL SERVICES, INC., and WELLS)
FARGO EQUIPMENT FINANCE, INC.,)
BANK OF THE WEST,)
)
Respondents.)

**MOTION OF DEBTORS FOR INTERIM AND FINAL ORDERS: (I) AUTHORIZING
DEBTORS TO OBTAIN SECURED POST-PETITION FINANCING AND USE OF
CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION;
(III) MODIFYING THE AUTOMATIC STAY; (IV) SETTING FINAL HEARING;
AND (V) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession, Gulf Chemical & Metallurgical Corporation (“Gulf”) and Bear Metallurgical Company (“Bear,” and together with Gulf, the “Debtors”), by and through their undersigned counsel, hereby move the Court (this “Motion”)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Gulf Chemical & Metallurgical Corporation, a Texas corporation (3600) and Bear Metallurgical Company, a Delaware corporation (1238).



for the entry of interim and final orders, pursuant to sections 105, 361, 362, 363(c), 364(c), 364(d), 503, 506(c) and 507(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”): (i) authorizing the Debtors to obtain debtor-in-possession financing from the DIP Lender (as defined below) pursuant to the terms and conditions of (a) the Interim Order and any Final Order (each as defined below) and (b) the DIP Loan Agreement (as defined below); (ii) authorizing and approving the Debtors’ use of Cash Collateral (as defined below) of the Pre-Petition Lender (as defined below), solely to the extent that the Pre-Petition Lender has a valid and perfected security interest in Cash Collateral, in accordance with the provisions of the Interim Order and any Final Order; (iii) granting the Pre-Petition Lender adequate protection, including, without limitation, adequate protection against the diminution in the value or amount of the Pre-Petition Collateral (as defined below) through (a) Replacement Liens (as defined below) and (b) superpriority administrative expense claims, each subject to the Carve-Out (as defined below), and the liens, security interests, and superpriority treatment granted to the DIP Lender, as more particularly set forth herein; (iv) subject to the Interim Order and any Final Order, vacating and modifying the automatic stay to the extent necessary to implement the provisions of the DIP Loan Documents (as defined below) and the Interim Order; and (v) granting any further and related relief as the Court deems just and equitable.

In support of this Motion, the Debtors respectfully represent as follows:

Background

1. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are continuing in possession of their property and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. Consideration of this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the Debtors' chapter 11 cases and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of the chapter 11 cases, is set forth in detail in the Declaration of Eric Caridroit in Support of Chapter 11 Petitions and First Day Motions (the "Caridroit Declaration"), filed contemporaneously with this Motion and fully incorporated herein by reference.²

The Debtors' Prepetition Capital Structure

4. Prior to the Petition Date, Comilog Holding, a French limited liability partnership ("Comilog," and in its capacity as the pre-petition secured lender, the "Pre-Petition Lender"), made certain loans (the "Pre-Petition Loans") to Gulf. The Pre-Petition Loans were made pursuant to the Secured Promissory Note, dated May 24, 2016 (the "Pre-Petition Financing Agreement"). Gulf's obligations to Comilog under the Pre-Petition Financing Agreement are secured by first priority liens and security interests (collectively, the "Pre-Petition Liens") in substantially all of Gulf's personal property assets (including Cash Collateral (as defined below)), the proceeds thereof, and Gulf's equity interests in Bear (collectively, the "Pre-Petition Collateral") pursuant to that certain Security Agreement, dated May 24, 2016 and that certain Intellectual Property Security Agreement, dated May 24, 2016.³ As of the Petition Date, the balance owed to the Pre-Petition Lender on a secured basis is \$3 million.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Caridroit Declaration.

³ The Pre-Petition Lender's security interests are perfected by, *inter alia*: (i) a UCC Financing Statement filed with the Texas Secretary of State on June 1, 2016, at No. 16-0017883812; (ii) an assignment filed in the United States

5. Prior to entry into the Pre-Petition Financing Agreement, Comilog made unsecured loans to Gulf in an aggregate amount of approximately \$132 million. Comilog is Gulf's parent company and Bear's indirect parent company.

6. Bear did not have any secured debt as of the Petition Date.

Preliminary Statement

7. By this Motion, the Debtors seek approval, on an interim and final basis, of that certain Senior Secured Debtor-in-Possession Loan Agreement, dated June 13, 2016, by and between the Debtors, as borrowers, and Comilog, as lender (in its capacity as post-petition lender, the "DIP Lender"), under which the DIP Lender has agreed to provide the Debtors with an up to \$12 million senior secured loan (the "DIP Loan"), pursuant to a debtor in possession financing facility, a copy of which is attached hereto as Exhibit A (the "DIP Loan Agreement"). As stated in detail in the Caridroit Declaration, the Debtors' goal in their chapter 11 cases is to sell substantially all of their assets through a sale process pursuant to section 363 of the Bankruptcy Code. The proposed financing offered by the DIP Lender will provide adequate financing and flexibility to allow the Debtors to continue operating during the sales process, which will maximize the value of their assets so that they may obtain the highest and best purchase price.

8. Prior to the Petition Date, the Debtors reviewed their financing options. The Debtors, upon the advice of their advisors, determined that locating a lender willing to make an unsecured loan that would be *pari passu* with the more than \$132 million in Comilog unsecured debt was not realistic. With respect to secured financing, Comilog expressed its willingness to

Patent and Trademark Office with respect to patents owned by Gulf on May 26, 2016 (Reel 038823/0899); (iii) an assignment filed in the United States Patent and Trademark Office with respect to trademarks owned by Gulf on May 26, 2016 (Reel 5801/0135); and (iv) possession of stock certificate No. 101 issued by Bear, which stock certificate is registered in the name of Gulf, together with a blank and undated stock power signed by Gulf.

provide the DIP Loan. As described in more detail below, no other secured financing was available to the Debtors on terms as favorable as the DIP Loan.

9. The DIP Loan Agreement and the DIP Loan Documents (as defined below) are the result of a robust negotiation process and thus constitute fair and market-based financing. As described in more detail below, the rates, fees, and other expenses to be paid in connection with the DIP Loan Agreement are reasonable.

10. Importantly, this is not a so-called “roll-up.” Rather, the Debtors will use new money from the DIP Lender to fund their operations during these chapter 11 cases and not use the DIP Loan proceeds to pay off any of the amounts owed by Gulf on account of the Pre-Petition Financing Agreement.⁴ The obligations owed by Gulf pursuant to the Pre-Petition Loans are substantially over-secured by the Pre-Petition Liens, and the Debtors propose that any official committee of unsecured creditors appointed in these chapter 11 cases (the “Creditors Committee”) will have the ability to investigate and contest such facts as is customary in chapter 11.

11. Upon entry of the Interim Order, the Debtors anticipate that Gulf will immediately begin making draws on the DIP Loan; however, they anticipate that Bear will only draw on the DIP Loan in the event it needs cash to operate above and beyond the cash generated from its operations during its chapter 11 case. The DIP Lender’s DIP Liens (as defined below) will only attach to a Debtor’s assets to the extent such Debtor makes a draw on the DIP Loan during these chapter 11 cases.

12. The DIP Loan Agreement is critical to the Debtors’ ability to continue their operations while seeking a purchaser or purchasers for their assets. The DIP Loan will provide

⁴ The Debtors do propose to use a portion of the DIP Loan to make adequate protection payments to the Pre-Petition Lender.

ample liquidity to fund the Debtors' operations through a sale process and is reasonable both in cost and in protections offered to the Debtors' constituents. In sum, the DIP Loan Agreement is a strong endorsement of the Debtors' efforts to maximize recoveries for all stakeholders and, thus, this Court should approve it.

Bankruptcy Rule 4001 Concise Statement

13. The Debtors request entry of the proposed interim order (the "Interim Order") and a final order (the "Final Order" and, together with the Interim Order, the "DIP Orders").

14. The DIP Lender has agreed to provide the Debtors with necessary postpetition debtor-in-possession financing in the amount of up to \$12 million, subject to the terms of (i) the DIP Loan Agreement, (ii) the DIP Orders, and (iii) the budgets attached hereto collectively as Exhibit B (the "Budget," and together with the DIP Loan Agreement and the DIP Orders, the "DIP Loan Documents").

15. By this Motion, the Debtors respectfully request the following relief:

- (a) that the Court conduct a preliminary hearing to consider this Motion (the "Interim Financing Hearing") pursuant to Rule 4001 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules") and Rule 4001-2 of the Local Rules of the U.S. Bankruptcy Court for the Western District of Pennsylvania (the "Local Rules");
- (b) that, after the Interim Financing Hearing, the Court enter an interim order substantially in the form of the Interim Order authorizing the Debtors, pursuant to sections 363 and 364 of the Bankruptcy Code and Bankruptcy Rule 4001(b), to borrow money under the terms of the DIP Loan Documents to fund the expenses set forth in the Budget upon the terms and conditions set forth in the attached Interim Order, pending a final hearing on this Motion;
- (c) that the Court authorize the adequate protection proposed in the DIP Loan Documents and summarized below, pursuant to sections 361, 363, and 364 of the Bankruptcy Code, and find that no other adequate protection is necessary to authorize the Debtors' use of Cash Collateral (as defined below) in accordance with the Budget; and

- (d) that the Court schedule a final hearing (the “Final Financing Hearing”) to approve the relief requested herein on a final basis.

16. Pending the Final Financing Hearing and entry of the Final Order, the Debtors will enter into, and implement on an interim basis, the DIP Loan Agreement in accordance with the Interim Order. Pursuant to Bankruptcy Rule 4001, the following are the material provisions of the DIP Loan Agreement and/or the Interim Order.⁵

<u>Borrowers</u> <i>Bankruptcy Rule 4001(c)(1)(B)</i>	Gulf Chemical & Metallurgical Corporation and Bear Metallurgical Company
<u>Guarantors</u> <i>Bankruptcy Rule 4001(c)(1)(B)</i>	N/A
<u>DIP Lender</u> <i>Bankruptcy Rule 4001(c)(1)(B)</i>	Comilog Holding
<u>DIP Loan</u> <i>Bankruptcy Rule 4001(c)(1)(B)</i>	<p>The DIP Loan Agreement contemplates the DIP Lender making multiple advances to the Debtors from time to time during the term of the DIP Loan Agreement (each an “Advance”), up to an aggregate principal amount of \$12,000,000, subject to the cash needs identified in the Budget. The maximum Advance prior to entry of the Final Order shall be in an amount of \$3,000,000. DIP Loan Agreement at § 2; Interim Order at ¶ 26.</p> <p>The Debtors may request Advances by delivering a borrowing request to the DIP Lender, which request shall state that the proposed Advance is consistent with the terms of the Budget and is to be used solely for Budget items, and to the best of the Debtors’ knowledge no Termination Event has occurred except as specified in such certificate. DIP Loan Agreement at § 2.2; Interim Order at ¶ 59.</p>

⁵ The summaries and descriptions of the terms and conditions of the DIP Loan Agreement and the Interim Order set forth in this Motion are intended solely for informational purposes to provide the Court and parties in interest with an overview of the significant terms thereof and should only be relied upon as such. The summaries and descriptions are qualified in their entirety by the DIP Loan Agreement and the Interim Order. In the event there is a conflict between this Motion and the DIP Loan Agreement or the Interim Order, the DIP Loan Agreement or the Interim Order, as applicable, shall control in all respects.

<p><u>Term</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)</p>	<p>The earliest to occur of: (a) December 31, 2016, (b) the occurrence of any “Termination Event” set forth in any DIP Order, or (c) the entry of an order approving the sale of substantially all of the Debtors’ assets. Interim Order at ¶ 30.</p>
<p><u>Interest Rates</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)</p>	<p>Non-Default Interest Rate: eight and one-half percent (8.5%) per annum. Default Interest Rate: ten and one-half percent (10.5%) per annum. DIP Loan Agreement at § 5; Interim Order at ¶ 46.</p>
<p><u>Fees</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)</p>	<p>Gulf shall pay a closing fee of \$50,000 payable from the proceeds of the DIP Loan. Interim Order at ¶ 59(f).</p>
<p><u>Budget</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)</p>	<p>13-week budgets for each of Gulf and Bear which shall reflect projected cash receipts, operating disbursements, payroll disbursements, non-operating disbursements, and cash balances, as may be amended, updated, or supplemented with the prior consent of the DIP Lender. Interim Order at ¶¶ 21, 22.</p>
<p><u>Carve-Out</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)</p>	<p>The Pre-Petition Lender and the DIP Lender have agreed to provide a carve-out for the benefit of Retained Professionals (as defined in the Interim Order) and the United States Trustee from their respective liens: (a) U.S. Trustee fees pursuant to 28 U.S.C. § 1930 and the Retained Professionals’ allowed fees and expenses, up to the amounts set forth for the respective Retained Professionals in the Budget, that are incurred or accrued prior to a Termination Event, the Maturity Date, or the later of: (i) entry of a Sale Order authorizing the sale of substantially all of Gulf’s assets; (ii) entry of a Sale Order authorizing the sale of substantially all of Bear’s assets; or (iii) entry of a Sale Order authorizing the sale of substantially all of the Debtors’ assets; and (b) U.S. Trustee fees pursuant to 28 U.S.C. § 1930 and the Retained Professionals’ allowed fees and expenses, up to a maximum of \$200,000, incurred subsequent to a Termination Event, the Maturity Date, or the later of: (i) entry of a Sale Order authorizing the sale of substantially all of Gulf’s assets; (ii) entry of a Sale Order authorizing the sale of substantially all of Bear’s assets; or (iii) entry of a Sale Order authorizing the sale of substantially all of the Debtors’ assets (the “Carve-Out”). Interim Order at ¶ 37.</p>
<p><u>Liens and Priorities</u> <i>Bankruptcy Rule</i> 4001(c)(1)(B)(i)</p>	<p>The DIP Loan Agreement will be secured by senior liens and security interests (collectively, the “DIP Liens”), in substantially all of the Debtors’ assets other than Gulf’s real property, but including Bear’s real property and each of the Debtors’ personal, tangible, or intangible property, including avoidance actions under sections 544,</p>

	<p>547, 548, and 550 of the Bankruptcy Code (collectively, the “DIP Collateral”); <i>provided, however</i>, that (i) the DIP Liens will only attach to the assets of a Debtor to the extent the DIP Lender makes an Advance to such Debtor and (ii) the DIP Liens shall only be secured by the Debtors’ avoidance actions under sections 544, 547, 548, and 550 (the “Chapter 5 Avoidance Actions”) upon entry of the Final Order. Interim Order at ¶¶ 38, 39, 41.</p> <p>Pursuant to section 364(c)(1) of the Bankruptcy Code, the DIP Lender will be granted a superpriority administrative claim (senior to any other superpriority administrative claims) in an amount equal to the Advances made under the DIP Loan (the “Post-Petition Advance Superpriority Administrative Claim”). The Post-Petition Superpriority Administrative Claim shall be subordinate to only the Carve Out. Interim Order at ¶ 41.</p> <p>Pursuant to Sections 364(c)(2) and 364(d)(1) of the Bankruptcy Code, the DIP Lender will be granted a senior first priority security interests and liens (other than Pre-Existing Liens (as defined in the Interim Order)), including priority over any liens acquired or perfected under Section 546(b) of the Bankruptcy Code, (the “Post-Petition Senior Lien”), in and upon the DIP Collateral. The Post-Petition Senior Lien shall be subject only to Pre-Existing Liens that are valid and enforceable and the Carve-Out. Interim Order at ¶ 38.</p> <p>The DIP Liens shall be senior to and shall not be subject or subordinate to (a) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (b) subject to applicable law, 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 governmental unit, commission, board, or court for any liability of the Debtors other than as expressly permitted under the DIP Loan Agreement. The DIP Liens are subject only to the Carve-Out. Interim Order at ¶ 42.</p>
<p><u>Adequate Protection for Prepetition Lenders</u> <i>Bankruptcy Rule 4001(c)(1)(B)(ii)</i></p>	<p>As adequate protection for the Pre-Petition Lender, Gulf will use proceeds from the DIP Loan make monthly payments in the minimum amount of interest due on the Pre-Petition Secured Loans. The obligations owed by Gulf to the Pre-Petition Lender under the Pre-Petition Loan Agreement will not be “rolled-up” into the DIP Loan and will be junior to and paid after the DIP Loan. Interim Order at ¶ 47.</p>

	<p>As additional adequate protection, to the extent of any diminution in value of the Pre-Petition Collateral, the Pre-Petition Lender will be granted an additional or replacement lien(s) in and upon all personal property of any kind and nature of Gulf, to the same extent, validity, and priority that Pre-Petition Lender possessed in such property on Petition Date (the “Replacement Lien”). The Replacement Lien shall be subordinate only to the DIP Liens and the Carve-Out. Interim Order at ¶ 48.</p> <p>As additional adequate protection, to the extent of any diminution in value of the Pre-Petition Collateral, the Pre-Petition Lender will be granted, in accordance with section 507(b) of the Bankruptcy Code, a superpriority administrative claim (the “Superpriority Administrative Claim”). The Superpriority Administrative Claim shall be subordinate to the Carve-Out and shall not attach to, encumber or otherwise be paid from the Chapter 5 Avoidance Actions until entry of a Final Order. Interim Order at ¶ 49.</p>
<p>Determination of Validity, Enforceability, Priority, or Amount of Pre-Petition Claims and Liens <i>Bankruptcy Rule 4001(c)(1)(iii)</i></p>	<p>The proposed Interim Order contains a provision binding the estate and all parties in interest with respect to the validity, perfection, enforceability, and extent of the Pre-Petition Lender’s prepetition liens and debts and the waiver of claims against the Pre-Petition Lender, but gives any party in interest (other than the Debtors) the shorter of: (i) 120 days from the entry of the Final Order and (ii) 90 days from the date a creditors’ committee is formed and retains counsel, to investigate such matters. Interim Order at ¶ 7.</p>
<p>Waiver or Modification of Automatic Stay <i>Bankruptcy Rule 4001(c)(1)(iv)</i></p>	<p>The proposed Interim Order provides that the automatic stay provisions of section 362 of the Bankruptcy Code will be vacated and modified to the extent necessary to permit the DIP Lender and the Pre-Petition Lender to exercise all rights and remedies under the DIP Loan Agreement upon the occurrence of a Termination Event (as defined below) and after the giving of three (3) business days written notice of the same to the Debtors, the Committee, the U.S. Trustee, and their counsel; <i>provided, however</i>, that an order granting relief from the automatic stay must first be obtained by the DIP Lender and/or the Pre-Petition Lender to foreclose on any DIP Collateral. Interim Order at ¶ 43.</p>
<p>Waiver or Modification of Nonbankruptcy Law Relating to the Perfection of a Lien <i>Bankruptcy Rule 4001(c)(1)(B)(vii)</i></p>	<p>The proposed Interim Order provides that the liens provided to the DIP Lender and the Pre-Petition Lender shall be effective and perfected upon entry of the Interim Order without necessity of the execution, recordation, or filings of security agreements, control agreements, pledge agreements, financing statements or other similar documents. Interim Order at ¶¶ 38, 48, 50.</p>

<p>Waivers of Rights Under Section 506(c) of the Bankruptcy Code <i>Bankruptcy Rule 4001(c)(1)(B)(x)</i></p>	<p>Subject to entry of a Final Order, except to the extent of the Carve-Out, no expenses of administration of the Debtors' chapter 11 cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, or costs of preservation or disposition of property that is subject to the liens of the Pre-Petition Lender or the DIP Lender, shall be charged against or recovered from the DIP Collateral and/or Pre-Petition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principal of law, without the prior written consent of the DIP Lender and/or the Pre-Petition Lender. Interim Order at ¶ 44</p>
<p>Liens on Avoidance Actions <i>Bankruptcy Rule 4001(c)(1)(xi)</i></p>	<p>Neither the DIP Liens nor the liens granted to the Pre-Petition Lender shall attach the Chapter 5 Avoidance Actions until entry of the Final Order. Interim Order at ¶¶ 38, 48, 49.</p>
<p>Termination Events <i>Bankruptcy Rule 4001(c)(1)(B)</i></p>	<p>The proposed Interim Order sets forth the following termination events (each a "Termination Event"):</p> <ul style="list-style-type: none"> (a) either Debtor's chapter 11 case is either dismissed or converted to a case under chapter 7 of the Bankruptcy Code; (b) a trustee or an examiner with expanded powers is appointed in the chapter 11 cases; (c) the Interim Order or Final Order is reversed, vacated, stayed, amended, supplemented, or otherwise modified in a manner which shall materially and adversely affect the rights of the DIP Lender or the priority of any or all of the DIP Lender's claims, liens, or security interests and which is not acceptable to the DIP Lender, in its discretion; (d) the Final Order is not entered on or before thirty (30) days after the Petition Date; (e) material non-compliance by either or both of the Debtors with any of the terms, provisions or covenants of this Interim Order or any Final Order; (f) either or both of the Debtors use Cash Collateral other than as set forth herein and the Budget;

