

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:
ALMATIS B.V., *et al.*,

Debtors.

:
: Chapter 11
:
: Case No. 10-12308 (MG)
:
: Jointly Administered
:
:-----X

**SECOND INTERIM ORDER (A) AUTHORIZING THE USE OF CASH COLLATERAL;
(B) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED
LENDERS; AND (C) SCHEDULING A FINAL HEARING**

Upon consideration of the motion (the "***Motion***") of Almatiss B.V. and certain of its subsidiaries and affiliates, as debtors and debtors-in-possession in the above - captioned chapter 11 cases (collectively, the "***Debtors***" and each, a "***Debtor***") for entry of (i) an interim order (the "***Interim Order***"): (a) authorizing the Debtors to use cash collateral; (b) providing adequate protection to the Prepetition Secured Lenders¹ with respect to any diminution in the value of their interests in the Prepetition Collateral; and (c) scheduling a final hearing on the Motion (the "***Final Hearing***"); and (ii) a final order (the "***Final Order***") (a) authorizing the Debtors to use cash collateral, and (b) granting the Prepetition Secured Lenders adequate protection with respect to any diminution in the value of their interests in the Prepetition Collateral, all as more fully set forth in the Motion; and the Court having jurisdiction of the chapter 11 cases (the "***Chapter 11 Cases***") and to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief requested therein being a

¹ Capitalized terms used herein, but not defined herein, shall have the meanings ascribed thereto in the Motion.

core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel for UBS Limited, as security trustee for the Prepetition Secured Creditors (the "***Security Trustee***"); (c) counsel for UBS Limited, as agent for the First Lien Lenders and the Second Lien Lenders; (d) counsel for Wilmington Trust (London) Limited, as agent for Mezzanine Facility Lenders and the Junior Mezzanine Facility Lenders and (e) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis, and no other or further notice being required under the circumstances; and the relief requested in the Motion being in the best interests of the Debtors, their estates and their creditors; and the Court having reviewed the Motion and having heard the statements in support of, and opposing, the relief requested therein at the first interim hearing before the Court, held on April 30, 2010 (the "***First Interim Hearing***"); and the Court having entered, on April 30, 2010, the First Interim Order (A) Authorizing the Use of Cash Collateral; (B) Granting Adequate Protection to the Prepetition Secured Lenders; and (C) Scheduling a Further Interim Hearing; and the Court having read the Limited Objection to Entry of Second Interim Order Under 11 U.S.C. § 363(c)(2) (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection to Certain Prepetition Secured Parties, and (C) Granting Related Relief dated May 4, 2010 filed by certain Second Lien Lenders, certain Mezzanine Lenders and certain Junior Mezzanine Lenders and the Court having heard the statements made by counsel at the second hearing held on May 5, 2010 (the "***Second Interim Hearing***"); and the Court having determined that the legal and factual bases set forth in the Motion and as adduced at the First and Second Interim Hearings establish just cause for the interim relief granted herein;

and upon all of the proceedings held before the Court; and after due deliberation and sufficient cause appearing therefor; and after overruling objections to the Motion, if any:

IT IS HEREBY FOUND that:

A. On April 30, 2010 (the "***Petition Date***"), the Debtors each filed a voluntary petition for relief under chapter 11 of Title 11, United States Code, 11 U.S.C. §§ 101 *et seq.* (the "***Bankruptcy Code***") in this Court. The Debtors are continuing to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and no official committee has yet been established in the Chapter 11 Cases.

B. This Court has jurisdiction over these Chapter 11 Cases and the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought are sections 105, 361 and 363 of the Bankruptcy Code, Rule 4001(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York (the "***Local Rules***"). Venue of these Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Good cause has been shown for the entry of this Order. As set forth in the Motion, the ability of the Debtors to continue their operations requires the immediate use of Cash Collateral, absent which, immediate and irreparable harm will result to the Debtors, their estates and creditors, and to the ability to emerge successfully from the Chapter 11 Cases.