	<p>(g) either or both of the Debtors make cash disbursements on an aggregate basis in excess of 15% of the amounts set forth in such Debtor's respective Budget measured on a cumulative basis for a 4 week period starting from the first week of the First Budget; <i>provided, however</i>, that there shall be no excess variance with respect to the professional fees and expenses set forth in the Budget;</p> <p>(h) Either or both Debtors fail to furnish the Second Budget (as defined in the Interim Order) on a timely basis;</p> <p>(i) (i) the Debtors do not receive a binding offer to purchase substantially all of their assets on or before August 31, 2016; (ii) the Bankruptcy Court does not enter an order approving the sale of substantially all of the Debtors' assets on or before September 15, 2016; or (iii) the Debtors do not close on the sale of substantially all of their assets on or before September 30, 2016;</p> <p>(j) the Debtors fail to comply with or perform, in any material respect, the terms and provisions of the Interim Order, Final Order, or any DIP Loan Document, including, without limitation, using a DIP Loan or Cash Collateral other than in accordance with the provisions of the Interim Order and the Final Order;</p> <p>(k) the Debtors fail to comply with or perform, in any material respect, the terms and provisions of the Interim Order, Final Order or the DIP Loan Agreement;</p> <p>(l) any motion or other proceeding is filed to approve a sale or other disposition of substantially all of the Debtors' assets without the consent of the DIP Lender and/or Pre-Petition Lender;</p> <p>(m) any superpriority administrative claim, lien, or security interest equal or superior in priority to the Pre-Petition Liens, the DIP Liens, and/or the post-petition liens granted to the Pre-Petition Lender is granted;</p> <p>(n) the automatic stay of section 362 is lifted so as to allow a party other than the Pre-Petition Lender and/or the DIP Lender to proceed against any material asset of the Debtors;</p> <p>(o) the Debtors file, or the Bankruptcy Court enters an order confirming, a chapter 11 plan, which plan is not in form and substance acceptable to the Pre-Petition Lender and/or the</p>
--	--

	<p>DIP Lender;</p> <p>(p) a party other than the Pre-Petition Lender or the DIP Lender file a reconsideration or appeal to the Interim Order or any Final Order;</p> <p>(q) a challenge to Pre-Petition Lender's liens and claims is brought by an interested party; and/or</p> <p>(r) the occurrence of an Event of Default (as defined below).</p> <p>Interim Order at ¶ 32.</p>
<p><u>Events of Default</u> <i>Bankruptcy Rule</i> <i>4001(c)(1)(B)</i></p>	<p>The proposed Interim Order sets forth the following events of default (each an "Event of Default"):</p> <p>(a) Either Debtor's chapter 11 case shall be dismissed or converted to a Chapter 7 case;</p> <p>(b) Any chapter 11 plan is confirmed without Pre-Petition Lender's and/or DIP Lender's consent;</p> <p>(c) Unless otherwise approved and authorized by this Court or agreed to by Pre-Petition Lender and/or DIP Lender, any other superpriority administrative claim or post-petition lien equal or superior in priority to those granted to Pre-Petition Lender and/or DIP Lender pursuant to the Interim Order or Final Order is entered;</p> <p>(d) The Interim Order or Final Order shall be amended, reversed, stayed, vacated, or otherwise modified in a way which materially and adversely affects the rights of Pre-Petition Lender and/or DIP Lender and which is not acceptable to Pre-Petition Lender and/or DIP Lender;</p> <p>(e) Any breach by either or both of the Debtors of the Interim Order, Final Order, or DIP Loan Agreement;</p> <p>(f) The occurrence of an Event of Default under the DIP Loan Agreement after the date the Interim Order is entered</p> <p>(g) Either or both of the Debtors fail to pay (i) any principal amount of the DIP Loan when due or (ii) interest or any other amount when due and such failure continues for five (5) days after written notice to the Debtors.</p> <p>(h) Any representation or warranty made or deemed made by the Debtors in the Interim Order, the Final Order, and/or</p>

	<p>DIP Loan Agreement is incorrect in any material respect on the date as of which such representation or warranty was made or deemed made; and</p> <p>(i) Either or both Debtors fail to observe or perform any covenant, condition or agreement contained in the Interim Order, Final Order, and/or DIP Loan Agreement</p> <p>Interim Order at ¶ 60.</p>
--	---

Local Rule 4001-2 Disclosures

17. The Debtors submit that the Interim Order and the DIP Loan Agreement complies with Local Rule 4001-2(b)(1) as follows:

<u>Cross-Collateralization</u> <i>Local Rule 4001-2(b)(1)(A)</i>	None.
<u>Investigation Period</u> <i>Local Rule 4001-2(b)(1)(B)</i>	The proposed Interim Order contains a provision binding the estate and all parties in interest with respect to the validity, perfection, enforceability, and extent of the Pre-Petition Lender's prepetition liens and debts and the waiver of claims against the Pre-Petition Lender, but gives any party in interest (other than the Debtors) the shorter of: (i) 120 days from the entry of the Final Order and (ii) 90 days from the date a creditors' committee is formed and retains counsel, to investigate such matters. Interim Order at ¶ 7.
<u>Waiver/Release, Without Notice, of Estate Rights Under Applicable Law</u> <i>Local Rule 4001-2(b)(1)(C)</i>	None.
<u>Immediate Grant to Prepetition Lender Liens on Debtor's Avoidance Actions</u> <i>Local Rule 4001-2(b)(1)(D)</i>	None. No lien on the Chapter 5 Avoidance Actions will be granted prior to entry of a Final Order. Interim Order at ¶¶ 38, 48, 49.
<u>"Roll-Up"</u> <i>Local Rule 4001-2(b)(1)(E)</i>	None, <i>provided, however</i> , the Interim Order provides that the Debtors may use the proceeds of the DIP Loan to make adequate protection payments to the Pre-Petition Lender. Interim Order at ¶ 35.

<u>Disparate Treatment for Committee Professionals</u> <i>Local Rule 4001-2(b)(1)(F)</i>	None. The Committee professionals' fees and expenses are included in the Carve-Out. Interim Order at ¶ 37.
<u>Non-Consensual Priming</u> <i>Local Rule 4001-2(b)(1)(G)</i>	None. The Pre-Petition Lender has consented to the priming of its Pre-Petition Liens.

**Request for Authority to Use Cash Collateral and to
Incur Secured Postpetition Financing**

18. The Debtors require money for the operation of their businesses and administration of their bankruptcy estates, including, but not limited to, the payment of critical pre- and postpetition wages, salaries, and other expenses, which are essential to the preservation of the estates. The continued operation of the Debtors is in the best interests of creditors, the estates, and all interested parties, because it will preserve going concern values and provide the prospect of greater potential recoveries for creditors than would the immediate termination and liquidation of the Debtors' businesses. Accordingly, as provided in the Interim Order and any Final Order, the Debtors request that: (a) the Pre-Petition Lender make available to Gulf all of its cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, whether original collateral or proceeds, products, rents, or profits of other Pre-Petition Collateral or the proceeds thereof (the "Cash Collateral")⁶ and (b) the DIP Lender provide post-petition financing to the Debtors pursuant to the terms and conditions of the DIP Loan Documents.

19. The ability of the Debtors to continue their businesses and maximize value for all constituents depends upon the Debtors obtaining such financing from the DIP Lender. The DIP Lender is willing to make Advances under the DIP Loan Agreement and provide such other financial accommodations on a secured basis, as more particularly described herein, solely in

⁶ The Pre-Petition Lender does not have a lien on the assets of Bear, so consent to the use of Bear's cash is not necessary.

accordance with the proposed Interim Order and any Budget and pursuant to the terms and conditions of the DIP Loan Agreement.

Basis for Relief

The Origins of the Debtor's Need for Financing

20. As discussed in more detail in the Caridroit Declaration, over the past few years the Debtors have faced a number of challenges. The fundamental driver of the Debtors' profitability is metals pricing, particularly the price of molybdenum and vanadium. Unfortunately, these prices have been at historical lows for years. This has led to Bear being less profitable than it could be under different market conditions and Gulf consistently losing money. In addition, Gulf has faced aggressive environmental enforcement actions arising out of actions taken under former management. Those actions and the related enforcement have led to substantial penalties and extremely expensive capital investment, further increasing losses at Gulf.

21. In late 2015 and early 2016, Rothschild Global Financial Advisory ("Rothschild") was retained to explore transactions for the sale of Gulf's and Bear's businesses. Since that time, Rothschild and the Debtors have engaged in a thorough prepetition marketing process. Informed by that process, the Debtors have determined that it is in the best interests of the Debtors and their estates and creditors to sell their assets through this chapter 11 process.

22. The Debtors will not be able to continue operations and conduct the sale process without financing. Stoneleigh Group Holdings, LLC ("Stoneleigh") has been engaged by the Debtors as their financial advisor. At the Debtors' request, Stoneleigh assisted the Debtors' management with the development of a cash flow forecast to determine the financing that the Debtors would need to continue their operations during a chapter 11 sale process. This cash flow forecast developed into the Budget.

The Financing Process

23. After determining that they would need a loan of up to \$12 million to conduct operations during chapter 11 and provide for an appropriate sale process, the Debtors reviewed their financing options. It was obvious to the Debtors and their advisors that no one would provide them unsecured financing, as any such financing would be junior to the \$3 million owed to the Pre-Petition Lender and *pari passu* with the approximately \$132 million owed to Comilog on an unsecured basis. Accordingly, the Debtors approached Comilog about providing the necessary financing, which Comilog agreed to provide under the above-described terms of the DIP Loan Agreement. Thereafter, to conduct a “market check,” the Debtors, through Stoneleigh and counsel, contacted a number of other lenders about the possibility of providing a loan on better terms. Such financing would have had to be junior to the Pre-Petition Loans, because the Pre-Petition Lender would not consent to a third party priming loan. It quickly became clear to the Debtors and their advisors that the DIP Lender would be the only entity willing to lend the Debtors sufficient funds to achieve their goals in these chapter 11 cases. The DIP Lender’s proposed credit facility presents the best and only offer the Debtors have received. The Debtors believe that securing the DIP Loan Agreement will allow the Debtors to avoid a costly and distracting fight over potential priming and adequate protection; instead, management may focus on preparing the Debtors for a future sale.

24. The terms of the DIP Loan Agreement, including its structure, collateral required to be pledged, principal amount, pricing, and fee structure, are more favorable to the Debtors than what could have been achieved with any other potential lenders.

Applicable Authority

25. The continued viability of the Debtors’ business and the success of their sale efforts hinges upon the Debtors’ ability to immediately access financing. Absent immediate

access to financing, Gulf simply cannot operate its business. Likewise, the ability to access financing from the DIP Lender will provide Bear a necessary backstop in the event it runs out of cash during the pendency of its chapter 11 case. At this time, the Debtors' liquidity needs can be satisfied only if the Debtors are authorized to borrow up to a total of \$12 million under the proposed DIP Loan Agreement and use such proceeds to fund operations and as otherwise provided in the DIP Loan Agreement and proposed Interim Order.

26. Approval of the DIP Loan Agreement will allow the Debtors to remain operational, including paying their current and ongoing operating expenses (e.g., postpetition wages, salaries, and utility, and vendor costs). Finally, the terms of the DIP Loan Agreement are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with its fiduciary duties.

The Terms of the DIP Loan Agreement Are Fair, Reasonable, and Appropriate

27. The terms and conditions of the DIP Loan Documents are fair, reasonable, and appropriate in the circumstances presented, and were negotiated by the parties in good faith and at arm's length.

28. The DIP Lender has required that the Debtors grant the liens and superpriority claims contemplated by the Interim Order and the DIP Loan Agreement upon the terms and conditions set forth therein. Those liens and superpriority claims will be subject to the Carve-Out, which includes professional fees that are accrued and unpaid through the time of any Termination Event, up to \$200,000 in professional fees accruing after notice of an event of default, and amounts payable to the Clerk of the Court and the United States Trustee. Such carve-outs generally "preserve the adversary system" by ensuring that committees and a debtor's estate are adequately assisted by counsel. See In re Ames Dep't Stores, Inc., 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) (noting that courts generally "insist on a carve out" for professional fees,

and that “[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced”). Additionally, the Carve-Out protects against administrative insolvency during the course of the chapter 11 cases by ensuring that assets remain for the payment of United States Trustee fees, Court fees, and professional fees of the Debtors and any official committee appointed in these chapter 11 cases, notwithstanding the grant of superpriority and administrative liens and claims under the DIP Loan Agreement. The DIP Loan Agreement provides the Debtors with the liquidity they need to operate their businesses during the chapter 11 cases, which will preserve the value of their assets while the Debtors conduct a sales process. After thorough analysis by the Debtors and their advisors, they have concluded that the terms of the DIP Loan Agreement are reasonable and appropriate under the circumstances.

29. Bankruptcy courts routinely defer to a debtor’s business judgment in considering whether to approve the debtor’s request to obtain postpetition financing. See e.g., Trans World Airlines, Inc. v. Travellers Int’l AG (In re Trans World Airlines, Inc.), 163 B.R. 964, 974 (Bankr. D. Del. 1994) (quoting order approving post-petition loan and receivables facility because such facility “reflect[ed] sound and prudent business judgment”); In re Ames Dep’t Stores, Inc., 115 B.R. at 40 (The court should defer to debtor’s “reasonable business judgment . . . so long as the financing agreement does not . . . leverage the bankruptcy process” and its purpose is to benefit the estate rather than another party-in-interest.).

30. The Debtors exercised their reasonable business judgment in determining that the DIP Loan Agreement is the best financing option available under the present circumstances, and the Debtors have satisfied the legal requirements to incur the obligations under the DIP Loan Agreement. The Debtors believe that the DIP Loan Agreement contains terms that are fair, reasonable, and in the best interests of the Debtors and their estates. Accordingly, the Debtors

respectfully submit that they should be authorized to enter into the DIP Loan Agreement and obtain access to the DIP Loan Agreement on the terms described herein.

The Debtors Should Be Authorized to Obtain Postpetition Financing on a Senior Secured and Superpriority Basis

31. Section 364 of the Bankruptcy Code allows a debtor to obtain (a) unsecured credit in the ordinary course of business, (b) unsecured credit outside the ordinary course of business, (c) credit with specialized priority or with certain security interests, and (d) secured credit by granting a senior or *pari passu* lien on already encumbered property. In other words, section 364 is “structured with an escalating series of inducements . . .” that may be offered to attract postpetition financing. Sapir v. CPQ Colorchrome Corp. (In re Photo Promotion Assocs., Inc.), 87 B.R. 835, 839 (Bankr. S.D.N.Y. 1988), aff’d, 881 F.2d 6 (2d Cir. 1989). Accordingly, if a debtor cannot obtain postpetition financing on an unsecured basis under sections 364(a) and (b), the bankruptcy court may authorize a debtor to obtain postpetition financing on a superpriority administrative expense basis pursuant to section 364(c), secured by a senior lien on unencumbered property or secured by a junior lien on encumbered property.

32. Courts consider various factors in determining whether a debtor may obtain postpetition financing under section 364(c) of the Bankruptcy Code, including whether (i) the debtor is unable to obtain secured credit under section 364(b), (ii) the credit transaction is necessary to preserve the assets of the estate, (iii) the terms of the transaction are fair, reasonable, and adequate given the circumstances of the debtor-borrower and the proposed lender, (iv) entry into the financing constitutes an exercise of the debtor’s sound and reasonable business judgment, and (v) the financing was negotiated in good faith and at arm’s length between the debtor and the lender. In re Farmland Indus., Inc., 294 B.R. 855, 879-81 (Bankr. W.D. Mo.

2003); see also In re Aqua Assocs., 123 B.R. 192, 195-96 (Bankr. E.D. Pa. 1991) (applying factors 1-3).

33. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate “by a good faith effort that credit was not available” to the debtor on an unsecured or administrative expense basis. Bray v. Shenandoah Fed. Savs. & Loan Ass’n (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986). “The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” Id. When few lenders are likely to be able and willing to extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” In re Sky Valley, Inc., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), aff’d sub nom., Anchor Savs. Bank FSB v. Sky Valley, Inc., 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); see also In re Ames Dep’t Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

34. Due to the existing prepetition liens and security interests on the Debtors’ assets as well as Comilog’s large unsecured claim, the Debtors are unable to procure sufficient debtor in possession financing in the form of either unsecured credit under Bankruptcy Code sections 364(a) or (b), solely in exchange for the grant of an administrative expense or superpriority administrative expense claim or on a junior lien basis under section 364(c) of the Bankruptcy Code. Neither the DIP Lender nor other potential lenders were willing to commit to postpetition financing on these terms. In fact, almost any proposal other than the one submitted by the DIP Lender would have likely involved added costs and risks associated with nonconsensual priming

litigation. As Judge Peck of the Southern District of New York has correctly pointed out, “[t]hat which helps to foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.” In re Ion Media Networks, Inc., Case No. 09-13125, 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009).

35. Based on the foregoing, the Debtors believe that they would not have been able to obtain debtor in possession financing on more favorable terms from other sources. See, e.g., Bray, 789 F.2d at 1088 (section 364 “imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.”).

The Debtors Should Be Authorized to Obtain Postpetition Financing Secured by Priming Liens

36. If the incentives available under section 364(c) are insufficient to attract post-petition financing, a bankruptcy court may authorize post-petition credit under section 364(d) secured by a senior or *pari passu* lien on encumbered property (i.e., a “priming” lien) without consent from the affected lienholders if (i) the debtor cannot otherwise obtain credit and (ii) the interests of the existing lienholders are adequately protected. See 11 U.S.C. § 364(d)(1); In re Aqua Assocs., 123 B.R. 192, 196 (Bankr. E.D. Pa. 1991) (listing the above factors and also requiring that the “credit transaction” be “necessary to preserve assets of the estate”).

37. The Debtors approached several institutions to serve as potential financing sources and ultimately determined that the DIP Lender offered the only available option for obtaining postpetition financing. In effect, the DIP Lender will be priming itself. Further, the only liens to be primed under the DIP Loan Agreement are those liens that are otherwise subject to challenge by any creditors committee appointed in these chapter 11 cases. The Debtors, therefore, do not believe that any existing creditors are harmed by such priming.

Bear Should Be Authorized to Use Cash Collateral

38. Bear requires use of the Cash Collateral in order to permit the orderly continuation of its business, to maintain business relationships with vendors and suppliers, to make payroll, to make capital expenditures, and to satisfy other working capital and operational needs.

39. Bankruptcy Code section 363(c)(2) provides that a debtor may not use, sell, or lease cash collateral unless “(a) each entity that has an interest in such cash collateral consents; or (b) the court, after notice and hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.” 11 U.S.C. § 363(c)(2). The Cash Collateral is included in the Pre-Petition Collateral. Here, the Pre-Petition Lender has consented to Bear’s use of Cash Collateral on the terms and conditions set forth in the Interim Order and in the DIP Loan Agreement.

40. Accordingly, based upon the foregoing, the Debtors respectfully request that the Court authorize Bear to use the Cash Collateral in accordance with the terms set forth in the Interim Order.

Gulf Should Be Authorized to Provide Adequate Protection to the Pre-Petition Lender

41. To the extent that the Pre-Petition Lender suffers any harm as a result of the DIP Lender’s priming liens, or otherwise through diminution in the value of the Pre-Petition Collateral it should be adequately protected. A debtor may obtain postpetition credit that is “secured by a senior or equal lien on property of the estate that is subject to a lien only if” the debtor, among other things, provides “adequate protection” to those parties whose liens are primed. See 11 U.S.C. § 364(d)(1)(B). Adequate protection is evaluated on a case-by-case basis and may be provided in various forms, including payment of adequate protection fees, payment of interest, or granting of replacement liens or administrative claims. See In re Mosello, 195

B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (“[T]he determination of adequate protection is a fact specific inquiry . . . left to the vagaries of each case”) (citation and quotation omitted). As described below, the DIP Loan Agreement provides a multi-faceted package of adequate protection to ensure that the Pre-Petition Lender being primed by the DIP Loan Agreement will be compensated to the extent of any diminution in the value of its Pre-Petition Collateral.

42. As adequate protection, to the extent of diminution in the value of the Pre-Petition Collateral, the Debtors propose that, the Pre-Petition Lender receive:

- (i) Replacement Lien. The Replacement Lien in and upon all personal property of any kind and nature of Gulf, to the same extent, validity, and priority that Pre-Petition Lender possessed in such property on Petition Date. The Replacement Lien shall be subordinate only to the DIP Liens and the Carve-Out.
- (ii) Superpriority Administrative Claim. Subject to the Carve-Out, a superpriority claim under section 507(b) of the Bankruptcy Code that is immediately junior to the superpriority claims granted to the DIP Lender.
- (iii) Interest, Fees, and Expenses. The Pre-Petition Lender shall be granted, in accordance with section 507(b) of the Bankruptcy Code, a superpriority administrative claim (the “Superpriority Administrative Claim”). The Superpriority Administrative Claim shall be subordinate to the Carve-Out and shall not attach to, encumber or otherwise be paid from the Chapter 5 Avoidance Actions until entry of a Final Order.