D. The relief requested in the Motion is necessary, essential, and appropriate for the continued operation of the Debtors' businesses, the management and preservation of their

property, and the preservation of their prospects for a successful reorganization of the Debtors under chapter 11 of the Bankruptcy Code.

E. Holders of approximately two-thirds (2/3) of the aggregate amount of the First Lien Debt support the Debtors' use of Cash Collateral pursuant to the terms of this Order, and the Security Trustee has not objected thereto.

F. Based on the Motion, the Budget (as defined herein), and the record presented to the Court at the First and Second Interim Hearings, the terms of the Debtors' use of Cash Collateral are fair and reasonable and reflect the Debtors' and their respective directors' exercise of prudent business judgment consistent with their fiduciary duties.

G. As of the Petition Date, and as a result of entry of this Order, the Prepetition Secured Lenders' interests in the Prepetition Collateral, including the Cash Collateral, are adequately protected.

H. The Debtors have requested immediate entry of this Order pursuant to Bankruptcy Rule 4001(b)(2). The use of the Cash Collateral as set forth in the Budget is necessary to avoid immediate and irreparable harm to the Debtors. The Court concludes that entry of this Order is in the best interests of the Debtors' estates and all creditors.

I. Notice of the Second Interim Hearing and the relief requested in the Motion has been given to: (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel for the Security Trustee; (c) counsel for UBS Limited, as agent for the First Lien Lenders and the Second Lien Lenders; (d) counsel for Wilmington Trust (London) Limited, as agent for Mezzanine Facility Lenders and the Junior Mezzanine Facility Lenders and (e) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis, and was announced at the First Interim Hearing, and no other or further notice is required under the circumstances. Under

the circumstances, such notice of the Second Interim Hearing was given in accordance with sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b), and Local Rules 2002-1 and 4001-2. The Debtors believe that the above notice was the best available under the circumstances.

J. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraph 14), the Debtors acknowledge that as of the Petition Date they are (a) justly and lawfully indebted and liable, without defense, counterclaim or offset of any kind, to the First Lien Lenders in the aggregate amount of approximately \$663.7 million; and (b) contingently liable to the First Lien Lenders pursuant to the terms of the Senior Credit Agreement in an aggregate face amount of approximately \$1.3 million on account of the Debtors' reimbursement obligations for letters of credit issued under the Senior Credit Agreement. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described in paragraph 14), the Debtors further acknowledge that the First Lien Debt constitutes the legal, valid and binding obligations of the Debtors, enforceable in accordance with their terms, and that no portion of the First Lien Debt or any amounts paid or applied to the obligations owing to the First Lien Lenders prior to the Petition Date is subject to avoidance, subordination, recharacterization, recovery, attack, offset, counterclaim, defense or Claim (as such term is defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

K. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraph 14), the Debtors acknowledge that pursuant to the Senior Credit Facility and the Intercreditor Agreement, the Security Trustee, on behalf of the First Lien Lenders, holds valid, binding, perfected, enforceable and non-avoidable first priority

(solely as to priority, subject to permitted exceptions under the Senior Credit Facility) liens on, and security interests in, the Prepetition Collateral. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraph 14), the Debtors further acknowledge that the Security Trustee's liens and security interests in the Prepetition Collateral, for the benefit of the First Lien Lenders, are not subject to avoidance, subordination, recharacterization, recovery, attack, offset, counterclaim, defense of Claim (as such term is defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

L. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraph 14), the Debtors acknowledge that all cash, securities or other property (and the proceeds therefrom) comprising the Prepetition Collateral as of the Petition Date, were subject to valid, perfected (or otherwise enforceable according to applicable laws), enforceable and non-avoidable first priority (solely as to priority, subject to permitted exceptions under the Senior Credit Facility) liens and security interests of the Security Trustee for the benefit of the First Lien Lenders under the Senior Credit Facility, the Intercreditor Agreement and applicable law. The Debtors believe that the value of the Prepetition Collateral is not sufficient to provide any recovery to the Second Lien Debt or the Mezzanine Debt, and therefore, the Second Lien Debt and the Mezzanine Debt will be treated as unsecured claims pursuant to §506 of the Bankruptcy Code. However, until such a determination has been made by the Court, the Second Lien Lenders and the Mezzanine Lenders will be afforded the adequate protection set forth herein. As of the Petition Date, the Debtors had cash on hand in an aggregate amount of approximately \$42.8 million, which constitutes Cash Collateral (as defined below) pursuant to section 363(a) of the Bankruptcy Code subject to the liens and security interests of

the Security Trustee on behalf of the Prepetition Secured Lenders. The First Lien Lenders are entitled pursuant to sections 105, 361, 362 and 363(e) of the Bankruptcy Code to adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral, for any diminution in value of the Prepetition Collateral, including without limitation, resulting from the use of Cash Collateral and the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code.

M. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraph 14), each Debtor hereby forever waives and releases any and all Claims (as such term is defined in the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights against each of the First Lien Lenders, whether arising in law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or Chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable federal or state law.

N. The Debtors have presented to the Security Trustee, Oaktree, and Versatus Advisors LLP, as financial advisor to certain Second Lien Lenders, certain Mezzanine Lenders and certain Junior Mezzanine Lenders ("**Versatus**") a detailed rolling 13-week cash flow statement for the Debtors on a consolidated basis (as updated or amended from time to time in accordance with this Order, the "**Budget**"), which shows the Debtors' weekly projected cash receipts and disbursements for the first 13 weeks of the Chapter 11 Cases, a copy of which is acceptable to the Security Trustee, Oaktree and Versatus, and was attached as Exhibit A to the First Interim Order. The Debtors have represented that all of the expenditures set forth in the Budget are necessary to avoid immediate or irreparable harm to the assets of their estates and are necessary and reasonable in order to allow the Debtors to preserve their going concern value.

Based upon the foregoing findings, and upon the record made before this Court at the Interim Hearing, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED:

1. The Motion. The Motion is granted on an interim basis to the extent set forth herein.

2. Cash Collateral and Non-Cash Collateral. For purposes of this Order, "Cash Collateral" shall consist of all cash collateral as defined in section 363(a) of the Bankruptcy Code, including without limitation, all items and sums referred to in Paragraph L above, deposits subject to setoff and all other cash proceeds arising from the sale, lease or other disposition or conversion of Collateral.

3. Authorization. Subject to the terms and conditions contained herein, the Debtors are authorized to use Cash Collateral in accordance with, and subject to, the Budget. The use of Cash Collateral by the Debtors shall give rise to an obligation by the Debtors for the repayment of Cash Collateral used. No Cash Collateral may be used or committed to be used for preparing or filing anything in these Chapter 11 Cases that would constitute a Termination Event (as defined in section 8 below). The Security Trustee's consent to use of the Cash Collateral subject to the Budget shall not be construed to be a consent beyond the Termination Date (as defined below) regardless of whether the aggregate funds shown on the Budget have been expended prior to the Termination Date.

4. Term. The Debtors' authorization to use Cash Collateral shall commence as of entry of this Order by the Court and terminate upon the earlier of (i) entry of the Final Order, and (ii) the occurrence of a Termination Event (the "***Termination Date***"). Termination of this Order shall only terminate the rights of the Debtors to use Cash Collateral hereunder, but shall not in

any manner affect the validity, priority, enforceability or perfected status of any lien or security interest granted to the Security Trustee on behalf of the Prepetition Secured Lenders pursuant hereto.

5. Retention of Talbot Hughes. The Debtors shall use their commercially reasonable efforts to retain Talbot Hughes McKillop LLP ("***Talbot Hughes***") to provide financial advisory services to the Debtors, including assisting the Debtors in developing the Budget.