Support for Modification of Automatic Stay

43. As set forth more fully in the proposed Interim Order, the DIP Loan Agreement contemplates a modification of the automatic stay established pursuant to section 362 of the Bankruptcy Code to permit the DIP Lender, in its sole discretion, to take certain actions permitted or required under the DIP Loan Documents and to enforce certain remedies against the DIP Collateral without having to obtain any further order of this Court. The Interim Order further provides that, prior to the exercise of certain enforcement or liquidation remedies against the DIP Collateral, the DIP Lender shall be required to give five business days’ written notice to

each of counsel for the Debtor, any official committee of unsecured creditors appointed in these chapter 11 cases, and the United States Trustee.

44. The Debtors submit that stay modification provisions such as these are ordinary and usual features of postpetition financing facilities and, in the Debtors' business judgment, are reasonable under the present circumstances. See, e.g., In re QSL of Medina, et al., Case No. 15-52722 (Bankr. N.D. Ohio Dec. 15, 2015), In re A123 Sys., Inc., 12-12859 (KJC) (Bankr. D. Del. Nov. 26, 2012); In re Graceway Pharm., LLC, Case No. 11-13036 (MFW) (Bankr. D. Del. Nov. 7, 2011); In re Sportsman's Warehouse, Inc., Case No. 09-10990 (CSS) (Bankr. D. Del. Apr. 16, 2009).⁷ Accordingly, the Debtors respectfully request that the Court authorize the modification of the automatic stay in accordance with the terms set forth in the Interim Order and the DIP Loan Documents.

The DIP Lender Is Entitled to the Protections Under Section 364(e) of the Bankruptcy Code

45. Bankruptcy Code section 364(e), which protects a good faith lender's right to collect on loans extended to a debtor and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal, was designed to "encourage lenders to extend credit to debtors by eliminating the risk that any lien securing the loan will be modified on appeal." Keltic Fin. Partners, LP v. Foreside Mgmt. Co. (In re Foreside Mgmt. Co.), 402 B.R. 446, 451 (B.A.P. 1st Cir. 2009) (citing Shapiro v. Saybrook Mfg. Co. (In re Saybrook Mfg. Co.), 963 F.2d 1490, 1493 (11th Cir. 1992)); see also White Rose Food v. General Trading (In re Clinton St. Food Corp.), 170 B.R. 216, 220 (S.D.N.Y. 1994) (noting that section 364(e)'s purpose "is to overcome[s] parties' reluctance to lend to a bankrupt firm . . ."); Fleet Nat'l Bank v. Doorcrafters (In re N. Atl. Millwork Corp.),

⁷ Copies of these orders are available upon request to the Debtors' proposed counsel.

155 B.R. 271, 279 (Bankr. D. Mass. 1993) (“The purpose of Section 364(e) is to allow good faith lenders to rely upon conditions at the time they extend credit and to encourage lenders to lend to bankruptcy entities.”).

46. The Debtors believe that the terms and conditions of the DIP Loan Agreement are fair and reasonable and are the best possible terms on which the Debtors could obtain postpetition financing. Further, the terms and conditions of the DIP Loan Documents were negotiated in good faith and at arm’s length with all parties represented by experienced counsel. Accordingly, the DIP Lender should be provided with the benefit and protection of section 364(e) of the Bankruptcy Code, such that if any of the provisions of the DIP Loan Agreement are later modified, vacated, stayed, or terminated by subsequent order of this or any other Court, the DIP Lender will be fully protected with respect to any amounts previously disbursed.

The Payment of Fees to the DIP Lender Is Appropriate

47. The Debtors have agreed, subject to Court approval, to pay a \$50,000 closing fee for the DIP Loan, plus reasonable costs and expenses to the DIP Lender, including without limitation, reasonable fees and expenses of the professionals retained by the DIP Lender, as provided for in the DIP Loan Agreement, without the necessity of filing retention applications or fee applications.

48. The fees and other obligations under the DIP Loan Agreement were negotiated in good faith and at arms’ length and represent the most favorable terms to the Debtors on which the DIP Lender would agree to make the DIP Loan Agreement available. The Debtors considered the fees described above when determining in their sound business judgment that the DIP Loan Agreement constitutes the best terms on which the Debtors could obtain the postpetition financing necessary to continue their operations. The Debtors determined that

paying these fees in order to obtain the DIP Loan is in the best interests of the Debtors' estates, creditors, and all other parties in interest.

49. Further, the fees are reasonable and appropriate under the circumstances. Courts routinely authorize similar lender incentives beyond the explicit liens and rights specified in section 364 of the Bankruptcy Code. See In re Defender Drug Stores, Inc., 145 B.R. 312, 316 (9th Cir. BAP 1992) (approving extension of financing facility pursuant to section 364 of the Bankruptcy Code that included a lender "enhancement fee").

The DIP Liens Should Be Deemed Effective

50. In order to effectuate the DIP Loan Agreement, the DIP Liens (as defined in the Interim Order) should be (a) deemed effective and perfected in all respects as of the Petition Date and without the necessity of the Debtors or the DIP Lender preparing, executing, entering into, recording, or filing any financing statements, mortgages, notices of lien, control agreements, pledge agreements, or similar instruments in any jurisdiction, and without the necessity of the DIP Lender taking possession or control of any DIP Collateral or DIP Lender taking any other action to attach or perfect the DIP Liens conceived of in the DIP Loan Agreement, and (b) shall extend and attach to all DIP Collateral and any proceeds of DIP Collateral which is presently in existence or hereafter is acquired or arises (whether acquired or arising before, on or after the Petition Date) and in which the Debtors have any legal or equitable interest, whether held by the Debtors or by any other person for the Debtors' account, and wherever located. Notwithstanding the foregoing, the DIP Lender should be allowed (but not obligated), in its sole discretion, to file such financing statements, mortgages, notices of liens, and other similar documents without seeking modification of the automatic stay under section 363 of the Bankruptcy Code and all such financing statements, mortgages, notices of liens, and other similar documents shall be

deemed to have been filed or recorded at the time and on the date of the commencement of these chapter 11 cases.

Interim Approval Should be Granted

51. Bankruptcy Rule 4001(c) provides that:

The court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 14-day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

Fed. R. Bankr. P. 4001(c)(2). Similarly, the Local Rules provide that:

[t]he Court may grant interim relief pending review by interested parties of the proposed debtor in possession financing arrangements. Such interim relief shall include only what is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

Local Rule 4001-2(c). Further, to the extent the Debtors are seeking authority to sell, use, or otherwise incur an obligation regarding property of its estate, Bankruptcy Rule 6003 provides that the Court may only grant immediate relief to the extent it is necessary to avoid immediate and irreparable harm. Fed. R. Bankr. P. 6003(b).

52. Generally, courts find “immediate and irreparable harm” exists where loss of the business threatens ability to reorganize. See In re Ames Dep’t Stores, Inc., 115 B.R. at 36 n.2. Approval of the DIP Loan Agreement on an interim basis under Rule 4001(c)(2) is left to the discretion of the court as informed by the facts of each case. In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions, and a debtor should be entitled to borrow those amounts that it believes prudent in the operation of its business. See In re Trans World Airlines, Inc., 163 B.R. at 974; In re Ames Dep’t Stores, Inc., 115 B.R. at 40. After the 14-day period, the request for financing is

not limited to those amounts necessary to prevent the destruction of the debtor's business, and the debtor is entitled to borrow those amounts that it believes are prudent to the operation of its business. In re Ames Dep't Stores, Inc., 115 B.R. at 36.

53. The Debtors seek expedited approval of the relief requested in the Motion in light of the immediate and irreparable harm that the Debtors' estates will incur unless they obtain the financing necessary to sustain their businesses. Absent sufficient funds to support the Debtors' operating business the Debtors' businesses and assets will quickly erode to the detriment of the Debtors' estates, creditors, and other parties in interest. For the reasons set forth above, the Debtors submit that immediate access to \$3,000,000 under the DIP Loan Agreement is necessary to preserve the value of the Debtors' estates for the benefit of their creditors and other parties in interest.

Waiver of any Applicable Stay

54. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in the Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

Request for Final Financing Hearing

55. Pursuant to Bankruptcy Rule 4001(b) and (c), a final hearing on this Motion may not be commenced earlier than fourteen (14) days after the service of such motion. Upon request, however, a bankruptcy court is empowered to conduct a preliminary expedited hearing

on such motion and authorize use of cash collateral to avoid immediate and irreparable harm to the Debtors' estates. See Fed. R. Bankr. P. 4001(b)(2) and (c)(2).

56. The Debtors request that the Court (a) conduct an expedited hearing with respect to this Motion and (b) schedule the final hearing on the use of cash collateral at the earliest possible date convenient for the Court in accordance with Bankruptcy Rule 4001(b) and (c).

Notice

57. No trustee, examiner or official committee has been appointed in these chapter 11 cases. Notice of this Motion has been served on the following parties or, in lieu thereof, to their counsel, if known: (i) the United States Trustee for the Western District of Pennsylvania; (ii) those creditors listed on the Debtors' List of Creditors Holding 20 Largest Unsecured Claims; (iii) the Debtors' prepetition secured lender; (iv) the proposed debtor in possession financing lender; (v) the District Director of Internal Revenue; (vi) the Texas Commission on Environmental Quality; and (vii) the Texas Office of the Attorney General Environmental Protection Division. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice need be given.

No Prior Request

58. No prior request for the relief sought in this Motion has been made to this or any other court.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtors respectfully request entry of interim and final orders granting the relief requested herein.

Dated: June 14, 2016

Respectfully submitted,

Sean D. Malloy (Ohio 0073157) (*pro hac vice* pending)
Michael J. Kaczka (Ohio 0076548) (*pro hac vice* pending)
Joshua A. Gadharf (Michigan P76860) (*pro hac vice* pending)
McDONALD HOPKINS LLC
600 Superior Avenue, East, Suite 2100
Cleveland, OH 44114
Telephone: (216) 348-5400
Facsimile: (216) 348-5474
E-mail: smalloy@mcdonaldhopkins.com
mkaczka@mcdonaldhopkins.com
jgadharf@mcdonaldhopkins.com

-and-

/s/ William E. Kelleher, Jr.
William E. Kelleher, Jr. (Pa. I.D. No. 30747)
Thomas D. Maxson (Pa. I.D. No. 63207)
Helen S. Ward (Pa. I.D. No. 204088)
COHEN & GRIGSBY, P.C.
625 Liberty Avenue, 5th Floor
Pittsburgh, PA 15222
Telephone: (412) 297-4900
Facsimile: (412) 209-0672
Email: wkelleher@cohenlaw.com
tmaxson@cohenlaw.com
hward@cohenlaw.com

PROPOSED COUNSEL FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

DIP LOAN AGREEMENT

SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT

This SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT, dated as of June 13, 2016 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "**Agreement**"), made by and among Gulf Chemical & Metallurgical Corporation, a Texas corporation and having a notice address at 302 Midway Road, Freeport, Texas 77542 ("**Gulf**" or a "**Grantor**"), and Bear Metallurgical Company, a Delaware corporation and having a notice address at 679 East Butler Road, Butler, PA 16001 ("**BMC**" or a "**Grantor**", and, together with Gulf, the "**Grantors**"), in favor of Comilog Holding, a French limited liability partnership and having a notice address at Tour Maine Montparnasse, 33, Avenue du Maine – F-75755 PARIS CEDEX 15, (the "**Secured Party**", and together with the Grantors, the "**Parties**").

WHEREAS, this Agreement is being entered into among the Parties pursuant to (a) the Senior Secured Debtor-In-Possession Dip Loan Agreement and Promissory Note of even date herewith among the Parties (the "**Dip Loan Agreement**"), and (b) that certain Interim Order: (i) Authorizing Debtors to Obtain Secured Post-Petition Financing and Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Modifying The Automatic Stay; (iv) Setting Final Hearing; and (v) Granting Related Relief (the "**Interim Order**"), issued by the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Bankruptcy Court**") in Case No. [●] (the "**Bankruptcy Case**");

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. If a term, however, is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) Capitalized terms used herein shall have the meanings set forth in this **Section 1**, and capitalized terms used herein which are not otherwise defined shall have the respective meanings assigned to them in the DIP Loan Agreement.

"Agreement" has the meaning set forth in the introductory paragraph.

"Bankruptcy Case" has the meaning set forth in the recitals.

"Bankruptcy Court" has the meaning set forth in the recitals.

"BMC" has the meaning set forth in the introductory paragraph.

"Collateral" has the meaning set forth in *Section 2*.

"DIP Loan Agreement" has the meaning set forth in the recitals.

"DIP Loan" has the meaning set forth in the DIP Loan Agreement.

"Event of Default" has the meaning set forth in the DIP Loan Agreement.

"Financing Order(s)" has the meaning set forth in the DIP Loan Agreement.

"First Priority" means, with respect to any lien and security interest purported to be created in any Collateral pursuant to this Agreement, such lien and security interest is the most senior lien to which such Collateral is subject (subject only to liens permitted under the DIP Loan Agreement).

"Grantor" has the meaning set forth in the introductory paragraph.

"Gulf" has the meaning set forth in the introductory paragraph.

"Interim Order" has the meaning set forth in the recitals.

"Party" has the meaning set forth in the introductory paragraph.

"Proceeds" means "proceeds" as such term is defined in section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

"Secured Obligations" has the meaning set forth in *Section 3*.

"Secured Party" has the meaning set forth in the introductory paragraph.

"UCC" means, as to Gulf, the Uniform Commercial Code as in effect from time to time in the State of Texas, and, as to BMC, the Uniform Commercial Code as in effect from time to time in the State of Delaware; or, in either case, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. Each Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing First Priority lien and security interest in favor of the Secured Party, to the extent of the DIP Loan advanced to such Grantor and subject to the Financing Orders, in and to all of its right, title and interest in and to the following, wherever located, whether now existing or hereafter from time to time arising or acquired (collectively, the "**Collateral**"):

(a) all personal property of every kind and nature including all accounts, goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, commercial tort claims, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money; and

(b) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the due and prompt payment and performance of:

(a) the obligations of the Grantors from time to time arising under the DIP Loan Agreement, this Agreement or otherwise with respect to the due and prompt payment of (i) the principal of and premium, if any, and interest on the DIP Loan (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations, including fees, costs, attorneys' fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantors under or in respect of the DIP Loan Agreement and this Agreement; and

(b) all other covenants, duties, debts, obligations and liabilities of any kind of the Grantors under or in respect of the DIP Loan Agreement, this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension

of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (all such obligations, covenants, duties, debts, liabilities, sums and expenses set forth in **Section 3** being herein collectively called the "**Secured Obligations**").

4. Perfection of Security Interest and Further Assurances.

(a) Each Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, take all actions as may be requested by the Secured Party to perfect the security interest of the Secured Party in the Collateral, including, without limitation, with respect to all Collateral over which control may be obtained within the meaning of sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, as applicable, the Grantor shall take all actions as may be requested from time to time by the Secured Party so that control of such Collateral is obtained and at all times held by the Secured Party. All of the foregoing shall be at the sole cost and expense of the Grantor.

(b) Each Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. Each Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) Each Grantor hereby further authorizes the Secured Party to file with the United States Patent and Trademark Office and the United States Copyright Office (and any successor office and any similar office in any state of the United States or in any other country) this Agreement and other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law.

(d) If a Grantor shall at any time hold or acquire any certificated securities, promissory notes, tangible chattel paper, negotiable documents or warehouse receipts relating to the Collateral, the Grantor shall endorse, assign and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify.

(e) If a Grantor shall at any time hold or acquire a commercial tort claim, the Grantor shall notify the Secured Party in a writing signed by the Grantor of the particulars

thereof and grant to the Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Secured Party.

(f) If any Collateral of a Grantor is at any time in the possession of a bailee, the Grantor shall promptly notify the Secured Party thereof and, at the Secured Party's request and option, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and the bailee agrees to comply, without further consent of the Grantor, at any time with instructions of the Secured Party as to such Collateral.

(g) Each Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

5. Representations and Warranties. Each Grantor represents and warrants as follows:

(a) To the Grantor's knowledge, the Collateral consisting of securities have been duly authorized and validly issued, and are fully paid and non-assessable and subject to no options to purchase or similar rights. The Grantor holds no commercial tort claims. To the Grantor's knowledge, none of the Collateral constitutes, or is the proceeds of (i) farm products, (ii) as-extracted collateral, (iii) manufactured homes, (iv) health-care-insurance receivables, (v) timber to be cut, or (vi) aircraft, aircraft engines, satellites, ships or railroad rolling stock. To the Grantor's knowledge, none of the account debtors or other persons obligated on any of the Collateral is a governmental authority covered by the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral.

(b) Except as set forth on Schedule A to the DIP Loan Agreement, at the time the Collateral becomes subject to the lien and security interest created by this Agreement, the Grantor will be the sole, direct, legal and beneficial owner thereof, free and clear of any lien, security interest, encumbrance, claim, option or right of others except for the security interest created by this Agreement and other liens permitted by the DIP Loan Agreement.

(c) It has full power, authority and legal right to borrow the DIP Loan Agreement and pledge the Collateral pursuant to this Agreement.

(d) Each of this Agreement and the DIP Loan Agreement has been duly authorized, executed and delivered by the Grantor and constitutes a legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to equitable principles (regardless of whether enforcement is sought in equity or at law).

(e) Except for approval of the Bankruptcy Court, no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the borrowing of the DIP Loan and the pledge by the Grantor of the Collateral pursuant to this Agreement or for the execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor or the performance by the Grantor of its obligations thereunder.

(f) The execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor and the performance by the Grantor of its obligations thereunder, will not violate any provision of any applicable law or regulation or any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to the Grantor or any of its property, or the organizational or governing documents of the Grantor or any agreement or instrument to which the Grantor is party or by which it or its property is bound, except where such violation would not have a Material Adverse Effect.

6. Receivables. If any Event of Default shall have occurred and be continuing, the Secured Party may, or at the request and option of the Secured Party each Grantor shall, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party.

7. Covenants. Each Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, and location of its chief executive office or its principal place of business or its organizational identification number. The Grantor will, prior to any change described in the preceding sentence, take all actions requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral, to the extent not delivered to the Secured Party pursuant to **Section 4**, will be kept at those locations identified to Secured Party and the Grantor will not remove the Collateral from such locations without providing at least 30 days' prior written notice to the Secured Party. The Grantor will, prior to any change described in the

preceding sentence, take all actions required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor will not sell, offer to sell, dispose of, convey, assign or otherwise transfer, grant any option with respect to, restrict, or grant, create, permit or suffer to exist any mortgage, pledge, lien, security interest, option, right of first offer, encumbrance or other restriction or limitation of any nature whatsoever on, any of the Collateral or any interest therein except as expressly provided for in the DIP Loan Agreement, herein or with the prior written consent of the Secured Party.

(d) The Grantor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon. The Grantor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located.

(e) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

8. Secured Party Appointed Attorney-in-Fact. Each Grantor hereby appoints the Secured Party the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time during the continuance of an Event of Default in the Secured Party's discretion to take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement (but the Secured Party shall not be obligated to and shall have no liability to the Grantor or any third party for failure to do so or take action). This appointment, being coupled with an interest, shall be irrevocable. The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

9. Secured Party May Perform. If a Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the expenses of the Secured Party incurred in connection therewith shall be payable by the Grantors; ***provided that***, the Secured Party shall not be required to perform or discharge any obligation of the Grantors.

10. Reasonable Care. The Secured Party shall have no duty with respect to the care and preservation of the Collateral beyond the exercise of reasonable care. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for (a) ascertaining or taking action with respect to any claims, the nature or sufficiency of any payment or performance by any party under or pursuant to any agreement relating to the Collateral or other matters

relative to any Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Collateral. Nothing set forth in this Agreement, nor the exercise by the Secured Party of any of the rights and remedies hereunder, shall relieve a Grantor from the performance of any obligation on the Grantor's part to be performed or observed in respect of any of the Collateral.

11. Remedies Upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party, without any other notice to or demand upon the Grantors, may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. If notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to a Grantor at its notice address as provided in **Section 15** hereof ten days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party in its absolute discretion may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. At any sale of the Collateral, if permitted by applicable law, the Secured Party may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price of the Collateral or any part thereof payable at such sale. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder. Each Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. Neither the Secured Party nor any custodian shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing, nor shall it be under any obligation to take any action whatsoever with regard thereto. Each Grantor agrees that it would not be commercially unreasonable for the Secured Party to dispose of the Collateral or any

portion thereof by utilizing internet sites that provide for the auction of assets of the type included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. The Secured Party shall not be obligated to clean-up or otherwise prepare the Collateral for sale.

(b) If any Event of Default shall have occurred and be continuing, any cash held by the Secured Party as Collateral and all cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable and documented attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash or cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantors or to whomsoever may be lawfully entitled to receive such surplus. Each Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(c) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, each Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law.

12. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to **Section 14**) be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

13. Security Interest Absolute. Each Grantor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. All rights of the Secured Party and liens and security interests hereunder, and all Secured Obligations of the Grantors hereunder, shall be absolute and unconditional irrespective of:

(a) any illegality or lack of validity or enforceability of any Secured Obligation or any related agreement or instrument;

(b) any change in the time, place or manner of payment of, or in any other term of, the Secured Obligations, or any waiver, amendment or other modification of the DIP Loan Agreement, this Agreement or any other agreement, including any increase in the Secured Obligations resulting from any extension of additional credit or otherwise;

(c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral or any other collateral, or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for all or any of the Secured Obligations;

(d) any manner of sale, disposition or application of proceeds of any Collateral or any other collateral or other assets to all or part of the Secured Obligations;

(e) any default, failure or delay, wilful or otherwise, in the performance of the Secured Obligations;

(f) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, a Grantor against the Secured Party; or

(g) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the DIP Loan or any existence of or reliance on any representation by the Secured Party that might vary the risk of a Grantor or otherwise operate as a defense available to, or a legal or equitable discharge of, a Grantor or any other grantor, guarantor or surety.

14. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by a Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantors, and then such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

15. Addresses For Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the DIP Loan Agreement, and addressed to the respective parties at their addresses as specified in the DIP Loan Agreement or as to either party at such other address as shall be designated by such party in a written notice to each other party.

16. Continuing Security Interest; Further Actions. This Agreement shall create a continuing First Priority lien and security interest in the Collateral and shall (a) remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon each Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; **provided that**, a Grantor may not assign or otherwise transfer any of its rights or obligations under this Agreement

without the prior written consent of the Secured Party. Without limiting the generality of the foregoing clause (c), any assignee of the Secured Party's interest in any agreement or document which includes all or any of the Secured Obligations shall, upon assignment, become vested with all the benefits granted to the Secured Party herein with respect to such Secured Obligations.

17. Governing Law. This Agreement and the DIP Loan Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or the DIP Loan Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of Texas. The other provisions of Sections 12.4, 12.5 and 12.6 of the DIP Loan Agreement are incorporated herein, *mutatis mutandis*, as if a part hereof.

18. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement and the DIP Loan Agreement constitute the entire contract among the Parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Borrowers have executed this DIP Loan Agreement
as of June 13, 2016.

GULF CHEMICAL &
METALLURGICAL
CORPORATION

By [Signature]
Name: Eric Caridroit
Title: Chief Executive Officer

BEAR METALLURGICAL
COMPANY

By [Signature]
Name: Eric Caridroit
Title: Chief Executive Officer

By its acceptance of this DIP Loan
Agreement, the DIP Lender
acknowledges and agrees to be bound
by the provisions of **Section 2.1**.

COMILOG HOLDING

By _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Borrowers have executed this DIP Loan Agreement
as of _____, 2016.

GULF CHEMICAL &
METALLURGICAL
CORPORATION

By _____
Name: _____
Title: _____

BEAR METALLURGICAL
COMPANY

By _____
Name: _____
Title: _____

By its acceptance of this DIP Loan
Agreement, the DIP Lender
acknowledges and agrees to be bound
by the provisions of **Section 2.1**.

COMILOG HOLDING


By 
Name: Philippe VECTEN
Title: CEO

EXHIBIT B

BUDGET

GCMC Weekly Cash Model

DIP Budget - 6.13

USD in thousands

USD in thousands		1	2	3	4	5	6	7	8	9	10	11	12	13	13 week
week ending		6/18	6/25	7/2	7/9	7/16	7/23	7/30	8/6	8/13	8/20	8/27	9/3	9/10	Total
Cash Receipts															
Collections - Treatment Fees (NAC)		129	129	144	144	149	149	164	135	145	145	145	118	118	1,814
Collections - Metal Sales		338	338	472	472	472	472	472	672	672	672	672	605	605	6,935
Collections - Intercompany / Misc Sales		0	0	0	0	0	0	0	1	1	1	1	1	1	11
DIP Loan Proceeds / (Repayments)		450	600	1,250	350	950	600	950	100	400	200	400	250	400	6,900
Asset Sales - Net Recoveries		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Receipts		0	0	0	0	0	0	80	0	0	0	80	0	0	160
Total Cash Receipts		917	1,067	1,867	967	1,572	1,222	1,667	908	1,218	1,018	1,298	975	1,125	15,819
Cash Disbursements - Operations															
Employee Wages, Tax		335	0	334	0	334	0	334	0	334	0	331	0	329	2,331
Employee Severance, PTO Payout		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Employee Benefits, Expenses		41	41	41	41	41	42	42	43	43	41	42	42	42	543
Contract Labor / Outside Services		171	171	321	171	171	171	301	171	171	171	171	271	171	2,605
Reagents / Consumables / Supplies		187	187	187	187	187	205	205	205	205	205	205	205	205	2,581
Spare Parts, Tools		50	50	50	50	50	50	50	50	50	65	65	65	65	715
Waste Treatment / Disposal		95	95	72	35	35	35	35	35	15	15	15	15	15	509
Freight		39	39	39	39	39	39	39	39	39	39	39	39	39	508
Utilities, Phone		138	4	469	52	4	271	69	6	51	271	4	69	52	1,459
Equipment / Other Rental		63	63	63	63	63	63	63	63	63	63	63	63	63	816
CAPEX (incl. Maintenance)		145	145	145	145	120	120	120	120	20	33	33	33	33	1,217
Insurance		0	0	0	0	342	0	0	0	0	56	0	0	0	398
Taxes		35	0	0	0	35	0	0	0	35	0	0	0	0	105
Normal Course Professionals		14	64	14	64	14	64	14	64	14	14	14	14	14	377
Other Operating Disbursements		52	100	52	52	52	52	341	52	52	52	261	52	52	1,216
Total Disbursements - Operations		1,366	960	1,788	899	1,488	1,111	1,613	847	1,092	1,024	1,243	868	1,079	15,380
Cash Disbursements - Restructuring															
Debtor Counsel		50	50	45	45	45	45	45	45	45	44	42	42	42	585
Financial Advisor, CRO		18	23	23	19	23	23	23	23	23	23	23	18	18	280
Debtor Advisor - Other		3	3	3	3	3	3	3	3	3	3	3	3	3	33
Lender Advisors		10	10	5	5	5	5	5	5	5	5	5	5	5	75
Committee Expense (TBD)		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court-related, US Trustee		13	0	0	20	15	0	0	0	10	0	0	0	0	58
Total Disbursements - Restructuring		94	86	76	92	91	76	76	76	86	75	73	68	68	1,031
Total Cash Disbursements		1,460	1,046	1,864	991	1,578	1,187	1,689	923	1,177	1,099	1,315	936	1,147	16,411
Net Cash		(543)	21	3	(24)	(7)	35	(22)	(15)	41	(80)	(17)	39	(22)	(592)
Starting Cash		735	192	213	215	191	184	219	197	183	223	143	126	165	735
Ending Cash		192	213	215	191	184	219	197	183	223	143	126	165	143	143

BMC Weekly Cash Model

DIP Budget - 6.13

USD in thousands

	1	2	3	4	5	6	7	8	9	10	11	12	13	13 week Total
week ending	6/18	6/25	7/2	7/9	7/16	7/23	7/30	8/6	8/13	8/20	8/27	9/3	9/10	
Cash Receipts														
Collections - Conversion Fees	50	38	69	155	130	130	130	162	162	162	162	151	151	1,655
Collections - Yield Revenue	0	0	53	0	0	0	30	0	0	0	0	35	0	118
Collections - Packaging Fees	7	7	7	7	7	7	7	12	12	12	12	10	10	118
Collections - Co-product Revenues	0	0	0	0	0	0	15	0	0	0	0	15	0	30
DIP Loan Proceeds / (Repayments)	0	250	0	0	0	100	0	0	0	0	0	0	0	350
Other Receipts	1	1	1	1	1	1	1	1	1	1	1	1	1	13
Total Cash Receipts	58	296	130	163	139	239	184	175	175	175	175	213	163	2,283
Cash Disbursements - Operations														
Employee Wages, Tax	0	64	0	60	0	60	0	64	0	61	0	65	0	374
Employee Severance, PTO Payout	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Employee Benefits, Expenses	39	8	8	14	8	39	8	8	8	39	8	8	8	201
Raw Material, Packaging, Supplies	0	168	0	169	0	169	0	170	0	170	0	165	0	1,011
Repairs, Maintenance	0	13	0	13	0	13	0	13	0	13	0	12	0	75
Corporate Shared Services	0	7	0	0	1	5	87	0	0	0	7	80	0	186
Freight	0	4	0	4	0	4	0	4	0	4	0	4	0	24
Utilities, Phone	0	9	0	9	0	9	0	9	0	9	0	9	0	56
Leases	0	0	10	0	0	0	0	10	0	0	0	10	0	31
CAPEX (incl. Maintenance)	20	11	10	11	10	11	10	7	6	7	6	8	7	126
Outside Services, Professionals	0	3	0	7	0	3	0	3	0	3	0	3	0	21
Insurance	0	0	0	0	0	0	0	0	20	0	0	0	0	20
Taxes	0	0	0	12	0	1	0	0	0	0	0	0	0	13
Other Operating Disbursements	0	4	0	9	0	4	0	7	0	4	0	4	3	33
Total Disbursements	59	291	28	308	19	317	104	296	35	309	21	368	18	2,173
Net Cash	(1)	6	102	(145)	119	(78)	79	(121)	140	(135)	154	(155)	145	110
Starting Cash	67	66	72	174	29	149	70	149	28	168	34	187	32	67
Ending Cash	66	72	174	29	149	70	149	28	168	34	187	32	177	177

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA**

In re:)	
	)	Chapter 11
GULF CHEMICAL & METALLURGICAL)	
CORPORATION, a Texas corporation, <i>et al.</i> , ¹	)	Case Nos. 16-22192-JAD & 16-22195-JAD
	)	(Jointly Administered under
Debtors.	)	Case No. 16-22192-JAD)
)	
GULF CHEMICAL & METALLURGICAL)	
CORPORATION, a Texas corporation, <i>et al.</i> ,)	
)	
Movants,)	
	)	Related to Docket No. _____
)	
)	
)	
v.)	
)	
COMILOG HOLDING, AIR LIQUIDE)	
INDUSTRIAL US LP, U.S. BANK)	
EQUIPMENT FINANCE, DE LAGE)	
LANDEN FINANCIAL SERVICES, INC.,)	
TEXAS COMPTROLLER, TEXAS)	
ATTORNEY GENERAL ENVIRONMENTAL)	
PROTECTION DIVISION, NMHG)	
FINANCIAL SERVICES, INC., and WELLS)	
FARGO EQUIPMENT FINANCE, INC.,)	
BANK OF THE WEST,)	
Respondents.)	
)	
)	

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Gulf Chemical & Metallurgical Corporation, a Texas corporation (3600) and Bear Metallurgical Company, a Delaware corporation (1238).

INTERIM ORDER: (I) AUTHORIZING DEBTORS TO OBTAIN SECURED POST-PETITION FINANCING AND USE OF CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION; (III) MODIFYING THE AUTOMATIC STAY; (IV) SETTING FINAL HEARING; AND (V) GRANTING RELATED RELIEF

Upon review of the Emergency Motion of Debtors for Interim and Final Orders:

(i) Authorizing Debtors to Obtain Secured Post-Petition Financing and Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Modifying the Automatic Stay; (iv) Setting Final Hearing; and (v) Granting Related Relief (the “**Motion**”)² by which the Debtors seek:

(a) approval, on an interim basis, of that certain Senior Secured Debtor-in-Possession Loan Agreement and Promissory Note, dated June 13, 2016, by and between the Debtors, as borrowers, and Comilog Holding, as lender (hereinafter referred to as “**Comilog**”, and in its capacity as the pre-petition secured lender, the “**Pre-Petition Secured Lender**”, and in its capacity as post-petition lender, the “**DIP Lender**”), under which the DIP Lender has agreed to provide the Debtors with up to an aggregate principal amount of \$12 million senior secured loan (the “**DIP Loan**”), pursuant to the Senior Secured Debtor-in-Possession Loan Agreement and Promissory Note, a copy of which is attached hereto as Exhibit A, together with the Senior Secured Debtor-in-Possession Security Agreement and any other related documents (the “**DIP Loan Agreement**”), with such DIP Loan:

- (i) having priority, pursuant to Section 364(c)(1) of the Bankruptcy Code, over any and all administrative expenses of a kind specified in Sections 503(b) and 507(b) of the Bankruptcy Code, subject only to the Carve-Out (defined below);
- (ii) being secured, pursuant to Section 364(c)(2) and (d) of the Bankruptcy Code, by senior perfected security interests in and liens upon all property (other than real estate owned by Gulf) of the Debtors’ estates, including

² Capitalized terms used but not defined in this Interim Order have the meaning given in the Motion.

but not limited to, the DIP Collateral (defined below) that is not otherwise subject to a lien; and

- (iii) being secured, pursuant to Section 364(c)(3) of the Bankruptcy Code, by a junior perfected security interest in and liens upon all property (other than real estate owned by Gulf) of the Debtors' estates that is subject to a valid and enforceable lien.
- (b) to provide adequate protection, pursuant to Section 361 of the Bankruptcy Code, with respect to any diminution in the value of the Pre-Petition Secured Lender's interests in the Pre-Petition Collateral (defined below) resulting from the use, sale, or lease of the Pre-Petition Collateral, the imposition of the automatic stay pursuant to Section 362 of the Bankruptcy Code, or the granting of a lien on the Pre-Petition Collateral under Section 364(d).
- (c) To schedule on emergency hearing, pursuant to Bankruptcy Rule 4001 and W.P.A.LBR. 9013-2, an interim hearing (the "**Interim Hearing**") on the Motion for this Court to consider entry of an interim order in the form annexed to the Motion (the "**Interim Order**"): (i) authorizing the Debtors on an interim basis to borrow pursuant to Section 364(c)(1), (2) and (d) of the Bankruptcy Code up to an aggregate amount of \$3,000,000; and (ii) allowing the Debtors' use of Cash Collateral and granting adequate protection for said use as set forth in this Interim Order;
- (d) to schedule, pursuant to Bankruptcy Rule 4001, a final hearing (the "**Final Hearing**") for this Court to consider entry of a final order (the "**Final Order**") authorizing the Debtors to borrow the balance of the DIP Loan on a final basis as set forth in the Motion, the Final Order and the DIP Loan Agreement; and
- (e) granting such further related relief.

The Interim Hearing having been held by this Court on June ____, 2016; the Court having reviewed the Motion, exhibits thereto, and documents filed in support thereof and any

responses thereto; and upon the record made by the Debtors at the Interim Hearing and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that

1. The Motion is GRANTED on an interim basis on the terms set forth in this Interim Order.
2. On June 14, 2016, (the “**Petition Date**”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors are continuing in possession of their property and are operating and managing their businesses, as debtors in possession, pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the Debtors’ Chapter 11 cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
4. Notice of the Motion, the relief requested therein and the order scheduling the Interim Hearing and response date were served by the Debtors on their twenty largest unsecured creditors, the DIP Lender, the Pre-Petition Secured Lender, the holders of liens filed against the Debtors’ property, other affected parties, and the United States Trustee for the Western District of Pennsylvania. Under the circumstances, such notice constitutes due and sufficient notice thereof and complies with Bankruptcy Rule 4001(b) and (c) and W.PA.LBR. 4001-2 and 9013-2.
5. All responses and objections to the entry of this Interim Order, if any, to the extent not withdrawn are resolved or overruled.
6. Subject to paragraph 7 below, as supported by the proffered testimony of Eric Caridroit and the Declaration of Eric Caridroit in Support of Chapter 11 Petitions and First Day Motions (the “**Caridroit Declaration**”), the Debtors admit, agree, acknowledge and stipulate to the following:

- (a) On or about May 24, 2016, the Pre-Petition Secured Lender committed to make advances to Gulf in an aggregate unpaid principal amount not exceeding \$5,000,000 (the "**Pre-Petition Loan**");
- (b) The Pre-Petition Loan was made and is evidenced by a Secured Promissory Note dated May 24, 2016, from Gulf in favor of Pre-Petition Secured Lender, in the original principal amount of \$5,000,000 (the "**Note**");
- (c) The principal amount outstanding under the Pre-Petition Loan and Note as of the Petition Date is \$3,000,000 (the "**Pre-Petition Secured Claim**");
- (d) The Note and Pre-Petition Loan are secured by, *inter alia*:
 - (i) that certain Security Agreement dated May 24, 2016, made by Gulf in favor of Pre-Petition Secured Lender (the "**Security Agreement**"); and
 - (ii) that certain Intellectual Property Security Agreement dated May 24, 2016, made by Gulf in favor of Pre-Petition Secured Lender (the "**Intellectual Property Security Agreement**").
- (e) The property secured by the Security Agreement and the Intellectual Property Security Agreement includes, without limitation, all or substantially all of the personal property assets of Gulf (including Cash Collateral), the proceeds thereof, and Gulf's equity interests in Bear (the "**Pre-Petition Collateral**").
- (f) The Pre-Petition Secured Lender perfected its interests in the Pre-Petition Collateral, by, *inter alia*:
 - (i) filing a UCC Financing Statement with the Texas Secretary of State on June 1, 2016, at No. 16-0017883812 (the "**UCC Financing Statement**");
 - (ii) filing of an assignment in the United States Patent and Trademark Office with respect to patents owned by Gulf on May 26, 2016 (Reel 038823/0899) (the "**Patent Assignment**");

- (iii) filing of an assignment in the United States Patent and Trademark Office with respect to trademarks owned by Gulf on May 26, 2016 (Reel 5801/0135) (the “**Trademark Assignment**”); and
 - (iv) taking possession of stock certificate no. 101 issued by Bear, which stock certificate is registered in the name of Gulf, together with a blank and undated stock power signed by Gulf (the “**Pledged Stock**”).
- (g) The Note, the Security Agreement, the Intellectual Property Security Agreement, the UCC Financing Statement, the Patent Assignment, the Trademark Assignment and the Pledged Stock, and each of the other loan documents, and all other agreements, instruments or documents evidencing, securing or otherwise delivered in connection with the Pre-Petition Loan, are referred to collectively as the “**Pre-Petition Loan Documents**”;
- (h) The security interests granted to the Pre-Petition Secured Lender under the Pre-Petition Loan Documents are: (i) valid, binding, enforceable, and duly perfected first priority liens and security interests in and to the Pre-Petition Collateral in the amount of the Pre-Petition Secured Claim, including interest and any reasonable fees, costs or charges, including attorney fees and expenses allowable and awarded under Section 506 of the Bankruptcy Code; (ii) not subject to avoidance, dispute, contest, objection, recovery, reduction, disallowance, attack, defense, offset, Claim (as defined in the Bankruptcy Code), recharacterization, setoff, cause of action and/or subordination pursuant to the Bankruptcy Code and/or applicable nonbankruptcy law; and (iii) subject and subordinate to only the Post-Petition Senior Liens (defined below), the Post-Petition Junior Liens (defined below) and the Carve-Out (defined below) (the “**Pre-Petition Liens**”);
- (i) The Pre-Petition Secured Claim (including interest and any reasonable fees, costs or charges, including attorney fees and expenses allowable and awarded under Section 506 of the Bankruptcy Code) is a legal, valid, binding, allowed and enforceable claim against Gulf (other than in respect of the stay of enforcement arising under Section 362 of the Bankruptcy Code) without defense, counterclaim,

recoupment, and/or offset of any kind. No portion of the Pre-Petition Secured Claim is subject to avoidance, dispute, objection, contest, recovery, reduction, disallowance, recharacterization, subordination, attack, defense, counterclaim, setoff, Claim (as defined in the Bankruptcy Code) and/or cause of action pursuant to the Bankruptcy Code and/or applicable nonbankruptcy law; and

- (j) The Debtors do not have, and hereby forever release, waive and discharge, any Claims (as defined in the Bankruptcy Code), counterclaims, causes of action, defenses, and/or setoff rights, whether arising under the Bankruptcy Code, applicable nonbankruptcy law or otherwise, against the Pre-Petition Secured Lender or any of its respective present and former predecessors, successors, assigns, affiliates, members, partners, managers, current and former equity holders, officers, agents, employees, attorneys and affiliates and that arise out of or relate to any of the Pre-Petition Loan Documents or any acts, inactions, or transactions thereunder at law or in equity.
7. Creditors, including any Official Committee of Unsecured Creditors appointed in the Debtors' cases (the "**Committee(s)**"), interest holders and/or any other interested parties (other than the Debtors) shall have until the earlier of: (a) one hundred twenty days (120) from entry of this Interim Order; or (b) ninety (90) days from the date a Committee is formed and retains counsel (the "**Challenge Period**") to file: (i) an adversary proceeding; (ii) claim objection; and/or (iii) a contested matter, objecting to, seeking to avoid, contesting, disputing and/or otherwise challenging, the validity, priority, perfection, enforceability, extent and/or amount of Pre-Petition Secured Lender's Pre-Petition Liens and Pre-Petition Secured Claim (the "**Challenge to Pre-Petition Secured Lender's Liens and Claims**"). Nothing in this Interim Order vests or confers on any Person or Entity (as those terms are defined in the Bankruptcy Code), including any Committee, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation, Challenge to Pre-Petition Secured Lender's Liens and Claims.
8. If creditors, including any Committee, interest holders and/or any other interested parties fail to assert a timely Challenge to Pre-Petition Secured Lender's Claim within the Challenge

Period, the admissions, agreements, acknowledgements and stipulations of the Debtors set forth in paragraph 6 above shall constitute final findings by this Court as to the perfection, validity, priority, extent and/or amount of the Pre-Petition Liens and the Pre-Petition Secured Claim and shall be binding upon the Debtors' estates, all creditors, the Committee(s), interest holders, any Trustee appointed or elected in these cases, and any successor thereto, and any other interested parties, which final findings shall survive any conversion or dismissal of the Debtors' bankruptcy cases.