6. Adequate Protection.

6.1 The Security Trustee, on behalf of the Prepetition Secured Lenders is hereby granted perfected replacement liens and replacement security interests pursuant to section 361(2) of the Bankruptcy Code (the "***Replacement Liens***") to the extent of any diminution in the value of the Prepetition Secured Lender's interest in the Prepetition Collateral resulting from (i) the use of the Cash Collateral, (ii) the use, sale, or lease of the Prepetition Collateral, or (iii) the imposition of the automatic stay (the aggregate amount of such diminution is referred to herein as the "***Adequate Protection Obligations***") on all property of the Debtors and their estates, whether now owned or hereafter acquired, including without limitation, all accounts, chattel paper, deposit accounts and all cash and other property deposited therein or otherwise credited thereto, documents, equipment, fixtures, general intangibles, instruments, intellectual property, inventory, investment property, letter-of-credit rights, commercial tort claims, aircraft collateral, other property, books and records pertaining to the Prepetition Collateral and to the extent not otherwise included, all proceeds, supporting obligations and products of any and all of the foregoing, *provided, however*, the granting of such liens complies with local law and specifically excluding causes of action arising under §§502(d), 544, 545, 547, 548, 550 or 553 of the Bankruptcy Code (collectively, the "***Replacement Collateral***"), senior to any other security

interest or liens other than (a) security interests and liens (the "**DIP Liens**"), to secure debtor in possession financing (the "**DIP Financing**"), if any; (b) security interests permitted under the Senior Credit Facility to be senior to the liens granted or purported to be granted to the Prepetition Secured Lenders, which security interests were actually granted and perfected prior the Petition Date ("**Senior Prepetition Liens**"); (c) the payment of U.S. Trustee Fees, pursuant to 28 U.S.C. § 1930; (d) the reasonable expenses approved by the Bankruptcy Court at any time of members of any statutory committee appointed in these Chapter 11 Cases (each, a "**Committee**") (excluding fees and expenses of professional persons employed by such committee members individually) in an aggregate amount (collectively, for all members) not to exceed \$75,000; (e) all unpaid fees and expenses allowed by the Bankruptcy Court at any time of professionals or professional firms retained by the Debtors or a Committee pursuant to sections 327, 328, 330, 363, or 1103 of the Bankruptcy Code (the "**Professional Persons**") that were incurred through the date upon which the Debtors receive from the Security Trustee written notice of a Termination Event, whether or not such fees and expenses have been billed on or prior to that date; (f) after the date upon which the Debtors receive from the Security Trustee written notice of a Termination Event, to the extent allowed at any time, the payment of fees, expenses, and taxes of Professional Persons in an aggregate amount not to exceed \$6,000,000; and (g) after a conversion of any of these Chapter 11 Cases to a case or cases under chapter 7 of the Bankruptcy Code, reasonable fees and expenses of the chapter 7 trustee and its counsel, in an amount not to exceed an additional \$100,000; *provided, however*, that: (1) the dollar limitations in clause (f) above on fees and expenses shall not be reduced by the amount of any compensation or reimbursement of expenses incurred by or paid to any Professional Person prior to written notification to the Debtors by the Security Trustee of the occurrence of a Termination Event or

by any fees, expenses, indemnities, or other amounts paid to any of the Security Trustee, the Prepetition Secured Lenders, or their respective attorneys or agents, and (2) to the extent the dollar limitation in clause (f) on fees, expenses, and taxes is reduced by an amount as a result of payment of such fees and expenses during the continuation of a Termination Event, and such Termination Event is subsequently cured or waived, such dollar limitation shall be increased by an amount equal to the amount by which it has been so reduced (the amount of the permitted uses set forth in clauses (b) through (g) above being defined herein as the "**Carve-Out**").

6.2 The Replacement Liens granted to the Security Trustee on behalf of the Prepetition Secured Lenders shall attach and become valid, enforceable and fully perfected without any action by the Debtors, the Security Trustee or the Prepetition Secured Lenders, and no filing or recordation or other act that otherwise may be required under federal or state law in any jurisdiction shall be necessary to create or perfect such liens and security interests. The Replacement Liens shall have the same relative priority among the Prepetition Secured Lenders as provided in the Intercreditor Agreement, *provided, however*, the DIP Liens will be prior in priority to (i) the prepetition liens on the Prepetition Collateral and (ii) liens granted under this Interim Order. To the extent the Security Trustee, on behalf of the Prepetition Secured Lenders, does not hold a duly perfected lien or security interest in any of the Debtors' assets and all products, proceeds, offspring, rents or profits thereof, the Debtors will provide the Security Trustee, for the benefit of the Prepetition Secured Lenders, liens and security interests in such assets, subject to the DIP Liens and the Carve-Out, with such liens and security interests to have the same relative priority among the Prepetition Secured Lenders as provided in the Intercreditor Agreement. If the Security Trustee, on behalf of the Prepetition Secured Lenders, hereafter reasonably requests the Debtors to execute and deliver to the Security Trustee financing

statements, security agreements or other instruments or documents considered by the Security Trustee or the Prepetition Secured Lenders to be necessary or desirable to further evidence the perfection of the liens and security interests granted herein, the Debtors shall be authorized and directed to execute and deliver such documents.

6.3 The Prepetition Secured Lenders are granted a superpriority administrative claims against the Debtors' estates as contemplated by sections 503(b) and 507(b) of the Bankruptcy Code (the "***Superpriority Claims***"). Such Superpriority Claims shall be allowed and shall have priority in right of payment over any and all other obligations, liabilities and indebtedness of the Debtors, now in existence or hereafter incurred by any of the Debtors and over any and all other costs and expenses of the kind specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726 (to the extent permitted by law), 1113 and 1114 of the Bankruptcy Code, and any other provision of the Bankruptcy Code, whether incurred in the Cases or any conversion thereof to a case under chapter 7 of the Bankruptcy Code or any other proceeding related hereto, subject only to the DIP Liens and the Carve-Out.

6.4 So long as the Termination Date shall not have occurred, (i) the Debtors shall be permitted to pay administrative expenses incurred prior to the Termination Date and allowed at any time under sections 328, 330 and 331 of the Bankruptcy Code, as the same may be due and payable (having accrued prior to such Termination Date) and in such amount and manner as provided for in the Budget and (ii) such payments shall not be applied to reduce the Carve-Out. Notwithstanding anything herein to the contrary, no portion of the Carve-Out or any Cash Collateral shall be used for professional fees and expenses incurred for any litigation or threatened litigation against any of the First Lien Lenders or for the purpose of challenging the

validity, extent or priority of any claim, lien or security interest held or asserted by the Security Trustee, on behalf of the First Lien Lenders, or asserting any defense, claim, counterclaim or offset with respect to the First Lien Lenders or liens held by the Security Trustee, on behalf of the First Lien Lenders; *provided, however*, that an aggregate of \$75,000 from the Carve-Out and the Cash Collateral may be used to pay professional fees and expenses of the Committee to investigate the claims and liens of the Security Trustee on behalf of the Prepetition Secured Lenders.

6.5 This Order shall be without prejudice to any further application by the Prepetition Secured Lenders, the Senior and Second Lien Agent, the Mezzanine and Junior Mezzanine Agent or the Security Trustee for other or further adequate protection or relief or modification of the automatic stay or any other rights, claims or privileges of any kind.

7. Terms and Restrictions. The Debtors' authorization to use Cash Collateral shall be subject to the following additional terms and restrictions:

7.1 From and after entry of this Order and continuing until the Termination Date, the Security Trustee and Versatus shall be granted access to the Debtors' books and records as each may from time to time reasonably request. The Debtors shall provide to the Security Trustee, Versatus and Oaktree financial and operating reports (the "**Reports**"). The Debtor shall provide such parties weekly Budgets prepared in consultation with Talbot Hughes during the period from the Petition Date through the date on which a plan of reorganization is confirmed. The Debtors will also supply the Security Trustee, Versatus and Oaktree, upon their request, with regular updates regarding the short term outlook for the business including but not limited to forecast volume and price information where available. The Debtors will update the entire Budget at the end of every fourth (4th) week to reflect management's most up to date