9. No portion of Pre-Petition Secured Lender's Cash Collateral, the Post-Petition Advances (defined below) and/or the Carve-Out (defined below) shall be used for the payment of the fees and expenses of any Person, Trustee and/or Entity, including a Committee, associated with, relating to or regarding the filing and prosecuting of a Challenge to Pre-Petition Secured Lender's Liens and Claims; provided however, an amount of up to a maximum of \$15,000 may be paid from, and included in, the line item expense contained in the Budgets (defined below) for the payment of fees and expenses of Retained Professionals (defined below) associated with, relating to or regarding an investigation into the validity, priority, enforceability, avoidance and extent of the Pre-Petition Secured Claim and Pre-Petition Liens.
10. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, the Pre-Petition Secured Lender is Gulf's parent company and Bear's indirect parent company.
11. As stated in detail in the Caridroit Declaration, the Debtors' goal in their Chapter 11 cases is to sell substantially all of their assets through a sale process pursuant to Section 363 of the Bankruptcy Code. The proposed financing offered by the DIP Lender will provide adequate financing and flexibility to allow the Debtors to continue operating during the sales process, which will maximize the value of their assets so that they may obtain the highest and best purchase price.
12. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, prior to the Petition Date, the Debtors reviewed their financing options. The Debtors, upon the advice of their advisors, determined that locating a lender willing to make an unsecured

loan that would be *pari passu* with the more than \$132 million owed to Comilog on unsecured basis was not realistic. With respect to secured financing, the Pre-Petition Secured Lender expressed its willingness to provide the DIP Loan. As described in the Motion and Caridroit Declaration, no other secured financing was available to the Debtors on terms as favorable as the DIP Loan.

13. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, the DIP Loan Agreement and the DIP Loan Documents (defined below) are the result of a robust negotiation process and thus constitute fair and market-based financing. The rates, fees, and other expenses to be paid in connection with the DIP Loan Agreement are reasonable.
14. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, the Debtors will use new money from the DIP Lender to fund their operations during these Chapter 11 cases and not use the DIP Loan proceeds to pay off any of the amounts owed on account of the Pre-Petition Secured Claim. The Debtors do intend to use a portion of the DIP Loan to make the adequate protection payments as set forth in this Interim Order .
15. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, Bear will only draw on the DIP Loan in the event it needs cash to operate above and beyond the cash generated from its operations during its Chapter 11 case.
16. The DIP Lender's Post-Petition Senior Liens and Post-Petition Junior Liens (defined below) will only attach to each respective Debtor's assets to the extent and in the amount of Post-Petition Advances (defined below) made to each respective Debtor during these Chapter 11 cases. To be free of doubt, the Debtors are not jointly and severally liable for the repayment of amounts due under the DIP Loan Agreement and the obligations created, and the liens and other protections granted under, this Interim Order shall be the responsibility of each respective Debtor and its assets for the portion of the Post-Petition Advances (defined below) made to each respective Debtor.
17. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, the DIP Loan Agreement is critical to the Debtors' ability to continue their operations while

seeking a purchaser or purchasers for their assets. It will provide ample liquidity to fund the Debtors' operations through a sale process and is reasonable both in cost and in protections offered to the Debtors' constituents.

18. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, the Debtors have an immediate need for the DIP Loan in order to permit the Debtors, among other things, to make payrolls, continue their respective business operations and ultimately to fund the Debtors through a sale process. Currently, the Debtors are in immediate need of the DIP Loan in order to fund those necessary and critical expenses of operation, including payrolls, until such time as a Final Order can be entered. Without the ability to borrow under the DIP Loan pursuant to this Interim Order the Debtors may be forced to shut down and liquidate their assets which will result in immediate and irreparable harm to the Debtors' estates. In order to avoid this immediate and irreparable harm, the Debtors are in need of borrowing under this Interim Order in the amount of \$3,000,000.
19. As described in the Caridroit Declaration and/or the proffers offered at the Interim Hearing, after determining that they would need a loan of up to \$12 million to conduct operations during Chapter 11 and provide for an appropriate sale process, the Debtors reviewed their financing options. It was obvious to the Debtors and their advisors that no one would provide them with unsecured financing, as any such financing would be junior to the \$3,000,000 owed to the Pre-Petition Lender and *pari passu* with the approximately \$132 million owed to Comilog on an unsecured basis. Accordingly, the Debtors approached the Pre-Petition Secured Lender about providing the necessary financing, which the Pre-Petition Secured Lender agreed to provide under the terms of the DIP Loan Agreement and this Interim Order. Thereafter, to conduct a "market check," the Debtors, through their advisors, contacted a number of other lenders about the possibility of providing a loan on better terms. Such financing would have had to be junior to the Pre-Petition Secured Lender's Pre-Petition Secured Claim and Pre-Petition Liens, because the Pre-Petition Secured Lender would not consent to a third party priming loan. It quickly became clear to the Debtors and their advisors that the Pre-Petition Secured Lender would be the only entity willing to lend the Debtors sufficient funds to achieve their goals in these Chapter 11 cases. The DIP Lender's proposed credit facility presents the best and only offer the Debtors have received.

20. The Debtors are unable to obtain unsecured credit allowable under Section 364(a) and (b) and Section 503(b)(1) of the Bankruptcy Code as an administrative expense.
21. Attached to this Interim Order as Exhibit B is a budget, which sets forth, among other things, the projected cash receipts and disbursements for a 13 week period (the “**First Budget Period**”), which the Debtors believe to be in good faith achievable and based upon projections derived from the current and historical performance of the Debtors and current market factors affecting the Debtors’ operations (the “**First Budget**”). The First Budget may not be amended, updated or supplemented without the prior written consent of the DIP Lender.
22. Prior to the expiration of the 13 week period set forth in the First Budget, the Debtors shall provide to the DIP Lender for its review and approval a 13 week budget for the period extending 13 weeks from the end of the First Budget Period (the “**Second Budget Period**”), which sets forth, among other things, the projected cash receipts and disbursements for a 13 week period extending beyond the end of the First Budget Period (the “**Second Budget Period**”), which the Debtors believe to be in good faith to be achievable and based upon projections derived from the current and historical performance of the Debtors and current market factors affecting the Debtors’ operations (the “**Second Budget**”, and together with the First Budget, the “**Budgets**”). The Second Budget may not be amended, updated or supplemented without the prior written consent of the DIP Lender.
23. The terms of the DIP Loan and DIP Loan Agreement are fair and reasonable, reflect the exercise of the Debtors’ prudent business judgment consistent with their fiduciary duties, and constitute reasonable equivalent value and fair consideration.
24. The DIP Loan and DIP Loan Agreement have been negotiated in good faith between the Debtors and the DIP Lender, and all of the Debtors’ obligations and indebtedness arising under, in respect of or in connection with the DIP Loan, the DIP Loan Agreement and/or this Interim Order, including without limitation, all loans made to the Debtors pursuant to the DIP Loan, DIP Loan Agreement and/or this Interim Order (together with any other obligation arising under this Interim Order, the Final Order, the DIP Loan and/or the DIP Loan Agreement, collectively the “**DIP Obligations**”), shall be deemed to have been extended by

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

25. The Debtors have requested entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and, absent the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed. Accordingly, the granting of this Interim Order and authorizing the Debtors to borrow under the DIP Loan and DIP Loan Agreement as set forth in this Interim Order is in the best interest of the Debtors' estates and their creditors.
26. The DIP Loan and the DIP Loan Agreement are hereby approved as set forth in this Interim Order and the Debtors are hereby authorized to borrow money pursuant to the DIP Loan Agreement, the First Budget and this Interim Order, up to an aggregate principal amount of \$3,000,000 on an interim basis, and upon entry of the Final Order, up to an aggregate of \$12,000,000, which shall be used for all purposes under the DIP Loan Agreement, the Interim Order and the Budgets, including, without limitation, to pay the interest, fees, and expenses in accordance with this Interim Order and to provide working capital for the Debtors. Notwithstanding anything in the DIP Loan and/or the DIP Loan Agreement to the contrary, the Debtors are only authorized and permitted to borrow, and the DIP Lender is only obligated to lend, pursuant to and in accordance with those line item expenses contained in the Budgets.
27. In furtherance of the foregoing and without further approval of this Court, the Debtors are authorized and directed to perform all acts, to make, execute, and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages, and financing statements), and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Loan Agreement, including, without limitation:

- (a) The execution, delivery, and performance of the DIP Loan Agreement and any exhibits, schedules and documents related thereto;
- (b) The execution, delivery, and performance of one or more amendments to the DIP Loan Agreement, in each case in such form as the Debtors and the DIP Lender may agree (it being understood that no further approval of the Court shall be required for amendments to the DIP Loan Agreement that do not shorten the maturity of the extensions of credit thereunder, increase the commitments, or increase the rate of interest payable thereunder;
- (c) The non-refundable payment to the DIP Lenders of the fees referred to in the DIP Loan Agreement and the reasonable costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained as provided for in the DIP Loan Agreement; and
- (d) The performance of all other acts required under or in connection with the DIP Loan Agreement.

28. The DIP Lender may make Post-Petition Advances (defined below) under the DIP Loan Agreement in the amount of up to \$12,000,000.00 (the “**Post-Petition Loan Commitment**”) which shall consist of advances under the DIP Loan Agreement, this Interim Order and any Final Order; and shall be used to finance working capital needs of the Debtors for general corporate purposes consistent with and in accordance with the Budgets. To the extent the Post-Petition Loan Commitment is utilized by, or otherwise advanced to or for the account of the Debtors under the DIP Loan Agreement, it is hereinafter referred to as a “**Post-Petition Advance**”.

29. The Post-Petition Loan Commitment shall be made available in the form of Post-Petition Advances under and pursuant to the funding mechanics of the DIP Loan Agreement, the Interim Order and any Final Order. Post-Petition Advances shall be made only in accordance with the Budgets.

30. The DIP Lender is authorized to make, and either Debtor is authorized to borrow, the Post-Petition Advances available collectively to the Debtors in accordance with, and in the

amounts sets forth in, this Interim Order, any Final Order and the DIP Loan Agreement from entry of this Interim Order and entry of the Final Order until the earlier to occur of: (a) the Maturity Date (defined below); (b) a Termination Event (defined below); and/or (c) the entry of an order approving the sale of substantially all assets of the Debtor requesting the Post-Petition Advance (a “**Sale Order**”);

31. “**Maturity Date**” shall mean December 31, 2016, or such later date as may be agreed upon by the Debtors and the DIP Lender;

32. A termination event (“**Termination Event**”) shall be and shall occur on the earlier of:

- (a) either Debtor’s Bankruptcy Case is either dismissed or converted to a case under Chapter 7 of the Bankruptcy Code;
- (b) a trustee or an examiner with expanded powers is either elected or appointed in either Debtor’s Bankruptcy Case;
- (c) the Interim Order or Final Order is reversed, vacated, stayed, amended, supplemented, or otherwise modified in a manner which materially adversely affects the rights of the DIP Lender or materially and adversely affects the validity, priority and/or extent of any or all of the DIP Lender’s claims, liens or security interests and which is not acceptable to the DIP Lender, in its discretion;
- (d) the Final Order is not entered on or before thirty (30) days after the Petition Date;
- (e) material non-compliance by either or both of the Debtors with any of the terms, provisions or covenants of this Interim Order or any Final Order;
- (f) either or both of the Debtors use Cash Collateral other than as set forth herein and the Budgets;
- (g) either or both of the Debtors make cash disbursements on an aggregate basis in excess of 15% of the amounts set forth in such Debtor’s respective Budget measured on a cumulative basis for a 4 week period starting from the first week of

the First Budget; provided however, that there shall be no excess variance with respect to the professional fees and expenses set forth in the Budgets;

- (h) either or both of the Debtors fail to furnish the Second Budget on a timely basis;
- (i) each of the Debtors does not receive a binding offer or offers to purchase substantially all of its assets on or before August 31, 2016;
- (j) the Court does not enter an order or orders approving the sale of substantially all of the Debtors' assets on or before September 15, 2016;
- (k) the Debtors do not close on the sales of substantially all of their assets on or before September 30, 2016;
- (l) the Debtors fail to comply with or perform, in any material respect, the terms and provisions of the Interim Order, Final Order or the DIP Loan Agreement;
- (m) any motion or other proceeding is filed to approve a sale or other disposition of substantially all of the Debtors' assets without the consent of the DIP Lender and/or Pre-Petition Secured Lender;
- (n) any superpriority administrative claim, lien or security interest equal or superior in priority to the Pre-Petition Liens, Superpriority Administrative Claim (defined below), the Post-Petition Advance Superpriority Administrative Claim (defined below), the Post-Petition Senior Liens (defined below), the Post-Petition Junior Liens (defined below) and/or the Replacement Liens (defined below) is granted;
- (o) the automatic stay of Section 362 is lifted so as to allow a party other than the Pre-Petition Secured Lender and/or the DIP Lender to proceed against any material asset of the Debtors;
- (p) the Debtors file, or the Court enters an order confirming, a Chapter 11 plan, which plan is not in form and substance acceptable to the Pre-Petition Secured Lender and/or the DIP Lender;

- (q) a party other than the Pre-Petition Secured Lender or the DIP Lender files a reconsideration or appeal to the Interim Order or any Final Order;
- (r) a Challenge to Pre-Petition Secured Lender's Liens and Claims is brought by an interested party; and/or
- (s) the occurrence of an Event of Default (as hereinafter defined).

33. The DIP Lender and/or Pre-Petition Secured Lender may seek expedited relief from this Court upon motion by the DIP Lender and/or Pre-Petition Secured Lender at any time following occurrence of a Termination Event. The DIP Lender shall have no obligations to provide any Post-Petition Advances following issuance by the DIP Lender and/or Pre-Petition Secured Lender to the Debtors, the United States Trustee and the Committee of a written notice of a Termination Event. In addition, the Debtors' right to use Cash Collateral shall terminate automatically on the third business day after the DIP Lender and/or Pre-Petition Secured Lender provides written notice to the Debtors, the United States Trustee, the Committee, and each of their counsel of the occurrence of a Termination Event and that such use of the Cash Collateral shall terminate as a result thereof.

34. Notwithstanding the occurrence of a Termination Event, the DIP Lender, in its sole and absolute discretion, may elect to continue to make Post-Petition Advances available to the Debtors consistent with the Interim Order, Final Order and the DIP Loan Agreement, and any such Post-Petition Advances, notwithstanding the Termination Event, shall be afforded the protections provided to the DIP Lender under the Interim Order, Final Order and DIP Loan Agreement.

35. The Post-Petition Advances shall be available solely for: (a) payment of approved expenditures detailed in the Budgets; (b) payment of the Adequate Protection Payments (defined below); (c) payment of the reasonable fees, costs, and/or charges of the Pre-Petition Secured Lender and the DIP Lender, including attorney fees and expenses incurred after the Petition Date ("**Lender Costs**"); (d) the DIP Loan Fee (defined below); and (e) subject to the limitations set forth in paragraph 63 of this Interim Order, all severance payments that the

Court authorizes the Debtors to make to their employees during the Chapter 11 cases. In addition:

- (a) The Debtors shall make expenditures in accordance with the line items specified on the Budgets, with the understanding and agreement of DIP Lender that an expense variance, in the aggregate, not in excess of 15% shall be permitted; provided however, that there shall be no excess variance with respect to the professional fees and expenses set forth in the Budgets;
- (b) The Debtors shall provide to the DIP Lender within five (5) business days after the end of each weekly period (as defined in the Budget) a weekly budget report showing actual receipts and disbursements for the weekly period then ended, in comparative form with those budgeted for the same period (the “**Budget Variance Report**”). The Budget Variance Report will be in such form as will permit the DIP Lender to (i) determine all collections for the prior weekly period and cumulatively from the Petition Date; (ii) determine amounts spent during the prior weekly period and cumulatively from the Petition Date; (iii) identify amounts available to be spent in each of the categories set forth in the Budgets during the remaining term of the Budgets; and (iv) address any changes that the Debtors believe to be needed in the Budgets; with such Budget Variance Report to be in form and substance reasonably satisfactory to the DIP Lender. If the DIP Lender does not approve an adjustment in the Budgets requested by the Debtors, pursuant to this paragraph, then the Debtors and the DIP Lender agree to submit the dispute for resolution to the Court; and
- (c) Budget amounts shall NOT include, without prior Court approval: (i) purchases or sales of assets outside the ordinary course of business; (ii) the assumption of executory contracts; (iii) payment of pre-petition debt, or (iv) payments outside the ordinary course of business (including a prohibition of payments of pre-petition trade payables to pre-petition trade creditors except for payments provided for in the Budget that have been approved by the Court for the payment of pre-petition claims of essential creditors that are trade creditors).

36. The Debtors are permitted to include line items in the Budgets for the funding of the fees and expenses of estate professionals retained under Sections 327 and/or 1103 of the Bankruptcy Code (the “**Retained Professionals**”) and allowed as administrative expenses under Sections 330 and 503 of the Bankruptcy Code and for the payment of the fees of the United States Trustee pursuant to 28 U.S.C. §1930(a). With regard to the Retained Professionals’ fees and expenses, said fees and expenses may be funded into the IOLTA Trust account, or similar trust account, of the Retained Professional to be held until such time as the Court has approved, allowed and authorized payment of said fees and expenses pursuant to applicable provision of the Bankruptcy Code and Bankruptcy Rules. Nothing in this paragraph 36 should be interpreted as a cap or limit on the amount of professional fees and expenses Retained Professionals may seek to have approved by this Court. Further, nothing in this paragraph 36, or the Interim Order or the Final Order generally, and notwithstanding the allowance of professional fees and expenses to be included in the Budgets, should be interpreted as the DIP Lender’s or the Pre-Petition Secured Lender’s consent, or prejudice their rights to object, to reasonableness and necessity of said Retained Professional fees and expenses and whether the incurrence of said fees and expenses benefitted the Debtors’ estates. All rights of the DIP Lender and the Pre-Petition Secured Lender are reserved regarding the same.
37. The Pre-Petition Secured Lender and the DIP Lender agree to provide a carve-out for the benefit of Retained Professionals and the United States Trustee from their respective Pre-Petition Secured Liens, Superpriority Administrative Claim, the Post-Petition Advance Superpriority Administrative Claim, the Post-Petition Senior Liens, the Post-Petition Junior Liens and the Replacement Liens: (a) U.S. Trustee fees pursuant to 28 U.S.C. § 1930 and the Retained Professionals’ fees and expenses allowed under Sections 330 and 503 of the Bankruptcy Code, up to the amounts set forth for the respective Retained Professionals in the Budgets, that are incurred or accrued prior to a Termination Event, the Maturity Date, or the later of: (i) entry of a Sale Order authorizing the sale of substantially all of Gulf’s assets; (ii) entry of a Sale Order authorizing the sale of substantially all of Bear’s assets; or (iii) entry of a Sale Order authorizing the sale of substantially all of the Debtors’ assets; and (b) U.S. Trustee fees pursuant to 28 U.S.C. § 1930 and the Retained Professionals’ allowed fees and expenses, up to a maximum of \$200,000, incurred subsequent to a Termination Event, the

Maturity Date, or the later of: (i) entry of a Sale Order authorizing the sale of substantially all of Gulf's assets; (ii) entry of a Sale Order authorizing the sale of substantially all of Bear's assets; or (iii) entry of a Sale Order authorizing the sale of substantially all of the Debtors' assets (the "**Carve-Out**"). To be free of doubt, and subject paragraph 9 of this Interim Order, no portion of the Pre-Petition Secured Lender's Cash Collateral, the Post-Petition Advances or the Carve-Out shall be used for the payment of the fees and expenses of any Person, Trustee and/or Entity, including a Committee, associated with, relating to or regarding the filing and/or prosecuting of a Challenge to Pre-Petition Secured Lender's Liens and Claims

38. As security for the Post-Petition Advances and obligations owed under the DIP Loan Agreement (including accrued interest and Lender Costs relating to the Post-Petition Loan Commitment), the DIP Lender is granted pursuant to Sections 364(c)(2) and 364(d)(1) of the Bankruptcy Code, senior first priority security interests and liens (other than Pre-Existing Liens (defined below)), including priority over any liens acquired or perfected under Section 546(b) of the Bankruptcy Code, (the "**Post-Petition Senior Lien**"), in and upon all personal property of any kind and nature of the Debtors, whether acquired pre-petition and/or post-petition, including all accounts, goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, commercial tort claims, general intangibles (including all payment intangibles), money, deposit accounts, patents, trademarks, or other intellectual property and any other contract rights or rights to the payment of money, including, but not limited to, claims and causes of action arising under 11 U.S.C. §§ 502(d), 544, 545, 547, 548, 549 and 550 ("**Chapter 5 Avoidance Actions**"), together with all proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Debtors from time to time with respect to any of the foregoing, together with all real property and fixtures owned by Bear (collectively, the "**DIP Lender Collateral**"), effective and perfected upon the date of this Interim Order and without necessity of the

execution, recordation, or filings by the DIP Lender and/or the Debtors of security agreements, control agreements, pledge agreements, financing statements, assignments, mortgages or other similar documents. The Post-Petition Senior Lien shall be subject only to Pre-Existing Liens (defined below) that are valid and enforceable and the Carve Out. Notwithstanding anything in this paragraph 38, or this Interim Order to the contrary, the Post-Petition Senior Lien shall not attach to, encumber or otherwise be paid from the Chapter 5 Avoidance Actions for Post-Petition Advances made under this Interim Order until after notice and hearing on the Final Order at which time interested parties can be heard on the matter. To be free of doubt, the DIP Lender Collateral does not include any real property owned by Gulf. To be further free of doubt, the Post-Petition Senior Lien shall be senior to the Pre-Petition Secured Lender's Pre-Petition Liens, but junior to any valid and enforceable Pre-Existing Liens (defined below).