projections for the Debtors' businesses. Talbot Hughes shall participate in developing forecasts for restructuring costs. On a weekly basis after the Petition Date, the Debtors shall provide a report showing the variances from actual results (the "**Variance Report**") for the prior week as compared to the Budget for the same period and will also hold a weekly call with the Security Trustee, Versatus and Oaktree, and their respective advisors, as requested. Commencing at the end of the of fourth (4th) week after the Petition Date and on each Friday (the "**Report Date**") each week thereafter, the Debtors shall provide a report (the "**Testing Report**") setting forth the actual results for each Test Metric (defined below) for the prior four-week period (each such four-week period referred to herein as a "**Test Period**") compared to the aggregate amount set forth in the Budget for each item for the same Test Period. With respect to items (1) and (2) of the Test Metrics, the actual results for each Test Metric for each Test Period shall not exceed the Applicable Variance (as defined below) of the aggregate amount set forth in the Budget therefore for the same Test Period. With respect to item (3) of the Test Metrics, the actual results for item (3) for each Test Period shall not be less than the Minimum Aggregate Cash Balance (as defined below).

"Test Metrics" mean:

- (1) aggregate vendor payments (excluding fees and expenses of the restructuring, including without limitation the professional fees and expenses);
- (2) capital expenditures; and
- (3) the aggregate unrestricted cash at the Debtors, plus the availability under the DIP Financing.

"Minimum Aggregate Cash Balance" means \$12 million.

"Applicable Variance" means as follows:

Test Metric	Variance for First Test Period	Variance for Test Periods after the First
Aggregate vendor payments:	150%	125%
Capital expenditures	125%	125%

7.2 The Debtors shall not outside of the ordinary course of business accept or collect at a discount, or reduction of, any receivable, claim or other general intangible, and shall not sell or dispose of any Non-Cash Collateral without the express written approval of the Security Trustee or prior Court approval, upon notice to the Security Trustee.

7.3 The Debtors shall deliver to the Security Trustee all pleadings, motions, applications, operational information, financial information and other documents filed with the Court or the U.S. Trustee's Office.

8. Termination Events. Each of the following shall constitute a "***Termination Event***" with respect to the authorization for the Debtors' use of Cash Collateral, unless waived by the Security Trustee and Oaktree:

8.1 That certain Plan Support Agreement by and among the Debtors and certain of the First Lien Lenders party thereto from time to time, dated as of March 9, 2010, is terminated.

8.2 The Debtors file a motion without the prior written consent of the Security Trustee and Oaktree for the use of Cash Collateral or any order is entered approving the use of Cash Collateral without the prior written consent of the Security Trustee and Oaktree.

8.3 The entry of an order not subject to stay approving a motion by a third party to amend, reverse, supplement, stay, vacate or otherwise modify this Order without the prior consent to the Security Trustee and Oaktree.

8.4 The entry of an order not subject to stay in favor of a creditor granting relief from the automatic stay to foreclose on a material asset of any of the Debtors, without the prior written consent of the Security Trustee and Oaktree.

8.5 Other than the DIP Financing, the Debtors shall incur credit or indebtedness that is secured by a security interest, mortgage or other lien (other than those permitted under the Senior Credit Facility) equal or senior to any security interest, mortgage or other lien of the Prepetition Secured Lenders without the prior written consent of the Security Trustee and Oaktree.

8.6 Other than the DIP Financing, if any, the Debtors shall incur credit or indebtedness with a superpriority administrative status equal or superior to that granted to the Security Trustee on behalf of the Adequate Protection Creditors pursuant to this Order without the prior written consent of the Security Trustee and Oaktree.

8.7 The failure by any Debtor to fully and timely satisfy all terms, conditions and restrictions contained in this Order, including, but not limited to, the failure to operate in accordance the Applicable Variance or the Minimum Aggregate Cash Balance.

8.8 The Debtors file a motion, adversary proceeding or initiate any other court proceeding, other than to enforce the automatic stay provided by section 362 of the Bankruptcy Code or to enforce this Order, seeking to (i) object to, set aside, avoid, assert defenses to or contest the First Lien Debt, the validity, perfection, priority or enforceability of the First Lien Debt or any other claims or liens of the First Lien Lenders pursuant to the Senior Credit Facility against the Debtors or their assets, including but not limited to claims and liens arising under this Order, or (ii) to obtain a monetary judgment or other relief against the First Lien Lenders, or the Debtor supports any other party in taking an action described in this section 7.8.

8.9 This Order is modified without the prior written consent of the Security Trustee and Oaktree, is vacated, stayed or is for any reason not binding on the Debtors.

8.10 The Debtors fail to provide the Security Trustee with the Reports after reasonable written requests by the Security Trustee.

8.11 A final order approving use of Cash Collateral is not entered by the thirtieth (30th) day after the Petition Date.

9. Remedies. Upon the occurrence of a Termination Event, the First Lien Lenders shall be entitled to request an expedited hearing under section 362 of the Bankruptcy Code as follows: upon giving seven (7) days (the "**Notice Period**") written notice by fax, email or hand delivery to the Debtors, their counsel, counsel for the Creditors' Committee, if any, appointed in these Chapter 11 Cases and the United States Trustee, for the purposes of obtaining authority to exercise remedies and take enforcement actions hereunder. The Debtors may use Cash Collateral during the Notice Period to fund operations and make ordinary course disbursements to the extent and at the times set forth in the Budget. The granting of such relief shall not prejudice any claims of the Prepetition Secured Lenders pursuant to sections 502, 506 and 507 of the Bankruptcy Code. The Superpriority Claims and Replacement Liens granted by this Order shall survive entry of an order (i) converting any of the Chapter 11 Cases to chapter 7 cases, (ii) dismissing any of the Debtors' Chapter 11 Cases or (iii) appointing a chapter 11 trustee or examiner with expanded powers, and the Superpriority Claims and Replacement Liens granted pursuant to this Order shall continue in full force and effect notwithstanding the entry of such order, and such Superpriority Claims and Replacement Liens shall maintain their priority as provided by this Order.

10. Preservation of Rights.

10.1 In consenting to, or otherwise not opposing, entry of this Order, the Prepetition Secured Lenders and the Debtors may negotiate and execute additional stipulations for extensions of the consent to use Cash Collateral. A new stipulation extending consent to use of cash collateral may cover rights, claims and interests not dealt with in this Order, and may contain terms, conditions and restrictions not set forth herein. By consenting to, or otherwise not opposing, entry of this Order, the Prepetition Secured Lenders and the Security Trustee have not waived, are not estopped and are not otherwise limited from seeking additional rights, protections or benefits in any subsequent stipulation or from objecting to, or refusing to consent to, such other proposed stipulation. By consenting to, or otherwise not opposing, entry of this Order, the Prepetition Secured Lenders and the Security Trustee are not waiving any right they have to file a motion for relief from the automatic stay (or any other appropriate motion or adversary proceeding) to protect their interests during these Chapter 11 Cases.

11. Binding Effect. The provisions of this Order shall be binding and inure to the benefit of the Prepetition Secured Lenders, the Security Trustee, the Debtors and their estates, and any trustee subsequently appointed in these Chapter 11 Cases or in any superseding chapter 7 case. In the event that any or all of the provisions of this Order are hereafter modified, amended or vacated by a subsequent order of this or any other Court, no such modification, amendment or vacation shall affect the validity, enforceability or priority of any lien or claim authorized or created hereby.

12. No Third Party Beneficiaries. The Prepetition Secured Lenders and the Security Trustee shall not be liable to any third parties (including any and all creditors of the estates or the

Debtors who may have administrative claims included within the Budget) and no such third parties are intended to or shall be deemed to be beneficiaries of the provisions of this Order.

13. Non-Control. The Prepetition Secured Lenders and the Security Trustee, by the execution of the Order and the performance of the acts contemplated herein (other than a foreclosure), shall not be deemed to be in control of the Debtors or their assets, or to be acting in a capacity of a "responsible person," "owner," "operator" or "mortgagee in possession" with respect to the operation or management of the Debtors and their assets.