39. Notwithstanding anything to the contrary in this Interim Order, DIP Lender shall obtain Post-Petition Senior Liens, Post-Petition Junior Liens (defined below) and Post-Petition Super Priority Administrative Claims in and upon Gulf's assets (other than real property) and in Gulf's bankruptcy estate and in and upon Bear's assets and in Bear's bankruptcy estate only to the extent DIP Lender makes a Post-Petition Advance to Bear and/or Gulf as applicable;
40. The Respondents listed above have filed UCC financing statements or other security documents or have judgments of record filed against the Debtors (the "**Pre-Existing Liens**"). Other than the Pre-Petition Liens of the Pre-Petition Secured Creditor, to the extent the Pre-Existing Liens are valid and enforceable, pursuant to Section 364(c)(3), the DIP Lender shall be granted a junior lien and security interest upon such property (the "**Post-Petition Junior Liens**"). To be free of doubt, the Post-Petition Senior Liens shall be senior to the Pre-Petition Liens of the Pre-Petition Secured Creditor.
41. Pursuant to Section 364(c)(1) of the Bankruptcy Code, this Court grants the DIP Lender a superpriority administrative claim (senior to any other superpriority administrative claims) in an amount equal to the Post-Petition Advances (the "**Post-Petition Advance Superpriority Administrative Claim**"); provided that, the Post-Petition Advance Superpriority Administrative Claim shall be senior to any other superpriority administrative claim,

including but not limited to the Superpriority Administrative Claim (defined below). The Post-Petition Superpriority Administrative Claim shall be subordinate to only the Carve Out.

42. The Post-Petition Senior Lien, the Post-Petition Junior Lien and the Replacement Liens (defined below) shall not be: (a) subject or subordinate to: (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under Section 551 of the Bankruptcy Code; and/or (ii) 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 governmental unit, commission, board, or court for any liability of the Debtors, or (b) subordinated to or made *pari passu* with any other lien or security interest granted under Section 364 of the Bankruptcy Code or otherwise.
43. The automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the DIP Lender and the Pre-Petition Secured Lender to exercise all rights and remedies under the DIP Loan Agreement upon the occurrence of a Termination Event and after the giving of three (3) business days written notice of the same to the Debtors, the Committee, the U.S. Trustee, and their counsel; provided however, that an order granting relief from the automatic stay must first be obtained by the DIP Lender and/or the Pre-Petition Secured Lender before proceeding to foreclose on any DIP Lender Collateral; provided however, the DIP Lender's and/or the Pre-Petition Secured Lender's motion for relief or to modify the automatic stay will be heard on an emergency basis at the Court's earliest opportunity. In any hearing regarding any exercise of rights and remedies by the DIP Lender and/or the Pre-Petition Secured Lender, the only issue that may be raised by any interested party in opposition thereto shall be whether, in fact, a Termination Event has occurred and is continuing, and the Debtors hereby waive their right to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Lender and/or Pre-Petition Secured Lender, set forth in this Interim Order, any Final Order and the DIP Loan Agreement. In no event shall the DIP Lender or the Pre-Petition Secured Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the DIP Lender Collateral and/or Pre-Petition Collateral. The DIP Lender's and/or the Pre-Petition Secured Lender's failure to seek relief or otherwise exercise their rights and

remedies under this Interim Order, any Final Order, the DIP Loan Agreement, Pre-Petition Loan Documents, or otherwise, shall not constitute a waiver of the DIP Lender's and/or the Pre-Petition Secured Lender's rights hereunder, thereunder, or otherwise.

44. In consideration of the DIP Loan and the Post-Petition Loan Commitment, and subject to entry of a Final Order, except to the extent of the Carve-Out, no expenses of administration of the Chapter 11 cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, or costs of preservation or disposition of property that is subject to the Pre-Petition Liens, Post-Petition Senior Liens, Post-Petition Junior Liens and/or Replacement Liens (defined below) of the DIP Lender and/or the Pre-Petition Secured Lender, shall be charged against or recovered from the DIP Lender Collateral and/or Pre-Petition Collateral pursuant to Section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Lender and/or the Pre-Petition Secured Lender, and no such consent shall be implied from any other actions, inaction or acquiescence by the DIP Lender and/or the Pre-Petition Secured Lender.
45. Any and all payments or proceeds remitted to the DIP Lender pursuant to the provisions of this Interim Order or any subsequent order of the Court shall be received free and clear of any claim, charge, assessment, or other liability including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, Sections 506(c) (whether asserted or assessed by, through, or on behalf of the Debtors) or 552(b) of the Bankruptcy Code.
46. The Post-Petition Advances shall accrue interest at the rate of 8.5% per annum (the “**Applicable Rate**”), which shall accrue and shall be payable until the earlier of: (a) the occurrence of a Termination Event; or (b) the Maturity Date. Upon the occurrence of a Termination Event, the Maturity Date or the entry of a Sale Order, unpaid Post-Petition Advances made to the Debtor that is the subject of such Sale Order, shall accrue interest at a default rate equal to the Applicable Rate plus 2.0% per annum (the “**Post-Petition Default Rate**”). Interest shall be calculated on the basis of a year of 360 days for actual days elapsed, on Post-Petition Advances made by the DIP Lender pursuant to the Budgets and upon request of Debtors.

47. As adequate protection, to the extent the stay of action against the Pre-Petition Collateral under Section 362 of the Bankruptcy Code, Gulf's use, sale or lease of the Pre-Petition Collateral under Section 363 of the Bankruptcy Code, or the grant of a lien on the Pre-Petition Collateral under Section 364 of the Bankruptcy Code, results in a decrease in the value of the Pre-Petition Secured Lender's interest in the Pre-Petition Collateral, this Interim Order provides that the Pre-Petition Secured Lender shall receive, in accordance with Section 361(1), 363(e) and 364(d)(1)(B) of the Bankruptcy Code monthly adequate protection payments in the minimum amount of interest due on the Pre-Petition Secured Claim. Notwithstanding this paragraph, the Pre-Petition Secured Lender reserves its rights to seek the allowance and payment of (a) the default rate of interest under the Pre-Petition Loan Documents under Section 506 of the Bankruptcy Code, and no amount of default interest shall be paid to Pre-Petition Secured Lender unless and until the entry of a Court order authorizing and allowing payment of same; and (b) all fees, costs, charges, and expenses incurred by Pre-Petition Secured Lender in pursuing its rights under the Pre-Petition Loan Documents.
48. As additional adequate protection, to the extent the stay of action against the Pre-Petition Collateral under Section 362 of the Bankruptcy Code, Gulf's use, sale or lease of the Pre-Petition Collateral under Section 363 of the Bankruptcy Code, or the grant of a lien on the Pre-Petition Collateral under Section 364 of the Bankruptcy Code results in a decrease in the value of Pre-Petition Secured Lender's interest in the Pre-Petition Collateral, this Interim Order provides that the Pre-Petition Secured Lender shall be granted in accordance with Sections 361(2), 363(e) and 364(d)(1)(B) of the Bankruptcy Code, an additional or replacement lien(s) in and upon all personal property of any kind and nature of Gulf, whether acquired pre-petition and/or post-petition, including all accounts, goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, commercial tort claims, general intangibles (including all payment intangibles), money, deposit accounts, patents, trademarks, or other intellectual property and any other contract rights or rights to the payment of money, together with all proceeds and products of each of the foregoing, all books and records relating to the foregoing, all

supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Gulf from time to time with respect to any of the foregoing, effective and perfected upon the date of this Interim Order and without necessity of the execution, recordation, or filings by the Pre-Petition Secured Lender and/or Gulf of security agreements, control agreements, pledge agreements, financing statements, assignments or other similar documents, to the same extent, validity and priority that the Pre-Petition Secured Lender possessed in such property on the Petition Date and to the extent or amount of any decrease in the value of the Pre-Petition Secured Lender's interest in the Pre-Petition Collateral (the "**Replacement Lien**"). The Replacement Lien shall be subordinate only to: (a) the Post-Petition Senior Lien; (b) Post-Petition Junior Lien; and (c) the Carve Out. Notwithstanding anything in this paragraph 47 or this Interim Order to the contrary, the Replacement Lien shall not attach to, encumber or otherwise be paid from the Chapter 5 Avoidance Actions until entry of a Final Order.

49. As additional adequate protection, this Interim Order provides that the Pre-Petition Secured Lender shall be granted, in accordance with Section 507(b) of the Bankruptcy Code, a superpriority administrative claim to the extent and in the amount of any decrease in the value of the Pre-Petition Secured Lender's interest in the Pre-Petition Collateral suffered as a result of the stay of action against the Pre-Petition Collateral under Section 362 of the Bankruptcy Code, Gulf's use, sale or lease of the Pre-Petition Collateral under Section 363 of the Bankruptcy Code, or the granting of a lien on the Pre-Petition Collateral under Section 364(d) (the "**Superpriority Administrative Claim**"). Notwithstanding anything in this paragraph 48 or this Interim Order to the contrary, the Superpriority Administrative Claim shall be subordinate to the Carve Out and shall not attach to, encumber or otherwise be paid from Chapter 5 Avoidance Actions until entry of a Final Order.

50. This Court orders that the Post-Petition Senior Liens, the Post-Petition Junior Liens and Replacement Liens granted to the DIP Lender and the Pre-Petition Secured Lender, as applicable, under this Interim Order shall be perfected upon the entry of this Interim Order and entry of any Final Order without any recordation or filing of any nature whatsoever.

51. No rights, claims, liens, or the like of the DIP Lender and/or the Pre-Petition Secured Lender with respect to the protections provided to the DIP Lender and/or the Pre-Petition Secured Lender under this Interim Order can be modified in any plan of reorganization or liquidation or subsequent financing without the prior written consent of the DIP Lender and the Pre-Petition Secured Lender or by order of this Court.
52. Nothing in this Interim Order shall affect the DIP Lender's and/or the Pre-Petition Secured Lender's claims against third parties.
53. The Debtors and any successor or assign of the Debtors, including any subsequently appointed Chapter 7 or Chapter 11 trustee, are bound to the terms of this Interim Order and any subsequent order of this Court.
54. The DIP Lender and/or the Pre-Petition Secured Lender reserve all rights in the event of the occurrence of a Termination Event.
55. The DIP Lender and/or the Pre-Petition Secured Lender have the rights to seek additional adequate protection.
56. The DIP Lender and/or the Pre-Petition Secured Lender reserve the right to assign all of their rights, claims and obligations under the Post-Petition Loan Commitment and the Pre-Petition Loan Documents and related documents.
57. All Post-Petition Advances made by DIP Lender to a Debtor, not sooner paid, both for principal and interest, to the extent approved by the Court, shall mature and become due and payable upon the occurrence of a Termination Event, the Maturity Date or the entry of a Sale Order as to the Debtor who received the Post-Petition Advance; provided however, that if such Termination Event is an Event of Default, then the Default Date (defined below) shall have also occurred. The Debtors may repay all or part of the balance of the Post-Petition Advances without penalty at their option.
58. If at any time the aggregate unpaid principal balance of the Post-Petition Advances shall exceed the Post-Petition Loan Commitment, the Debtors shall immediately and without

notice or demand pay over the amount of the excess to the DIP Lender as and for a mandatory prepayment on such obligations.

59. The obligation to make any Post-Petition Advance shall be subject to the satisfaction of the following conditions:

- (a) No Termination Event has occurred;
- (b) The representations and warranties of the Debtors shall be true and correct in all material respects as of the date of each Post-Petition Advance;
- (c) The aggregate principal amount of all Post-Petition Advances shall not exceed the Post-Petition Loan Commitment amount;
- (d) The Interim Order and any Final Order, in a form and substance satisfactory to the DIP Lender and the Pre-Petition Secured Lender, shall have been entered by the Court and be in full force and effect and the Debtors shall be in compliance with all the terms thereof;
- (e) Receipt by the DIP Lender of a certificate executed by a Debtor requesting a Post-Petition Advance that states the proposed Post-Petition Advance is consistent with the terms of such Debtor's Budget and is to be used solely for Budget items, and to the best of the Debtor's knowledge no Termination Event or Event of Default has occurred except as specified in such certificate ("**Certificate**");
- (f) A closing fee equal to \$50,000.00 shall have been paid to the DIP Lender by Gulf on the date the DIP Lender makes the first Post-Petition Advance under the DIP Loan Agreement (the "**DIP Loan Fee**"); and
- (g) The Debtors shall have reimbursed the DIP Lender for all actual and reasonable out-of-pocket expenses, including, without limitation, the DIP Lender's attorneys' fees and expenses, in connection with the Post-Petition Advances.

60. The occurrence of any of the following shall constitute an "Event of Default" for the purpose of this Interim Order:

- (a) Either Debtor's Chapter 11 case shall be dismissed or converted to a Chapter 7 case;
- (b) Any Chapter 11 plan is confirmed without the Pre-Petition Secured Lender's and/or the DIP Lender's consent;
- (c) Unless otherwise approved and authorized by this Court or agreed to by the Pre-Petition Secured Lender and/or the DIP Lender, any other superpriority administrative claim or post-petition lien equal or superior in priority to those granted to the Pre-Petition Secured Lender and/or the DIP Lender pursuant to this Interim Order or Final Order is entered;
- (d) The Interim Order or Final Order shall be amended, reversed, stayed, vacated or otherwise modified in a way which materially and adversely affects the rights of the Pre-Petition Secured Lender and/or the DIP Lender and which is not acceptable to the Pre-Petition Secured Lender and/or the DIP Lender;
- (e) Any breach by either or both of the Debtors of the Interim Order, the Final Order or the DIP Loan Agreement;
- (f) The occurrence of an Event of Default under the DIP Loan Agreement after the date this Interim Order is entered;
- (g) Either or both of the Debtors fail to pay (i) any principal amount of the Post-Petition Advances when due or (ii) interest or any other amount when due and such failure continues for 5 days after written notice to the Debtors;
- (h) Any representation or warranty made or deemed made by the Debtors in the Interim Order, the Final Order and/or the DIP Loan Agreement is incorrect in any material respect on the date as of which such representation or warranty was made or deemed made; and
- (i) Either or both the Debtors fail to observe or perform any covenant, condition or agreement contained in the Interim Order, the Final Order and/or the DIP Loan Agreement.

The date following the fifth (5th) business day after the DIP Lender sends notice of the Event of Default to the Debtors shall be referred to herein as the “**Default Date**”.

61. Upon the occurrence of a Termination Event:

- (a) the Pre-Petition Secured Lender’s consent to the use of cash collateral by Gulf for any purpose (whether in the form of cash collateral or credit) shall terminate;
- (b) Upon demand by DIP Lender to Gulf, Cash Collateral collected after the Termination Event shall be deposited into an account designated by the DIP Lender;
- (c) the DIP Lender shall not be required to make any further Post-Petition Advances to the Debtors;
- (d) the Pre-Petition Secured Lender and/or the DIP Lender may apply to the Court for approval that any Cash Collateral be applied against the Post-Petition Advances and the Pre-Petition Secured Claim;
- (e) the Pre-Petition Secured Lender and/or the DIP Lender may proceed with an emergency motion for relief from the automatic stay;
- (f) the Post-Petition Loan Commitment shall terminate; provided however, if the Termination Event is an Event of Default, that the Default Date shall have also occurred; and
- (g) all principal and interest owed on the Post-Petition Advances and under the DIP Loan Agreement shall be immediately due and payable; provided however, if the Termination Event is an Event of Default, that the Default Date shall have also occurred.

62. Notwithstanding the foregoing, nothing herein shall preclude the Pre-Petition Secured Lender and/or the DIP Lender from taking actions to protect its interests and exercise its rights under the Bankruptcy Code, the Pre-Petition Loan Documents or otherwise; provided however, that such action is not inconsistent with the Bankruptcy Code or this Interim Order.

63. Notwithstanding anything to the contrary in this Interim Order, the Debtors are authorized to use up to a maximum of \$4,070,000 of the Post-Petition Advances, and the DIP Lender and Post-Petition Secured Lender approve the use of such Post-Petition Advances, to make all severance payments that the Court authorizes the Debtors to make to their employees during the Chapter 11 cases whether or not (a) a Termination Event has occurred, (b) the Maturity Date has passed, or (c) a Sale Order has been entered. Any Post-Petition Advances made pursuant to this paragraph shall be afforded the protections provided to the DIP Lender under the Interim Order, Final Order and DIP Loan Agreement.
64. The Post-Petition Senior Liens, Post-Petition Junior Liens, Superpriority Administrative Claims, Post-Petition Superpriority Administrative Claims and Replacement Liens and all the rights and remedies of the DIP Lender and the Pre-Petition Secured Lender granted by this Interim Order and DIP Loan Agreement shall survive, and shall not be modified, impaired, or discharged by (a) the entry of an order converting the Chapter 11 cases of the Debtors to Chapter 7, dismissing these Chapter 11 cases or by any other act or omission, or (b) the entry of an order confirming a plan of reorganization or liquidation in either of the Debtors' Chapter 11 cases and pursuant to Section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining obligations owed under the Post-Petition Advances and the DIP Loan Agreement. The Post-Petition Senior Liens, Post-Petition Junior Liens, Superpriority Administrative Claims, Post-Petition Superpriority Administrative Claims and Replacement Liens and all the rights and remedies of the DIP Lender and the Pre-Petition Secured Lender granted by this Interim Order and DIP Loan Agreement shall continue in full force and effect until the obligations owed on the Post-Petition Advances and under the DIP Loan Agreement are indefeasibly paid in full.
65. Pursuant to this Interim Order, the Pre-Petition Secured Lender and the DIP Lender shall be and shall be deemed to be, without any further action or notice, named as an additional insured on each insurance policy maintained by the Debtors which in any way related to the Pre-Petition Collateral or the DIP Collateral.
66. In the event of any inconsistency between the provisions of this Interim Order and the DIP Loan Agreement, the provisions of this Interim Order shall govern.

67. The provisions of the DIP Loan Agreement and this Interim Order, including all findings herein (except as provided in paragraphs 6, 7 and 8), shall be binding upon all parties in interest in both Debtors Chapter 11 cases, including, without limitation, the DIP Lender and/or the Pre-Petition Secured Lender, the Committee, if any, both Debtors and their respective successors and assigns, including any subsequently appointed or elected trustee, examiner or other fiduciary appointed for one or both of the estates of the Debtors, and shall inure to the benefit of the DIP Lender and the Pre-Petition Secured Lender and the Debtors and each of their respective successors and assigns; provided however, that the DIP Lender shall have no obligation to extend any financing or credit to any trustee or similar responsible person appointed or elected in either or both of the Debtors' Chapter 11 cases.
68. In determining to make any loan under the DIP Loan Agreement and this Interim Order or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Agreement, the DIP Lender shall not be deemed to be in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation and management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. §§ 9601 *et. seq.* as amended, or any similar federal or state statute). Furthermore, nothing in this Interim Order or the DIP Loan Agreement related to this transaction shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Lender of any liability for any claims arising from the pre-petition or post-petition activities of the Debtors and any of their Affiliates (as defined in the Bankruptcy Code) in the operation of their business, or in connection with their restructuring efforts.
69. Subject to paragraph 6, 7 and 8, this Interim Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon execution hereof.
70. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Interim Order.
71. A final hearing to consider the Motion will be held on _____, 2016 at ____m. before the Honorable _____, United States Bankruptcy Judge, at the United States

Bankruptcy Court for the Western District of Pennsylvania, Courtroom __, 54th Floor, U.S. Steel Tower, 600 Grant Street, Pittsburgh, Pennsylvania 15219. Any party desiring to object to the relief sought in the Motion on a final basis shall file a written objection with the Court on or before _____, 2016 at 4:00 p.m.

IT IS SO ORDERED.

BY THE COURT

Dated: _____, 2016

Jeffery A. Deller
Chief United States Bankruptcy Judge

EXHIBIT A

**SENIOR SECURED DEBTOR-IN-POSSESSION DIP LOAN AGREEMENT AND
PROMISSORY NOTE**

SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT

**SENIOR SECURED DEBTOR-IN-POSSESSION INTELLECTUAL PROPERTY
SECURITY AGREEMENT**

SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT

This SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT, dated as of June 13, 2016 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "**Agreement**"), made by and among Gulf Chemical & Metallurgical Corporation, a Texas corporation and having a notice address at 302 Midway Road, Freeport, Texas 77542 ("**Gulf**" or a "**Grantor**"), and Bear Metallurgical Company, a Delaware corporation and having a notice address at 679 East Butler Road, Butler, PA 16001 ("**BMC**" or a "**Grantor**", and, together with Gulf, the "**Grantors**"), in favor of Comilog Holding, a French limited liability partnership and having a notice address at Tour Maine Montparnasse, 33, Avenue du Maine – F-75755 PARIS CEDEX 15, (the "**Secured Party**", and together with the Grantors, the "**Parties**").

WHEREAS, this Agreement is being entered into among the Parties pursuant to (a) the Senior Secured Debtor-In-Possession Dip Loan Agreement and Promissory Note of even date herewith among the Parties (the "**Dip Loan Agreement**"), and (b) that certain Interim Order: (i) Authorizing Debtors to Obtain Secured Post-Petition Financing and Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Modifying The Automatic Stay; (iv) Setting Final Hearing; and (v) Granting Related Relief (the "**Interim Order**"), issued by the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Bankruptcy Court**") in Case No. [●] (the "**Bankruptcy Case**");

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. If a term, however, is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) Capitalized terms used herein shall have the meanings set forth in this **Section 1**, and capitalized terms used herein which are not otherwise defined shall have the respective meanings assigned to them in the DIP Loan Agreement.

"Agreement" has the meaning set forth in the introductory paragraph.

"Bankruptcy Case" has the meaning set forth in the recitals.

"Bankruptcy Court" has the meaning set forth in the recitals.

"BMC" has the meaning set forth in the introductory paragraph.

"Collateral" has the meaning set forth in *Section 2*.

"DIP Loan Agreement" has the meaning set forth in the recitals.

"DIP Loan" has the meaning set forth in the DIP Loan Agreement.

"Event of Default" has the meaning set forth in the DIP Loan Agreement.

"Financing Order(s)" has the meaning set forth in the DIP Loan Agreement.

"First Priority" means, with respect to any lien and security interest purported to be created in any Collateral pursuant to this Agreement, such lien and security interest is the most senior lien to which such Collateral is subject (subject only to liens permitted under the DIP Loan Agreement).

"Grantor" has the meaning set forth in the introductory paragraph.

"Gulf" has the meaning set forth in the introductory paragraph.

"Interim Order" has the meaning set forth in the recitals.

"Party" has the meaning set forth in the introductory paragraph.

"Proceeds" means "proceeds" as such term is defined in section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

"Secured Obligations" has the meaning set forth in *Section 3*.

"Secured Party" has the meaning set forth in the introductory paragraph.

"UCC" means, as to Gulf, the Uniform Commercial Code as in effect from time to time in the State of Texas, and, as to BMC, the Uniform Commercial Code as in effect from time to time in the State of Delaware; or, in either case, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. Each Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing First Priority lien and security interest in favor of the Secured Party, to the extent of the DIP Loan advanced to such Grantor and subject to the Financing Orders, in and to all of its right, title and interest in and to the following, wherever located, whether now existing or hereafter from time to time arising or acquired (collectively, the "**Collateral**"):

(a) all personal property of every kind and nature including all accounts, goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, commercial tort claims, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money; and

(b) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the due and prompt payment and performance of:

(a) the obligations of the Grantors from time to time arising under the DIP Loan Agreement, this Agreement or otherwise with respect to the due and prompt payment of (i) the principal of and premium, if any, and interest on the DIP Loan (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations, including fees, costs, attorneys' fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantors under or in respect of the DIP Loan Agreement and this Agreement; and

(b) all other covenants, duties, debts, obligations and liabilities of any kind of the Grantors under or in respect of the DIP Loan Agreement, this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension

of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (all such obligations, covenants, duties, debts, liabilities, sums and expenses set forth in **Section 3** being herein collectively called the "**Secured Obligations**").

4. Perfection of Security Interest and Further Assurances.

(a) Each Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, take all actions as may be requested by the Secured Party to perfect the security interest of the Secured Party in the Collateral, including, without limitation, with respect to all Collateral over which control may be obtained within the meaning of sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, as applicable, the Grantor shall take all actions as may be requested from time to time by the Secured Party so that control of such Collateral is obtained and at all times held by the Secured Party. All of the foregoing shall be at the sole cost and expense of the Grantor.

(b) Each Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. Each Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) Each Grantor hereby further authorizes the Secured Party to file with the United States Patent and Trademark Office and the United States Copyright Office (and any successor office and any similar office in any state of the United States or in any other country) this Agreement and other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law.

(d) If a Grantor shall at any time hold or acquire any certificated securities, promissory notes, tangible chattel paper, negotiable documents or warehouse receipts relating to the Collateral, the Grantor shall endorse, assign and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify.

(e) If a Grantor shall at any time hold or acquire a commercial tort claim, the Grantor shall notify the Secured Party in a writing signed by the Grantor of the particulars

thereof and grant to the Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Secured Party.

(f) If any Collateral of a Grantor is at any time in the possession of a bailee, the Grantor shall promptly notify the Secured Party thereof and, at the Secured Party's request and option, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and the bailee agrees to comply, without further consent of the Grantor, at any time with instructions of the Secured Party as to such Collateral.

(g) Each Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

5. Representations and Warranties. Each Grantor represents and warrants as follows:

(a) To the Grantor's knowledge, the Collateral consisting of securities have been duly authorized and validly issued, and are fully paid and non-assessable and subject to no options to purchase or similar rights. The Grantor holds no commercial tort claims. To the Grantor's knowledge, none of the Collateral constitutes, or is the proceeds of (i) farm products, (ii) as-extracted collateral, (iii) manufactured homes, (iv) health-care-insurance receivables, (v) timber to be cut, or (vi) aircraft, aircraft engines, satellites, ships or railroad rolling stock. To the Grantor's knowledge, none of the account debtors or other persons obligated on any of the Collateral is a governmental authority covered by the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral.

(b) Except as set forth on Schedule A to the DIP Loan Agreement, at the time the Collateral becomes subject to the lien and security interest created by this Agreement, the Grantor will be the sole, direct, legal and beneficial owner thereof, free and clear of any lien, security interest, encumbrance, claim, option or right of others except for the security interest created by this Agreement and other liens permitted by the DIP Loan Agreement.

(c) It has full power, authority and legal right to borrow the DIP Loan Agreement and pledge the Collateral pursuant to this Agreement.

(d) Each of this Agreement and the DIP Loan Agreement has been duly authorized, executed and delivered by the Grantor and constitutes a legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to equitable principles (regardless of whether enforcement is sought in equity or at law).

(e) Except for approval of the Bankruptcy Court, no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the borrowing of the DIP Loan and the pledge by the Grantor of the Collateral pursuant to this Agreement or for the execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor or the performance by the Grantor of its obligations thereunder.

(f) The execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor and the performance by the Grantor of its obligations thereunder, will not violate any provision of any applicable law or regulation or any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to the Grantor or any of its property, or the organizational or governing documents of the Grantor or any agreement or instrument to which the Grantor is party or by which it or its property is bound, except where such violation would not have a Material Adverse Effect.

6. Receivables. If any Event of Default shall have occurred and be continuing, the Secured Party may, or at the request and option of the Secured Party each Grantor shall, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party.

7. Covenants. Each Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, and location of its chief executive office or its principal place of business or its organizational identification number. The Grantor will, prior to any change described in the preceding sentence, take all actions requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral, to the extent not delivered to the Secured Party pursuant to **Section 4**, will be kept at those locations identified to Secured Party and the Grantor will not remove the Collateral from such locations without providing at least 30 days' prior written notice to the Secured Party. The Grantor will, prior to any change described in the

preceding sentence, take all actions required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor will not sell, offer to sell, dispose of, convey, assign or otherwise transfer, grant any option with respect to, restrict, or grant, create, permit or suffer to exist any mortgage, pledge, lien, security interest, option, right of first offer, encumbrance or other restriction or limitation of any nature whatsoever on, any of the Collateral or any interest therein except as expressly provided for in the DIP Loan Agreement, herein or with the prior written consent of the Secured Party.

(d) The Grantor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon. The Grantor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located.

(e) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

8. Secured Party Appointed Attorney-in-Fact. Each Grantor hereby appoints the Secured Party the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time during the continuance of an Event of Default in the Secured Party's discretion to take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement (but the Secured Party shall not be obligated to and shall have no liability to the Grantor or any third party for failure to do so or take action). This appointment, being coupled with an interest, shall be irrevocable. The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

9. Secured Party May Perform. If a Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the expenses of the Secured Party incurred in connection therewith shall be payable by the Grantors; ***provided that***, the Secured Party shall not be required to perform or discharge any obligation of the Grantors.

10. Reasonable Care. The Secured Party shall have no duty with respect to the care and preservation of the Collateral beyond the exercise of reasonable care. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for (a) ascertaining or taking action with respect to any claims, the nature or sufficiency of any payment or performance by any party under or pursuant to any agreement relating to the Collateral or other matters

relative to any Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Collateral. Nothing set forth in this Agreement, nor the exercise by the Secured Party of any of the rights and remedies hereunder, shall relieve a Grantor from the performance of any obligation on the Grantor's part to be performed or observed in respect of any of the Collateral.

11. Remedies Upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party, without any other notice to or demand upon the Grantors, may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. If notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to a Grantor at its notice address as provided in **Section 15** hereof ten days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party in its absolute discretion may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. At any sale of the Collateral, if permitted by applicable law, the Secured Party may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price of the Collateral or any part thereof payable at such sale. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder. Each Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. Neither the Secured Party nor any custodian shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing, nor shall it be under any obligation to take any action whatsoever with regard thereto. Each Grantor agrees that it would not be commercially unreasonable for the Secured Party to dispose of the Collateral or any

portion thereof by utilizing internet sites that provide for the auction of assets of the type included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. The Secured Party shall not be obligated to clean-up or otherwise prepare the Collateral for sale.

(b) If any Event of Default shall have occurred and be continuing, any cash held by the Secured Party as Collateral and all cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable and documented attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash or cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantors or to whomsoever may be lawfully entitled to receive such surplus. Each Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(c) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, each Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law.

12. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to **Section 14**) be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

13. Security Interest Absolute. Each Grantor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. All rights of the Secured Party and liens and security interests hereunder, and all Secured Obligations of the Grantors hereunder, shall be absolute and unconditional irrespective of:

(a) any illegality or lack of validity or enforceability of any Secured Obligation or any related agreement or instrument;

(b) any change in the time, place or manner of payment of, or in any other term of, the Secured Obligations, or any waiver, amendment or other modification of the DIP Loan Agreement, this Agreement or any other agreement, including any increase in the Secured Obligations resulting from any extension of additional credit or otherwise;

(c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral or any other collateral, or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for all or any of the Secured Obligations;

(d) any manner of sale, disposition or application of proceeds of any Collateral or any other collateral or other assets to all or part of the Secured Obligations;

(e) any default, failure or delay, wilful or otherwise, in the performance of the Secured Obligations;

(f) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, a Grantor against the Secured Party; or

(g) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the DIP Loan or any existence of or reliance on any representation by the Secured Party that might vary the risk of a Grantor or otherwise operate as a defense available to, or a legal or equitable discharge of, a Grantor or any other grantor, guarantor or surety.

14. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by a Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantors, and then such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

15. Addresses For Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the DIP Loan Agreement, and addressed to the respective parties at their addresses as specified in the DIP Loan Agreement or as to either party at such other address as shall be designated by such party in a written notice to each other party.

16. Continuing Security Interest; Further Actions. This Agreement shall create a continuing First Priority lien and security interest in the Collateral and shall (a) remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon each Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; **provided that**, a Grantor may not assign or otherwise transfer any of its rights or obligations under this Agreement

without the prior written consent of the Secured Party. Without limiting the generality of the foregoing clause (c), any assignee of the Secured Party's interest in any agreement or document which includes all or any of the Secured Obligations shall, upon assignment, become vested with all the benefits granted to the Secured Party herein with respect to such Secured Obligations.

17. Governing Law. This Agreement and the DIP Loan Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or the DIP Loan Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of Texas. The other provisions of Sections 12.4, 12.5 and 12.6 of the DIP Loan Agreement are incorporated herein, *mutatis mutandis*, as if a part hereof.

18. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement and the DIP Loan Agreement constitute the entire contract among the Parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Borrowers have executed this DIP Loan Agreement
as of June 13, 2016.

GULF CHEMICAL &
METALLURGICAL
CORPORATION

By [Signature]
Name: Eric Caridroit
Title: Chief Executive Officer

BEAR METALLURGICAL
COMPANY

By [Signature]
Name: Eric Caridroit
Title: Chief Executive Officer

By its acceptance of this DIP Loan
Agreement, the DIP Lender
acknowledges and agrees to be bound
by the provisions of **Section 2.1**.

COMILOG HOLDING

By _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Borrowers have executed this DIP Loan Agreement
as of _____, 2016.

GULF CHEMICAL &
METALLURGICAL
CORPORATION

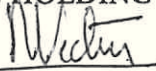
By _____
Name: _____
Title: _____

BEAR METALLURGICAL
COMPANY

By _____
Name: _____
Title: _____

By its acceptance of this DIP Loan
Agreement, the DIP Lender
acknowledges and agrees to be bound
by the provisions of **Section 2.1**.

COMILOG HOLDING

By 
Name: Philippe VECTEN
Title: CEO

SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT

This SENIOR SECURED DEBTOR-IN-POSSESSION SECURITY AGREEMENT, dated as of June 13, 2016 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "**Agreement**"), made by and among Gulf Chemical & Metallurgical Corporation, a Texas corporation and having a notice address at 302 Midway Road, Freeport, Texas 77542 ("**Gulf**" or a "**Grantor**"), and Bear Metallurgical Company, a Delaware corporation and having a notice address at 679 East Butler Road, Butler, PA 16001 ("**BMC**" or a "**Grantor**", and, together with Gulf, the "**Grantors**"), in favor of Comilog Holding, a French limited liability partnership and having a notice address at Tour Maine Montparnasse, 33, Avenue du Maine – F-75755 PARIS CEDEX 15, (the "**Secured Party**", and together with the Grantors, the "**Parties**").

WHEREAS, this Agreement is being entered into among the Parties pursuant to (a) the Senior Secured Debtor-In-Possession Dip Loan Agreement and Promissory Note of even date herewith among the Parties (the "**Dip Loan Agreement**"), and (b) that certain Interim Order: (i) Authorizing Debtors to Obtain Secured Post-Petition Financing and Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Modifying The Automatic Stay; (iv) Setting Final Hearing; and (v) Granting Related Relief (the "**Interim Order**"), issued by the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Bankruptcy Court**") in Case No. [●] (the "**Bankruptcy Case**");

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. If a term, however, is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) Capitalized terms used herein shall have the meanings set forth in this **Section 1**, and capitalized terms used herein which are not otherwise defined shall have the respective meanings assigned to them in the DIP Loan Agreement.

"Agreement" has the meaning set forth in the introductory paragraph.

"Bankruptcy Case" has the meaning set forth in the recitals.

"Bankruptcy Court" has the meaning set forth in the recitals.

"BMC" has the meaning set forth in the introductory paragraph.

"Collateral" has the meaning set forth in *Section 2*.

"DIP Loan Agreement" has the meaning set forth in the recitals.

"DIP Loan" has the meaning set forth in the DIP Loan Agreement.

"Event of Default" has the meaning set forth in the DIP Loan Agreement.

"Financing Order(s)" has the meaning set forth in the DIP Loan Agreement.

"First Priority" means, with respect to any lien and security interest purported to be created in any Collateral pursuant to this Agreement, such lien and security interest is the most senior lien to which such Collateral is subject (subject only to liens permitted under the DIP Loan Agreement).

"Grantor" has the meaning set forth in the introductory paragraph.

"Gulf" has the meaning set forth in the introductory paragraph.

"Interim Order" has the meaning set forth in the recitals.

"Party" has the meaning set forth in the introductory paragraph.

"Proceeds" means "proceeds" as such term is defined in section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

"Secured Obligations" has the meaning set forth in *Section 3*.

"Secured Party" has the meaning set forth in the introductory paragraph.

"UCC" means, as to Gulf, the Uniform Commercial Code as in effect from time to time in the State of Texas, and, as to BMC, the Uniform Commercial Code as in effect from time to time in the State of Delaware; or, in either case, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. Each Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing First Priority lien and security interest in favor of the Secured Party, to the extent of the DIP Loan advanced to such Grantor and subject to the Financing Orders, in and to all of its right, title and interest in and to the following, wherever located, whether now existing or hereafter from time to time arising or acquired (collectively, the "**Collateral**"):

(a) all personal property of every kind and nature including all accounts, goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, commercial tort claims, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money; and

(b) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the due and prompt payment and performance of:

(a) the obligations of the Grantors from time to time arising under the DIP Loan Agreement, this Agreement or otherwise with respect to the due and prompt payment of (i) the principal of and premium, if any, and interest on the DIP Loan (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations, including fees, costs, attorneys' fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantors under or in respect of the DIP Loan Agreement and this Agreement; and

(b) all other covenants, duties, debts, obligations and liabilities of any kind of the Grantors under or in respect of the DIP Loan Agreement, this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension

of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (all such obligations, covenants, duties, debts, liabilities, sums and expenses set forth in **Section 3** being herein collectively called the "**Secured Obligations**").

4. Perfection of Security Interest and Further Assurances.

(a) Each Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, take all actions as may be requested by the Secured Party to perfect the security interest of the Secured Party in the Collateral, including, without limitation, with respect to all Collateral over which control may be obtained within the meaning of sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, as applicable, the Grantor shall take all actions as may be requested from time to time by the Secured Party so that control of such Collateral is obtained and at all times held by the Secured Party. All of the foregoing shall be at the sole cost and expense of the Grantor.

(b) Each Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. Each Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) Each Grantor hereby further authorizes the Secured Party to file with the United States Patent and Trademark Office and the United States Copyright Office (and any successor office and any similar office in any state of the United States or in any other country) this Agreement and other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law.

(d) If a Grantor shall at any time hold or acquire any certificated securities, promissory notes, tangible chattel paper, negotiable documents or warehouse receipts relating to the Collateral, the Grantor shall endorse, assign and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify.

(e) If a Grantor shall at any time hold or acquire a commercial tort claim, the Grantor shall notify the Secured Party in a writing signed by the Grantor of the particulars

thereof and grant to the Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Secured Party.

(f) If any Collateral of a Grantor is at any time in the possession of a bailee, the Grantor shall promptly notify the Secured Party thereof and, at the Secured Party's request and option, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and the bailee agrees to comply, without further consent of the Grantor, at any time with instructions of the Secured Party as to such Collateral.

(g) Each Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

5. Representations and Warranties. Each Grantor represents and warrants as follows:

(a) To the Grantor's knowledge, the Collateral consisting of securities have been duly authorized and validly issued, and are fully paid and non-assessable and subject to no options to purchase or similar rights. The Grantor holds no commercial tort claims. To the Grantor's knowledge, none of the Collateral constitutes, or is the proceeds of (i) farm products, (ii) as-extracted collateral, (iii) manufactured homes, (iv) health-care-insurance receivables, (v) timber to be cut, or (vi) aircraft, aircraft engines, satellites, ships or railroad rolling stock. To the Grantor's knowledge, none of the account debtors or other persons obligated on any of the Collateral is a governmental authority covered by the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral.

(b) Except as set forth on Schedule A to the DIP Loan Agreement, at the time the Collateral becomes subject to the lien and security interest created by this Agreement, the Grantor will be the sole, direct, legal and beneficial owner thereof, free and clear of any lien, security interest, encumbrance, claim, option or right of others except for the security interest created by this Agreement and other liens permitted by the DIP Loan Agreement.

(c) It has full power, authority and legal right to borrow the DIP Loan Agreement and pledge the Collateral pursuant to this Agreement.

(d) Each of this Agreement and the DIP Loan Agreement has been duly authorized, executed and delivered by the Grantor and constitutes a legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to equitable principles (regardless of whether enforcement is sought in equity or at law).

(e) Except for approval of the Bankruptcy Court, no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the borrowing of the DIP Loan and the pledge by the Grantor of the Collateral pursuant to this Agreement or for the execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor or the performance by the Grantor of its obligations thereunder.

(f) The execution and delivery of the DIP Loan Agreement and this Agreement by the Grantor and the performance by the Grantor of its obligations thereunder, will not violate any provision of any applicable law or regulation or any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to the Grantor or any of its property, or the organizational or governing documents of the Grantor or any agreement or instrument to which the Grantor is party or by which it or its property is bound, except where such violation would not have a Material Adverse Effect.

6. Receivables. If any Event of Default shall have occurred and be continuing, the Secured Party may, or at the request and option of the Secured Party each Grantor shall, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party.

7. Covenants. Each Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, and location of its chief executive office or its principal place of business or its organizational identification number. The Grantor will, prior to any change described in the preceding sentence, take all actions requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral, to the extent not delivered to the Secured Party pursuant to **Section 4**, will be kept at those locations identified to Secured Party and the Grantor will not remove the Collateral from such locations without providing at least 30 days' prior written notice to the Secured Party. The Grantor will, prior to any change described in the

preceding sentence, take all actions required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor will not sell, offer to sell, dispose of, convey, assign or otherwise transfer, grant any option with respect to, restrict, or grant, create, permit or suffer to exist any mortgage, pledge, lien, security interest, option, right of first offer, encumbrance or other restriction or limitation of any nature whatsoever on, any of the Collateral or any interest therein except as expressly provided for in the DIP Loan Agreement, herein or with the prior written consent of the Secured Party.

(d) The Grantor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon. The Grantor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located.

(e) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

8. Secured Party Appointed Attorney-in-Fact. Each Grantor hereby appoints the Secured Party the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time during the continuance of an Event of Default in the Secured Party's discretion to take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement (but the Secured Party shall not be obligated to and shall have no liability to the Grantor or any third party for failure to do so or take action). This appointment, being coupled with an interest, shall be irrevocable. The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

9. Secured Party May Perform. If a Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the expenses of the Secured Party incurred in connection therewith shall be payable by the Grantors; ***provided that***, the Secured Party shall not be required to perform or discharge any obligation of the Grantors.

10. Reasonable Care. The Secured Party shall have no duty with respect to the care and preservation of the Collateral beyond the exercise of reasonable care. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for (a) ascertaining or taking action with respect to any claims, the nature or sufficiency of any payment or performance by any party under or pursuant to any agreement relating to the Collateral or other matters

relative to any Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Collateral. Nothing set forth in this Agreement, nor the exercise by the Secured Party of any of the rights and remedies hereunder, shall relieve a Grantor from the performance of any obligation on the Grantor's part to be performed or observed in respect of any of the Collateral.

11. Remedies Upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party, without any other notice to or demand upon the Grantors, may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. If notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to a Grantor at its notice address as provided in **Section 15** hereof ten days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party in its absolute discretion may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. At any sale of the Collateral, if permitted by applicable law, the Secured Party may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price of the Collateral or any part thereof payable at such sale. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder. Each Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. Neither the Secured Party nor any custodian shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing, nor shall it be under any obligation to take any action whatsoever with regard thereto. Each Grantor agrees that it would not be commercially unreasonable for the Secured Party to dispose of the Collateral or any

portion thereof by utilizing internet sites that provide for the auction of assets of the type included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. The Secured Party shall not be obligated to clean-up or otherwise prepare the Collateral for sale.

(b) If any Event of Default shall have occurred and be continuing, any cash held by the Secured Party as Collateral and all cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable and documented attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash or cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantors or to whomsoever may be lawfully entitled to receive such surplus. Each Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(c) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, each Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law.

12. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to **Section 14**) be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

13. Security Interest Absolute. Each Grantor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. All rights of the Secured Party and liens and security interests hereunder, and all Secured Obligations of the Grantors hereunder, shall be absolute and unconditional irrespective of:

(a) any illegality or lack of validity or enforceability of any Secured Obligation or any related agreement or instrument;

(b) any change in the time, place or manner of payment of, or in any other term of, the Secured Obligations, or any waiver, amendment or other modification of the DIP Loan Agreement, this Agreement or any other agreement, including any increase in the Secured Obligations resulting from any extension of additional credit or otherwise;

(c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral or any other collateral, or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for all or any of the Secured Obligations;

(d) any manner of sale, disposition or application of proceeds of any Collateral or any other collateral or other assets to all or part of the Secured Obligations;

(e) any default, failure or delay, wilful or otherwise, in the performance of the Secured Obligations;

(f) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, a Grantor against the Secured Party; or

(g) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the DIP Loan or any existence of or reliance on any representation by the Secured Party that might vary the risk of a Grantor or otherwise operate as a defense available to, or a legal or equitable discharge of, a Grantor or any other grantor, guarantor or surety.

14. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by a Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantors, and then such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

15. Addresses For Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the DIP Loan Agreement, and addressed to the respective parties at their addresses as specified in the DIP Loan Agreement or as to either party at such other address as shall be designated by such party in a written notice to each other party.

16. Continuing Security Interest; Further Actions. This Agreement shall create a continuing First Priority lien and security interest in the Collateral and shall (a) remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon each Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; **provided that**, a Grantor may not assign or otherwise transfer any of its rights or obligations under this Agreement

without the prior written consent of the Secured Party. Without limiting the generality of the foregoing clause (c), any assignee of the Secured Party's interest in any agreement or document which includes all or any of the Secured Obligations shall, upon assignment, become vested with all the benefits granted to the Secured Party herein with respect to such Secured Obligations.


17. Governing Law. This Agreement and the DIP Loan Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or the DIP Loan Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of Texas. The other provisions of Sections 12.4, 12.5 and 12.6 of the DIP Loan Agreement are incorporated herein, *mutatis mutandis*, as if a part hereof.

18. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement and the DIP Loan Agreement constitute the entire contract among the Parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

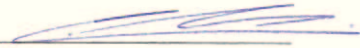
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
date first above written.

GULF CHEMICAL &
METALLURGICAL
CORPORATION, as Grantor

By 
Name: Eric Caridroit
Title: Chief Executive Officer

BEAR METALLURGICAL
COMPANY, as Grantor

By 
Name: Eric Caridroit
Title: Chief Executive Officer

COMILOG HOLDING, as Secured
Party

By _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
date first above written.


GULF CHEMICAL &
METALLURGICAL
CORPORATION, as Grantor

By _____
Name: _____
Title: _____

BEAR METALLURGICAL
COMPANY, as Grantor

By _____
Name: _____
Title: _____

COMILOG HOLDING, as Secured
Party

By 
Name: Philipp VECTEN
Title: CEO

SENIOR SECURED DEBTOR-IN-POSSESSION INTELLECTUAL PROPERTY SECURITY AGREEMENT

This SENIOR SECURED DEBTOR-IN-POSSESSION INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated as of June 13, 2016 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "**Agreement**"), made by and among Gulf Chemical & Metallurgical Corporation, a Texas corporation and having a notice address at 302 Midway Road, Freeport, Texas 77542 ("**Gulf**" or a "**Grantor**"), and Bear Metallurgical Company, a Delaware corporation and having a notice address at 679 East Butler Road, Butler, PA 16001 ("**BMC**" or a "**Grantor**", and, together with Gulf, the "**Grantors**"), in favor of Comilog Holding, a French limited liability partnership and having a notice address at Tour Maine Montparnasse, 33, Avenue du Maine – F-75755 PARIS CEDEX 15, (the "**Secured Party**", and together with the Grantors, the "**Parties**").

WHEREAS, this Agreement is being entered into among the Parties pursuant to (a) the Senior Secured Debtor-In-Possession Dip Loan Agreement and Promissory Note of even date herewith among the Parties (the "**Dip Loan Agreement**"), (b) the Senior Secured Debtor-in-Possession Security Agreement of even date herewith among the Parties (the "**DIP Security Agreement**"), and (c) that certain Interim Order: (i) Authorizing Debtors to Obtain Secured Post-Petition Financing and Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Modifying The Automatic Stay; (iv) Setting Final Hearing; and (v) Granting Related Relief (the "**Interim Order**"), issued by the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Bankruptcy Court**") in Case No. [●] (the "**Bankruptcy Case**"); and

WHEREAS, capitalized terms used herein which are not otherwise defined shall have the respective meanings assigned to them in the DIP Loan Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows;

1. Grant of Security. Each Grantor hereby pledges and grants to the Secured Party a security interest in and to all of the right, title and interest of such Grantor in, to and under the following (the "**IP Collateral**"):

(a) such Grantor's patents and patent applications, including without limitation those set forth in Schedule 1 hereto, and all reissues, divisions, continuations, continuations-in-part, renewals, extensions and reexaminations thereof and amendments thereto (the "**Patents**");

(b) such Grantor's trademark registrations and applications, including without limitation those set forth in Schedule 2 hereto, together with the goodwill connected with the use thereof and symbolized thereby and all extensions and renewals thereof (the "**Trademarks**");

(c) all rights of any kind whatsoever of such Grantor accruing under any of the foregoing provided by applicable law of any jurisdiction, by international treaties and conventions and otherwise throughout the world;

(d) any and all royalties, fees, income, payments and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and

(e) any and all claims and causes of action with respect to any of the foregoing, whether occurring before, on or after the date hereof, including all rights to and claims for damages, restitution and injunctive and other legal and equitable relief for past, present and future infringement, dilution, misappropriation, violation, misuse, breach or default, with the right but no obligation to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.

2. Recordation. Each Grantor authorizes the Commissioner for Patents and the Commissioner for Trademarks and any other government officials to record and register this Agreement upon request by the Secured Party.

3. Loan Documents. The DIP Security Agreement is hereby incorporated herein by reference. The provisions of the DIP Security Agreement shall supersede and control over any conflicting or inconsistent provision herein. The rights and remedies of the Secured Party with respect to the IP Collateral are as provided by the DIP Loan Agreement, the DIP Security Agreement and related documents, and nothing in this Agreement shall be deemed to limit such rights and remedies.

4. Execution in Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.


5. Successors and Assigns. This Agreement will be binding on and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

6. Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the United States and the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).


[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

GULF CHEMICAL &
METALLURGICAL
CORPORATION, as Grantor

By 
Name: Eric Caridroit
Title: Chief Executive Officer

BEAR METALLURGICAL
COMPANY, as Grantor

By 
Name: Eric Caridroit
Title: Chief Executive Officer

COMILOG HOLDING, as Secured
Party

By _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

GULF CHEMICAL &
METALLURGICAL
CORPORATION, as Grantor

By _____
Name: _____
Title: _____

BEAR METALLURGICAL
COMPANY, as Grantor

By _____
Name: _____
Title: _____

COMILOG HOLDING, as Secured
Party

By Mechu
Name: Philippe VECTEN
Title: CEO

SCHEDULE 1

PATENTS

Patent Title	Patent No.	International Class(es)	Granted Date	Inventor	Counsel of Record	Status
Integrated Process of the Recovery of Metals and Fused Alumina from Spent Catalysts	US 5,702,500 A	C22B 004/04 C22B 009/16 C22B 023/00 C22B 021/00	12/30/97	<ul style="list-style-type: none"> • Llanos, Zenon R., Lake Jackson, Tx • Provoost, Guido F., Ghent, Belgium • Deering, William G., Angelton, TX • Debaene, Frans J., Merelbeke, Belgium 	Michael A. Lechter via Squire Sanders & Dempsey Two Renaissance Square 40 North Central Avenue Suite 2700 Phoenix AZ 85004-4424	NO maintenance fees due; History of payment: 6/25/2009 6/30/2005 6/27/2001
Method of Extracting a Metal from a Melt Containing the Metal	US 4,191,560 A	C22B 025/00	3/4/80	<ul style="list-style-type: none"> • Wright, Peter A., Oxford, England 	Christie, Parker & Hale 655 North Central Avenue, Suite 2300, Glendale, California 91203-1445 (626) 795-9900	Patent expired – patents are good for 20 years from the date of first application

PATENT 5,702,500 A: INTEGRATED PROCESS OF THE RECOVERY OF METALS AND FUSED ALUMINA FROM SPENT CATALYSTS

ABSTRACT: An integrated process for the treatment of spent catalysts containing mainly molybdenum, vanadium, nickel, cobalt, and alumina to produce ammonium metavanadate, vanadium pentoxide, molybdic trioxide, fused alumina and a high grade nickel/cobalt alloy essentially free of aluminum.

DETAILS: Steps of Process:

- 1.) Roasting spent catalyst in the presence of sodium salt between 650°-900° C
- 2.) Grinding and leaching the roasted material to obtain a Mo/V laden solution and a residue containing aluminum, nickel and cobalt
- 3.) Separating vanadium from molybdenum by selective precipitation to produce vanadium pentoxide and molybdic trioxide;
- 4.) Reducing aluminum, nickel and cobalt containing residue in an Electric furnace to produce a nickel/cobalt alloy, fused alumina
- 5.) Recovering sodium in a concentrated sodium hydroxide solution

** There are various claims in the patent that discuss weight/percentage variations for this process.

PATENT 4,191,560 A: METHOD OF EXTRACTING A METAL FROM A MELT CONTAINING THE METAL

ABSTRACT: A method for the production of gaseous sulphur from sulphur dioxide by means of a thermally balanced mixture which comprises a mixture of sulphur dioxide with air or oxygen and a gaseous or liquid hydrocarbon, the proportions of the components of such a mixture being so adjusted as to conform to the conditions that the gaseous reaction products from such a mixture shall have a minimum temperature determined by the liquidous temperature of the melt into which such reaction products are to be injected or the liquidous temperature of the products of reaction between the components of the melt and the injected gaseous reaction products, whichever is the greater, and that the partial pressure of oxygen in such gaseous reaction products is in accord with the desired composition of the melt.

DETAILS: This invention relates to a method of extracting a metal from a melt containing a metal, in particular by utilizing the conversion of sulphur dioxide to gaseous sulphur by means of thermally balanced mixtures, and more particularly to the introduction of sulphur into a molten slag, metal, matte, speiss or alloy by the injection into the melt of a mixture of sulphur dioxide, a hydrocarbon and air or oxygen. This invention is concerned with the production of gaseous sulphur by means of the technique of submerged combustion.

** There are various claims in the patent that discuss weight/percentage variations for this process.

**SCHEDULE 2
TRADEMARKS**



Company	Trademark	Reg. No.	Intern. Class	Status and Most Recent Renewal Date	
Gulf Chemical		3375264	40	Registered 1/29/2008	Andrew J. Cornelius, P.C., 305 Mt. Lebanon Blvd, Suite 205, Pittsburgh, PA 15234 Office: 412-571-9552
	PROVIDING VALUE THROUGH CONSERVATION & RECOVERY	3365082	40	Registered 1/8/2008	
	GULF CHEMICAL & METALLURGICAL CORPORATION	3460390	40	Registered 7/8/2008	
		4785189	40	Registered 8/4/2015	

EXHIBIT B

BUDGET

GCMC Weekly Cash Model

DIP Budget - 6.13

USD in thousands

	week week ending	1 6/18	2 6/25	3 7/2	4 7/9	5 7/16	6 7/23	7 7/30	8 8/6	9 8/13	10 8/20	11 8/27	12 9/3	13 9/10	13 week Total
Cash Receipts															
Collections - Treatment Fees (NAC)		129	129	144	144	149	149	164	135	145	145	145	118	118	1,814
Collections - Metal Sales		338	338	472	472	472	472	472	672	672	672	672	605	605	6,935
Collections - Intercompany / Misc Sales		0	0	0	0	0	0	0	1	1	1	1	1	1	11
DIP Loan Proceeds / (Repayments)		450	600	1,250	350	950	600	950	100	400	200	400	250	400	6,900
Asset Sales - Net Recoveries		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Receipts		0	0	0	0	0	0	80	0	0	0	80	0	0	160
Total Cash Receipts		917	1,067	1,867	967	1,572	1,222	1,667	908	1,218	1,018	1,298	975	1,125	15,819
Cash Disbursements - Operations															
Employee Wages, Tax		335	0	334	0	334	0	334	0	334	0	331	0	329	2,331
Employee Severance, PTO Payout		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Employee Benefits, Expenses		41	41	41	41	41	42	42	43	43	41	42	42	42	543
Contract Labor / Outside Services		171	171	321	171	171	171	301	171	171	171	171	271	171	2,605
Reagents / Consumables / Supplies		187	187	187	187	187	205	205	205	205	205	205	205	205	2,581
Spare Parts, Tools		50	50	50	50	50	50	50	50	50	65	65	65	65	715
Waste Treatment / Disposal		95	95	72	35	35	35	35	35	15	15	15	15	15	509
Freight		39	39	39	39	39	39	39	39	39	39	39	39	39	508
Utilities, Phone		138	4	469	52	4	271	69	6	51	271	4	69	52	1,459
Equipment / Other Rental		63	63	63	63	63	63	63	63	63	63	63	63	63	816
CAPEX (incl. Maintenance)		145	145	145	145	120	120	120	20	33	33	33	33	33	1,217
Insurance		0	0	0	0	342	0	0	0	0	56	0	0	0	398
Taxes		35	0	0	0	35	0	0	0	35	0	0	0	0	105
Normal Course Professionals		14	64	14	64	14	64	14	64	14	14	14	14	14	377
Other Operating Disbursements		52	100	52	52	52	52	341	52	52	52	261	52	52	1,216
Total Disbursements - Operations		1,366	960	1,788	899	1,488	1,111	1,613	847	1,092	1,024	1,243	868	1,079	15,380
Cash Disbursements - Restructuring															
Debtor Counsel		50	50	45	45	45	45	45	45	45	44	42	42	42	585
Financial Advisor, CRO		18	23	23	19	23	23	23	23	23	23	23	18	18	280
Debtor Advisor - Other		3	3	3	3	3	3	3	3	3	3	3	3	3	33
Lender Advisors		10	10	5	5	5	5	5	5	5	5	5	5	5	75
Committee Expense (TBD)		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court-related, US Trustee		13	0	0	20	15	0	0	0	10	0	0	0	0	58
Total Disbursements - Restructuring		94	86	76	92	91	76	76	76	86	75	73	68	68	1,031
Total Cash Disbursements		1,460	1,046	1,864	991	1,578	1,187	1,689	923	1,177	1,099	1,315	936	1,147	16,411
Net Cash		(543)	21	3	(24)	(7)	35	(22)	(15)	41	(80)	(17)	39	(22)	(592)
Starting Cash		735	192	213	215	191	184	219	197	183	223	143	126	165	735
Ending Cash		192	213	215	191	184	219	197	183	223	143	126	165	143	143

BMC Weekly Cash Model

DIP Budget - 6.13

USD in thousands

	week week ending	1 6/18	2 6/25	3 7/2	4 7/9	5 7/16	6 7/23	7 7/30	8 8/6	9 8/13	10 8/20	11 8/27	12 9/3	13 9/10	13 week Total
Cash Receipts															
Collections - Conversion Fees		50	38	69	155	130	130	130	162	162	162	162	151	151	1,655
Collections - Yield Revenue		0	0	53	0	0	0	30	0	0	0	0	35	0	118
Collections - Packaging Fees		7	7	7	7	7	7	7	12	12	12	12	10	10	118
Collections - Co-product Revenues		0	0	0	0	0	0	15	0	0	0	0	15	0	30
DIP Loan Proceeds / (Repayments)		0	250	0	0	0	100	0	0	0	0	0	0	0	350
Other Receipts		1	1	1	1	1	1	1	1	1	1	1	1	1	13
Total Cash Receipts		58	296	130	163	139	239	184	175	175	175	175	213	163	2,283
Cash Disbursements - Operations															
Employee Wages, Tax		0	64	0	60	0	60	0	64	0	61	0	65	0	374
Employee Severance, PTO Payout		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Employee Benefits, Expenses		39	8	8	14	8	39	8	8	8	39	8	8	8	201
Raw Material, Packaging, Supplies		0	168	0	169	0	169	0	170	0	170	0	165	0	1,011
Repairs, Maintenance		0	13	0	13	0	13	0	13	0	13	0	12	0	75
Corporate Shared Services		0	7	0	0	1	5	87	0	0	0	7	80	0	186
Freight		0	4	0	4	0	4	0	4	0	4	0	4	0	24
Utilities, Phone		0	9	0	9	0	9	0	9	0	9	0	9	0	56
Leases		0	0	10	0	0	0	0	10	0	0	0	10	0	31
CAPEX (incl. Maintenance)		20	11	10	11	10	11	10	7	6	7	6	8	7	126
Outside Services, Professionals		0	3	0	7	0	3	0	3	0	3	0	3	0	21
Insurance		0	0	0	0	0	0	0	0	20	0	0	0	0	20
Taxes		0	0	0	12	0	1	0	0	0	0	0	0	0	13
Other Operating Disbursements		0	4	0	9	0	4	0	7	0	4	0	4	3	33
Total Disbursements		59	291	28	308	19	317	104	296	35	309	21	368	18	2,173
Net Cash		(1)	6	102	(145)	119	(78)	79	(121)	140	(135)	154	(155)	145	110
Starting Cash		67	66	72	174	29	149	70	149	28	168	34	187	32	67
Ending Cash		66	72	174	29	149	70	149	28	168	34	187	32	177	177