14. Validity of Liens. The Debtors' admissions and releases contained in paragraphs J through M of this Order: (i) shall be binding upon the Debtors for all purposes; and (ii) shall be binding on all other parties in interest, including any Committee, for all purposes unless (1) a party (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so) has properly filed an adversary proceeding or contested matter by no later than a date that is sixty (60) days from entry of the Final Order (or in the case of the Committee, sixty (60) days from appointment of the Committee, if any), (x) challenging the amount, validity, enforceability, priority or extent of the First Lien Debt or the Security Trustee's security interests in or liens upon the Prepetition Collateral for the benefit of the First Lien Lenders or (y) otherwise asserting any claims or causes of action against the Security Trustee or the First Lien Lenders on behalf of the Debtors' estates, and (2) the Court rules in favor of the plaintiff in any such timely and properly filed adversary proceeding or contested matter. If no such adversary proceeding or contested matter is properly filed as of such dates or the Court does not rule in favor of the plaintiff in any such proceeding: (a) the Debtors' admissions and releases contained in paragraphs J through M of this Order shall be binding on all parties in interest, including the Committee, if any; (b) the obligations of the Debtors to the First Lien Lenders shall

constitute allowed claims for all purposes in the Chapter 11 Cases and any subsequent chapter 7 case(s); (c) the Security Trustee's security interests in and liens upon the Prepetition Collateral for the benefit of the First Lien Lenders shall be deemed to have been, as of Petition Date, legal, valid, binding, perfected, security interests and liens, the priority of which is governed by the Intercreditor Agreement, and are not subject to recharacterization, subordination or otherwise avoidable; and (d) the First Lien Debt and the Security Trustee's security interests and liens on the Prepetition Collateral for the benefit of the First Lien Lenders shall not be subject to any other or further challenge by the Committee or any other party in interest seeking to exercise the rights of the Debtors' estates, including, without limitation, any successor thereto. If any such adversary proceeding or contested matter is properly filed as of such dates, the Debtors' admissions and releases contained in paragraphs J through M of this Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) except to the extent that such admissions and releases were expressly challenged in such adversary proceeding or contested matter. Nothing contained in this Order shall be deemed to grant standing to the Committee or any other party to commence any such adversary proceeding or contested matter.

15. Reservation of Rights. Pending entry of a Final Order, the Security Trustee reserves the right to condition its consent to use of Cash Collateral on the requirement that in the event the Prepetition Collateral is sold pursuant to a plan of reorganization, the Debtors shall be prohibited from seeking confirmation of such plan under section 1129(b)(2)(A) of the Bankruptcy Code for the class of claims that includes the First Lien Debt, other than pursuant to 1129(b)(2)(A)(ii) of the Bankruptcy Code; *provided however*, that nothing herein constitutes any waiver of the Debtor's rights with respect to such condition.

16. This Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 6004(h), 7062 or 9014, any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Order shall be effective immediately and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Order.

17. The hearing to consider entry of the Final Order is scheduled for May 17, 2010 at 10:00 a.m. (Prevailing Eastern Time) before the Honorable Martin Glenn, United States Bankruptcy Judge, Courtroom 501 at the United States Bankruptcy Court for the Southern District of New York. Parties objecting shall (i) file a written objection with the United States Bankruptcy Court Clerk for the Southern District of New York no later than 12:00 p.m. (Prevailing Eastern Time) on May 10, 2010, (ii) serve such objection so that it is received on or before such date by: (a) Attorneys for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166, Attention: Michael A. Rosenthal, Esq. and Janet M. Weiss, Esq., (b) Attorneys for the Security Trustee on behalf of the First Lien Lenders, Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, Attention: Daniel Guyder, Esq. and John Kibler, Esq. (c) Attorneys for Oaktree, Kirkland & Ellis LLP, 300 N. LaSalle, Chicago, Illinois 60654, Attention: Adam Paul, Esq., (d) Attorneys for certain Second Lien Lenders, certain Mezzanine Lenders and certain Junior Mezzanine Lenders, Schulte Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attention: Michael L. Cook, Esq. and Bill Gussman, Esq., and (e) the Office of the United States Trustee.

Dated: New York, New York
May 5, 2010

/s/Martin Glenn
THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE