



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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The following constitutes the ruling of the court and has the force and effect therein described.

Signed December 9, 2016

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
ASCENT GROUP, LLC	§	Case No.: 16-34436-SGJ-11
	§	
Debtor.	§	
	§	

FINAL ORDER (I) AUTHORIZING THE DEBTOR TO USE CASH COLLATERAL AND OBTAIN POST-PETITION FINANCING; (II) GRANTING LIENS, SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, AND ADEQUATE PROTECTION; (III) MODIFYING THE AUTOMATIC STAY; AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “**Motion**”) of the above-captioned Debtor¹ for interim and final orders, under §§ 105, 361, 362, 363, and 364, of chapter 11 of title 11 of the United States Code

¹ The debtor in this chapter 11 case (the “**Debtor**”) and the last four digits of its federal tax identification number is as follows: Ascent Group, LLC (0580). The Debtor’s principal place of business is located at 3607 Oak Lawn Ave., Suite 100, Dallas, Texas 75219.

(the “**Bankruptcy Code**”), Rules 2002 and 4001 of Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas (the “**Local Bankruptcy Rules**”) seeking, among other things:

(1) authority pursuant to Bankruptcy Code §§ 363 and 364(c) and (d) to obtain Debtor-in-possession secured financing pursuant to the terms set forth in (a) that certain *Secured Superpriority Debtor-in-Possession Loan and Security Agreement* (the “**DIP Credit Agreement**”)² with My ER ST CPR, LP, a Texas limited partnership, d/b/a MY ER 24/7 (the “**Lender**” or “**DIP Lender**,” as applicable); (b) this Order approving the Motion and DIP Facility on a final basis, and together with any other related final order entered by this Court impacting or relating to the Motion and DIP Facility (collectively, the “**Final Order**”); and (c) all other agreements executed or contemplated to be executed in connection with the DIP Credit Agreement;

(2) authority to grant to the DIP Lender a superpriority administrative claim pursuant to Bankruptcy Code sections 364(c)(1) and 507(b) in accordance with the terms of this Order;

(3) authority to use the DIP Lender’s cash collateral, as contemplated by Bankruptcy Code section 363 in accordance with the terms set forth herein;

(4) authority to provide adequate protection to the DIP Lender under and in connection with the DIP Financing Documents in accordance with the terms set forth herein;

(5) authority to use of Regions Bank’s (“**Regions Bank**”) cash collateral and providing adequate protection to Regions Bank;

² Unless otherwise specifically defined herein, the terms used herein shall have the meanings assigned to such terms in the DIP Credit Agreement.

(6) modification of the automatic stay to the extent hereinafter set forth and waiving the 14-day stay provisions of Bankruptcy Rules 4001(a)(3) and 6004(h); and

(7) a Final Hearing on the Motion for entry of an order authorizing the DIP Facility and use of cash collateral on a final basis.

Notice of the Motion, the relief requested therein, the Interim Hearing (as defined below), and the Final Hearing (as defined below) (collectively, the “**Notice**”) having been served by the Debtor in accordance with Bankruptcy Rule 4001 on: (i) the Office of the United States Trustee for the Northern District of Texas; (ii) Regions Bank (the Debtor’s secured lender); (iii) the DIP Lender; (iv) the twenty (20) largest unsecured creditors of each bankruptcy estate; (v) the Internal Revenue Service; (vi) Dallas County, Texas; and (vii) all parties in interest who have formally apprised and requested notice.

Pursuant to Bankruptcy Rule 4001, this Court held an interim hearing with respect to the Motion on November 16, 2016 (the “**Interim Hearing**”).

Pursuant to Bankruptcy Rule 4001, this Court held a final hearing with respect to the Motion on December 7, 2016 (the “**Final Hearing**”).

After the Motion and the proceedings before this Court at the Interim Hearing and at the Final Hearing; and all objections, if any, to the final relief requested in the Motion having been withdrawn, resolved, or overruled by this Court, as reflected on the record established by the Debtor at the Final Hearing.

THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:³

³ To the extent, any findings of fact constitute conclusions of law, they are adopted as such, and vice versa, pursuant to Fed. R. Bankr. P. 7052.

A. Petition Date. On November 14, 2016 (the “**Petition Date**”), the Debtor commenced a case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code;⁴

B. Debtor in Possession. The Debtor continues to operate its business and manage its properties as Debtor and debtor-in-possession pursuant to Bankruptcy Code §§ 1107(a) and 1108, and no trustee or examiner has been appointed;

C. Notice. The Debtor properly served due and sufficient notice of the Motion and the Final Hearing to all parties-in-interest requiring notice under these circumstances pursuant to the Bankruptcy Rules and Local Bankruptcy Rules;

D. Jurisdiction and Venue. This Court has core jurisdiction over the Debtor’s Bankruptcy Case, the Motion, and the parties and property affected by this Order pursuant to 28 U.S.C. §§ 157(b) and 1334, and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409;

E. Statutory Committee Formation. As of the date hereof, the United States Trustee has not appointed an official committee of unsecured creditors in this matter pursuant to Bankruptcy Code section 1102 (“**Committee**”);

F. Debtor’s Stipulations. The Debtor has admitted, represented and stipulated, without prejudice to the rights of third parties or the Committee (if any) set forth in this Order, the following (collectively, the “**Stipulations**”):

(1) *DIP Lender’s Terms of Financing*. The DIP Lender is willing to provide postpetition financing to the Debtor through the DIP Facility as set forth in the DIP Financing Documents;

⁴ Unless otherwise noted, all statutory references are to the Bankruptcy Code.

(2) *Cash Collateral.* The DIP Lender consents to the Debtor's use of its "cash collateral" (as such term is defined in Bankruptcy Code section 363(a)) only upon the conditions contained in this Order, the DIP Credit Agreement, and other DIP Financing Documents;

(3) *Costs of Estate Administration.* The Debtor reasonably and in good faith believes that the use of the DIP Lender's cash collateral and the loans, advances, and other financial accommodations to be obtained pursuant to the DIP Facility is sufficient to fund the projected legitimate and allowable expenses of its Chapter 11 Bankruptcy Case from the Petition Date through the period to which the Budget (defined below) pertains;

(4) *Authorization.* The Debtor is a duly organized, validly existing limited liability company and has the requisite power and authority to own, lease, and operate its property, including, without limitation, the DIP Collateral. The Debtor has the requisite power and authority to enter into, execute, deliver, and perform its obligations under the DIP Credit Agreement, other DIP Financing Documents, and this Order and to incur the obligations provided for thereon. Except as may be explicitly required in the DIP Financing Documents, no consent or waiver of, filing with, authorization, approval or other action by any shareholder, member, any federal, state, or other governmental authority or regulatory body or any other person, which has not already been obtained or done, is required in connection with the execution, delivery, and performance by the Debtor of any of the documents required as a condition to the validity or enforceability of the DIP Financing Documents, other than entry by this Court of this Order.

(5) *Pre-Petition Date Loan Documents.*

- i. On April 11, 2014, Ascent Group entered into that certain *Revolving Note* (as amended, extended, and/or modified, the “**Revolving Note**”) with Regions Bank, providing Ascent Group a revolving line of credit with a maximum revolving loan limit not to exceed \$500,000.00. On April 11, 2014, Ascent Group entered into that certain *Security Agreement* (as amended, extended, and/or modified, the “**Revolving Security Agreement**”), granting Regions Bank a security interest in Ascent Group’s personal property, specifically including, without limitation, accounts, inventory, equipment, general intangibles and proceeds thereof. On April 11, 2014, Ascent Realty entered into that certain *Unconditional Guaranty of Ascent Realty, LLC* (as amended, extended, and/or modified, the “**Revolving Guaranty**”) in favor of Regions Bank, wherein Ascent Realty unconditionally guaranteed payment of the obligations arising under the Revolving Note. The Revolving Note, the Revolving Security Agreement, the Revolving Guaranty and all other documents executed and/or delivered in connection therewith is collectively referred to herein as the “**Prepetition Revolving Loan Documents**”).
- ii. Regions Bank asserts a lien on substantially all of Ascent Group’s personalty assets existing as of the Petition Date and cash proceeds arising therefrom acquired by Ascent Group after the Petition Date (“**Ascent Group Cash Collateral**”). Ascent Group has paid all monetary obligations arising in connection with the credit facility evidenced by the Prepetition Revolving Loan Documents. Ascent Group is not in default under the

Prepetition Revolving Loan Documents. As of the Petition Date, the outstanding balance of the indebtedness due and owing under the Prepetition Revolving Loan Documents is approximately \$500,000.00 (the **“Prepetition Revolving Secured Debt”**).

- iii. On April 11, 2014, Ascent Realty entered into that certain *Term Note* (as amended, extended, and/or modified, the **“Term Note”**) with Regions Bank, providing Ascent Realty a \$2,500,000.00 term loan. On April 11, 2014, Ascent Realty entered into that certain *Security Agreement* (as amended, extended, and/or modified, the **“Term Security Agreement”**), granting Regions Bank a security interest in Ascent Realty’s personal property, specifically including, without limitation, accounts, inventory, equipment, general intangibles and proceeds thereof. On April 11, 2014, Ascent Group entered into that certain *Unconditional Guaranty of Ascent Group, LLC* (as amended, extended, and/or modified, the **“Term Guaranty”**) in favor of Regions Bank, wherein Ascent Group unconditionally guaranteed payment of the obligations arising under the Term Note. The Term Note, the Term Security Agreement, the Term Guaranty and all other documents executed and/or delivered in connection therewith are collectively referred to herein as the **“Prepetition Term Loan Documents”**).⁵

⁵ The Prepetition Revolving Loan Documents, the Prepetition Term Loan Documents, and all other documents executed and/or delivered in connection therewith are collectively referred to herein as the **“Prepetition Loan Documents.”**

- iv. Regions Bank asserts a lien on substantially all of Ascent Realty's personalty assets existing as of the Petition Date and cash proceeds arising therefrom acquired by Ascent realty after the Petition Date ("**Ascent Realty Cash Collateral**").⁶ As of the inception of the Term Note, its original, stated principal balance was approximately \$2,500,000.00 (the "**Prepetition Term Secured Debt**").⁷

G. Inability to Obtain Unsecured Credit. The Debtor is unable to obtain sufficient levels of unsecured credit allowable under Bankruptcy Code § 503(b)(1) as an administrative expense necessary to maintain and conduct its business;

H. Inability to Obtain Alternate Secured Credit. The Debtor is unable to obtain secured credit on more favorable terms than under the terms and conditions provided in this Order and the other DIP Financing Documents;

I. Best Interests of Estate. It is in the best interest of Debtor's Estate that the Debtor be allowed to use Regions Bank's cash collateral, enter into the DIP Facility to obtain postpetition secured financing from the DIP Lender, and use the DIP Lender's cash collateral subject to and in accordance with the terms of this Order, the Budget and the other DIP Financing Documents, and to grant adequate protection to Regions Bank and the DIP Lenders on account of (i) the Debtor's use of Regions Bank's cash collateral, (ii) the Debtor's use of the DIP Lender's cash collateral and (iii) the Indebtedness evidenced by the DIP Financing Documents, on a final basis under the terms and conditions set forth herein and in the DIP Financing Documents, as such is necessary to avoid immediate and irreparable harm to the Debtor's Estate. Regions Bank has agreed to the Debtor's

⁶ The Ascent Group Cash Collateral and the Ascent Realty Cash Collateral are collectively referred to herein as "**Regions Bank's Cash Collateral.**"

⁷ The Prepetition Revolving Secured Debt and the Prepetition Term Secured Debt are collectively referred to herein as the "**Prepetition Secured Debt.**"

use of its cash collateral under the terms set forth in this Final Order. The DIP Lender has agreed to (i) extend financing to the Debtor under the DIP Facility and (ii) the Debtor's use of its cash collateral under the terms set forth in this Final Order;

J. Good Faith. The extension of credit and financial accommodations under the DIP Financing Documents is fair, reasonable, in good faith, negotiated at arm's length, reflect the Debtor's exercise of reasonable business judgment under the circumstances, and is supported by reasonably equivalent value and fair consideration and the DIP Lender is entitled to the protections of Bankruptcy Code section 364(e). The contemplated adequate protection provided to Regions Bank is proposed in good faith;

K. Immediate Need for Use of Cash Collateral and the DIP Facility. For the reasons stated on the record on December 7 and 8, 2016, the court has found that continued use of cash collateral and the requested DIP Facility pursuant to the projected expenses set forth in the Budget are necessary to the Debtor's going concern and may preserve value while the Debtor markets its assets for a potential sale;

L. Necessity of Adequate Protection and DIP Facility Terms. The terms of the adequate protection provided to Regions Bank, the DIP Financing Documents and this Order assuring that the liens and the various claims, superpriority claims, and other protections granted in this Order in favor of Regions Bank and the DIP Lender, respectively, will not be affected by any subsequent reversal or modification of this Order or any other order, which is applicable to the postpetition financing arrangement contemplated in the DIP Financing Documents and the use of Regions Bank's cash collateral and the DIP Lender's cash collateral contemplated by this Order. The terms of the adequate protection provided to Regions Bank, the DIP Financing Documents and this Order is necessary in order to induce Regions Bank's consent to use of its cash collateral

and to induce the DIP Lender to provide postpetition financing to the Debtor and consent to the Debtor's use of the DIP Lender's cash collateral; and

M. Good Cause for Entry of Order. Good and sufficient cause has been shown for entry of this Order pursuant to Bankruptcy Rule 4001. The use of Regions Bank's cash collateral and the proceeds of the DIP Facility to finance the projected operating expenses represented in the Budget is reasonable and necessary to the Debtor's going concern and may preserve value while the Debtor markets its assets for a potential sale. This Court concludes, that entry of this Order will, among other things, allow for the continued operation of Debtor's existing business and preservation of value. Entry of this Order, the use of Regions Bank's cash collateral, consummation of the financing under the DIP Facility and the use of DIP Lender's cash collateral, each in accordance with the Budget, this Order and the DIP Financing Documents, is in the best interests of the Debtor, its Estate and its creditors.

Based upon the foregoing, and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Use of Regions Bank's Cash Collateral. The Debtor is authorized to use Regions Bank's cash collateral in accordance with the budget attached hereto as **Exhibit A** (the "**Budget**"). The Debtor is authorized to use Regions Bank's cash collateral to fund working capital, operating expenses, capital expenditures, fixed charges, payroll, and all other general corporate purposes arising in the Debtor's ordinary course of business, and to pay the costs and expenses related to the administration of Debtor's bankruptcy case, including reasonable professional fees and certain other expenses, each in accordance with and in compliance the Budget.

2. Adequate Protection to Regions Bank. The adequate protection provided to Regions Bank in this Order is only to the extent (i) that Regions Bank's asserted liens and security

interests in the Debtor's pre-Petition Date property interests are perfected, valid, and unavoidable as of the Petition Date and (ii) the Court determines after notice and hearing that from the Petition Date to the date of the Court's determination, a diminution in the value of Regions Bank's interest in its pre-Petition Date security interests in pre-Petition Date collateral has occurred. Subject to the Court so finding, the following adequate protection ("**Adequate Protection**") is provided to Regions Bank as adequate protection of Regions Bank's asserted interests in its pre-Petition Date security interests. The Adequate Protection provided to Regions Bank is subject to the Carveout.

a. Regions Bank is hereby granted, from and after the Petition Date, replacement liens and security interests in all accounts receivable generated by the Debtor after the Petition Date, specifically including all cash proceeds arising from such accounts generated by the Debtor after the Petition Date.

b. As of the date of this Final Order, said replacement liens and security interests in Regions Bank's replacement liens shall be valid, perfected, enforceable and effective against the Debtor and its respective successors and assigns, including any trustee or receiver in this or any superseding chapter 7 case, without any further action by the Debtor or Regions Bank and without the execution, delivery, filing or recordation of any promissory notes, financing statements, security agreements or other documents. Notwithstanding the foregoing, this Final Order shall be deemed a security agreement and may be filed as a financing statement and the Debtor agree to execute and deliver such notes, security agreements, assignments, financing statements and other documents that Regions Bank shall reasonably request to further evidence the liens and security interests granted hereby.

c. As additional adequate protection, in the event that the adequate protection provided in this Order is insufficient to protect Regions Bank's security interests from the

Debtor's use of Regions Bank's cash collateral or from a diminution in value of the Prepetition Regions Collateral (defined below), then to the extent such diminution is determined by this Court, Regions Bank shall have a priority administrative expense claim in this bankruptcy case in the amount of, and only to the extent of, such shortfall in the diminution in value, and such administrative expense claim shall have priority under 11 U.S.C. § 507(b) over all administrative expenses incurred in this Chapter 11 proceeding of the kind specified in 11 U.S.C. § 503(b), subject in payment priority only to the DIP Superpriority Claim and the Carveout.

d. Regions Bank shall have all the rights and remedies of a secured creditor in connection with the liens and security interests granted by this Order, except to the extent that such rights and remedies may be affected by the Bankruptcy Code, and otherwise.

3. Priority of Replacement Liens Between Regions Bank and the DIP Lender. All accounts receivable generated by the Debtor after the Petition Date will be encumbered by security interests in favor of Regions Bank and the DIP Lender. Subject to the Carveout, Regions Bank will have a senior, priming lien on all of accounts generated by the Debtor after the Petition Date only to the extent of the diminution in value of Regions Bank's security interests in the cash proceeds of accounts generated prior to the Petition Date. The DIP Lender will have (i) a subordinate lien on such accounts generated by the Debtor after the Petition Date only to the extent of the diminution in value of Regions Bank's security interests in the cash proceeds of accounts generated prior to the Petition Date and (ii) a senior lien on the residual amount of accounts generated by the Debtor after the Petition Date and the cash proceeds thereof in excess of the diminution in value of Regions Bank's security interests in the cash proceeds of accounts generated prior to the Petition Date.

4. Adequate Protection of Taxing Authority Claims. Dallas County, Texas (“**Dallas County**”) alleges it is a secured creditor of the Debtor that maintains validly perfected statutory liens arising under Texas law on certain business personal property of the Debtor (a “**Purported Texas Tax Liens**”). Nothing in this order or any prior order grants or acknowledges liens that prime any valid, enforceable, perfected, non-avoidable ad-valorem tax liens of Dallas County. Dallas County retains the priority of its liens pursuant to Texas law and its rights to payment of its claim from the proceeds of the sale of any collateral in which Dallas County maintains a lien. All rights to object to any claims of Dallas County are preserved. Dallas County reserves all rights with respect to the Purported Texas Tax Liens, including, without limitation, the right to subsequently challenge the payment of 363 sale proceeds or seek a return of 363 sale proceeds disbursed in accordance with this Final Order.

5. Regions Bank’s Events of Default. As it relates to the Debtor’s use of Regions Bank’s cash collateral, the Debtor will be in default to Regions Bank upon the continued existence of one or more of the following events upon Debtor’s failure to cure the occurrence of one or more of the following events after the expiration of 14 calendar days from the date Debtor receives written notice from Regions Bank specifically identifying the existence of one or more of the following events. If one or more of the following events cannot be cured within 14 calendar days after the date Debtor receives written notice from Regions Bank specifically identifying the existence of one or more of the following events, and Debtor has initiated within such 14-day period the appropriate action to cure the specific event(s) identified by Regions Bank’s written notice, then the Debtor will not be in default to Regions Bank unless and until after expiration of the 14-day period the specific event(s) identified by Regions Bank’s written notice remains uncured and the Debtor is no longer engaged in pursuing the appropriate action to cure the specific

event(s) identified by Regions Bank's written notice ("**Regions Bank's Event(s) of Default**"):

- a. If the Debtor pays obligations not shown on the Budget without the prior written consent of Regions Bank or further authority from the Court;
- b. If any representation made by the Debtor after the commencement of this chapter 11 case in any report or financial statement delivered to Regions Bank proves to have been false or misleading in any material respect as of the time when made or given (including by omission of material information necessary to make such representation, warranty or statement not misleading);
- c. The Debtor fails to provide any reports or accounting information when due or access to its books and records within a reasonable time after such access is requested;
- d. If a trustee or examiner, with authority to affect the operation of the Debtor's business, is appointed in the Debtor's chapter 11 proceedings without Regions Bank's consent;
- e. If this case is converted to a case under chapter 7; or
- f. If this case is dismissed.

6. Regions Bank's Remedies Upon Default. Upon the occurrence of an event constituting a Regions Bank Event of Default, Regions Bank shall be entitled to a hearing on ten (10) business-days' notice (subject to the Court's availability) regarding the existence and continuation of a Regions Bank Event of Default to argue that such alleged Regions Bank Event of Default exists and constitutes "cause" within the meaning of Section 362(d)(1) of the Bankruptcy Code. Nothing herein shall prohibit Regions Bank from seeking other relief on shorter notice to the Debtor. At such hearing, Regions Bank shall be entitled to seek any of the following relief with

respect to the Debtor:

- a. the immediate termination of the Debtor's use of Regions Bank's cash collateral;
- b. the lifting of the automatic stay under 11 U.S.C. § 362 permitting Regions Bank to take possession of all or any part of Regions Bank's collateral;
- c. the entry of an order prohibiting or limiting the Debtor's further use of Regions Bank's cash collateral;
- d. the appointment of a trustee or examiner in this chapter 11 proceeding or the entry of an order converting this case to chapter 7; and
- e. such further or other relief as provided in the Bankruptcy Code, this Final Order or applicable non-bankruptcy law.

7. Term. Unless otherwise ordered by the Court or extended by written agreement between the Debtor and Regions Bank, the Debtor's right to use Regions Bank's cash collateral hereunder shall commence on the date hereof and expire at 5:00 p.m. Central time on the last day of the time period set forth in the Budget. Notwithstanding such expiration or other termination, or modification hereof, Regions Bank shall be entitled to the liens, priorities and other rights provided herein to the extent that the Debtor have used Regions Bank's cash collateral following the date hereof.

8. DIP Facility Approval. The Motion is granted on a final basis effective as of the Petition Date. The Debtor is authorized, pursuant to Bankruptcy Code §§ 363 and 364, to enter into the DIP Facility pursuant to the DIP Credit Agreement and other DIP Financing Documents, to execute such other and additional documents necessary or desired to implement the DIP Facility or the DIP Financing Documents, to obtain post-petition secured financing from the DIP Lender,

in an amount of up to \$300,000.00 (the “**Aggregate Commitment**”), to use the DIP Lender’s cash collateral and the proceeds and products thereof pursuant to the terms and conditions of the DIP Financing Documents and this Order, and to take any and all action necessary to perform all terms and conditions of the DIP Financing Documents, to avoid immediate and irreparable harm to the Debtor’s Estate. All of the express and explicit terms, conditions, conditions precedent, negative covenants, affirmative covenants, promises, rights, duties, responsibilities, acknowledgements, agreements, representations and warranties set forth in the DIP Financing Documents, which the same are expressly incorporated herein as if specifically set forth verbatim, are hereby approved in all aspects in form and in substance. The Debtor shall use the Advances obtained under the DIP Facility and the DIP Collateral (including cash collateral) only for the purposes and in the amounts set forth in the DIP Credit Agreement attached to the Motion as Exhibit C and the budget attached to the Motion as Exhibit B, which was approved by the DIP Lender, with any subsequent Budget either (i) agreed to by the Debtor and the DIP Lender, or (ii) approved by further order of the Court. The Budget may be further modified and amended from time to time with either (i) the agreement of the Debtor and the DIP Lender; or (ii) further order of the Court.

9. DIP Facility Obligations. The DIP Financing Documents (as modified by this Order) shall constitute and evidence the validity and binding effect of the Debtor’s obligations under the DIP Facility, which DIP Facility obligations shall be enforceable against the Debtor, its Estate, and any successors thereto, including, without limitation, any trustee appointed in any of the Debtor’s Bankruptcy Case, or in any case under chapter 7 of the Bankruptcy Code upon the conversion of any such case, or in any other proceedings superseding or related to any of the foregoing. The Debtor is liable for repayment of any DIP Facility funds advanced pursuant to the DIP Financing Documents, together with interest thereon, at the times and in the amounts set forth

in the DIP Financing Documents.

10. Use of DIP Facility Proceeds and Cash Collateral. Proceeds of the DIP Facility shall be used for the following non-exclusive purposes: (i) to pay interest, fees, and expenses in connection with the DIP Facility to the DIP Lender in accordance with the DIP Financing Documents; (ii) to pay certain working-capital and general corporate operating expenses incurred by the Debtor-in-Possession after the Petition Date in the ordinary course of business, including, without limitation, payroll, capital expenditures, vendors, supplies, marketing and advertising, rent, facility maintenance, utilities, and related administrative expenses; and (iii) certain costs and expenses related to the administration of the Bankruptcy Case, including reasonable fees of the Case Professionals and certain other expenses, as contemplated in the Budget and allowed by the Bankruptcy Court.

11. DIP Facility Advances. Pursuant to Bankruptcy Code §§ 363 and 364(c) and (d), the DIP Facility funds advanced pursuant to the terms of this Order and the DIP Financing Documents shall be allowed as administrative expenses of the Debtor's Estate, but subject to the Carve-Out in the Budget, and have priority in payment over any other indebtedness and/or obligations now in existence or incurred hereafter by the Debtor and over all administrative expenses or charges against property arising in the Bankruptcy Case and any superseding Chapter 7 case including, without limitation, those specified in Bankruptcy Code §§ 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113, or 1114, (such claim, the "**DIP Superpriority Claim**"). Notwithstanding the foregoing, the DIP Superpriority Claim shall not be payable from the proceeds of or recoveries on Avoidance Actions (as such term is defined below).

12. DIP Facility Liens. Pursuant to Bankruptcy Code §§ 363, 364(c), and 364(d), as security for the Indebtedness extended under the DIP Facility, the Debtor is hereby authorized to

and is hereby deemed to grant to the DIP Lender valid, binding, and enforceable liens, mortgages and/or security interests (the “**Lien(s)**” or the “**DIP Lien(s)**,” as applicable) in the DIP Collateral (as defined below). “**DIP Collateral**,” as used herein and the defined term “**Collateral**,” as used in the DIP Credit Agreement, shall be superseded and replaced by the following property specifically described below, as such property is strictly limited to such described property that becomes subject to the ownership interests of Debtor, Debtor-in-Possession, and/or the Estate, which property shall specifically include, without limitation, the foregoing personal property:

accounts; inventory; equipment; goods; fixtures; documents; securities accounts; deposit accounts and all deposits and credits therein; investment property; software; general intangibles; healthcare insurance receivables; letters of credit, letter of credit rights, instruments, promissory notes, drafts and chattel paper (including electronic chattel paper and tangible chattel paper); supporting obligations with respect to any of the foregoing; books, records, and information relating to any of the foregoing and, or to the operation of Debtor’s business, and rights of access to such books, records, and information, and all property on which such books, records, and information are stored, recorded and maintained; money or other assets of Debtor, including all money and assets of Debtor held by Lender, loaned by Lender or constituting cash proceeds of Lender’s Collateral, and all products and proceeds of the foregoing.

For the avoidance of doubt, the term “**DIP Collateral**,” as used herein and the term “**Collateral**,” as used in the DIP Credit Agreement, does not include claims and causes of action of the Debtor, including those under Chapter 5 of the Bankruptcy Code, or the cash proceeds thereof, and any transfer, obligation, lien or security interest avoided, recovered, or preserved pursuant to §§ 550, 551, and/or 552 of the Bankruptcy Code shall not be included in the term “**DIP Collateral**,” as used herein and the term “**Collateral**,” as used in the DIP Credit Agreement, and shall not be subject to DIP Lender’s liens.

13. Priority of DIP Facility Liens. Pursuant to Bankruptcy Code §§ 364(c) and 364(d), the DIP Liens shall be a first priority senior and priming lien on the DIP Collateral, subject and junior only to (i) the Carve-Out and (ii) Permitted Encumbrances.

14. The term “**Permitted Encumbrances**,” as used herein and in the DIP Financing Documents, means:

- (a) prior perfected and unavoidable liens and security interests held by any secured creditor other than Regions Bank, provided that such, and only to the extent that such, liens are (i) valid, perfected, unavoidable, and senior in priority to the DIP Lender’s liens and security interests, as such priority determination is to be made in accordance with applicable law;
- (b) liens securing ad valorem taxes assessed against any piece of DIP Collateral and due and owing to the applicable state or local taxing authority who under applicable non-bankruptcy law has a first-priority lien; and
- (c) prior perfected and unavoidable liens and security interests held by Regions Bank in all of its pre-Petition Date collateral (as such property may be defined and/or described in the Prepetition Loan Documents or determined at law, the “**Prepetition Regions Collateral**”), and, as between such liens of Regions Bank, on the one hand, and the liens granted herein to the DIP Lender, on the other hand:
 - i. The pre-Petition Date liens in favor of Regions Bank in all of the Prepetition Regions Collateral, including accounts receivable generated by the Debtor prior to the Petition Date, shall be and remain first and prior, subject to the Carveout;
 - ii. For adequate protection against the Debtor’s collection and subsequent use of cash proceeds from accounts receivable generated by the Debtor prior to the

Petition Date, to the extent such accounts are included in the Prepetition Regions Collateral, Regions Bank shall be granted replacement liens in all accounts receivable generated by the Debtor after the Petition Date and cash proceeds thereof (and, in the case of Prepetition Regions Collateral other than accounts receivable, their post-petition proceeds and replacements acquired by such proceeds), which replacement liens shall be first and prior in seniority to the full extent of any diminution in value of the Prepetition Regions Collateral, subject to the Carveout;

- iii. The DIP Lender's DIP Liens in accounts receivable generated by the Debtor after the Petition Date and cash proceeds thereof, to the extent such accounts are included in the DIP Collateral, shall be first and prior to the full extent of any value over and above the replacement liens granted to Regions Bank as adequate protection in the foregoing subparagraph ii; and
- iv. To the extent the DIP Lender's DIP Liens in the DIP Collateral also constitute liens and security interests in the Prepetition Regions Collateral, such DIP Liens shall be junior only to the prior, pre-Petition Date liens therein of Regions Bank.

15. The DIP Liens granted to the DIP Lender under the DIP Credit Agreement do not infringe upon the adequate protection provided to Regions Bank. The DIP Liens granted to the DIP Lender under the DIP Credit Agreement is subordinate to all valid, prior perfected and unavoidable liens and security interests in favor of Regions Bank against the Debtor's personal property that existed as of the Petition Date, including identifiable cash proceeds therefrom obtained by the Debtor after the Petition Date. The DIP Liens granted to the DIP Lender under the DIP Credit Agreement is subordinate to the adequate protection liens granted to Regions Bank

on accounts receivable generated by the Debtor after the Petition Date, including identifiable cash proceeds thereof, only to the extent of diminution in value in Regions Bank's cash collateral used by the Debtor. The DIP Liens granted to the DIP Lender under the DIP Credit Agreement will have senior priority in accounts receivable generated by the Debtor after the Petition Date, including identifiable cash proceeds thereof, on only those amounts in excess of the diminution in value in Regions Bank's cash collateral used by the Debtor. For the sake of clarity, the adequate protection provided to Regions Bank is included in the definition of Permitted Encumbrances. The liens granted to the DIP Lender under the DIP Credit Agreement shall have senior priority in all assets of the Debtor, subject to the Permitted Encumbrances and the Carveout. The foregoing is without prejudice to the respective rights of Debtor or the DIP Lender to object to the validity, priority, or extent of such Permitted Encumbrances, or the allowance of such debts secured thereby, or to institute any actions or adversary proceedings with respect thereto.

16. Cash Collateral Usage. All rents, income, profits, cash in accounts and deposits derived from the DIP Collateral constitute "cash collateral" (as such term is defined in Section 363(a) of the Bankruptcy Code). The Debtor is authorized to use the DIP Lender's cash collateral in accordance with the Budget, this Order and the DIP Financing Documents.

17. No Waiver of Future Adequate Protection Requests. Nothing herein or in the DIP Credit Agreement shall be deemed to be a waiver by the DIP Lender of its right (or rights) to request additional or further protection of any of its interests in any property, including property of the Debtor, and/or to move for relief from the automatic stay (if such relief is required), or to seek the appointment of a trustee or examiner or the dismissal of any of the Debtor's Bankruptcy Case, or to request any other relief. Likewise, nothing herein is deemed a waiver by the Debtor to

challenge any request for additional or further protection, stay relief, or the appointment of a trustee or examiner or dismissal of the Bankruptcy Case by any party in interest.

18. Modification of Automatic Stay. The automatic stay provisions of Bankruptcy Code § 362 are hereby modified to permit (a) the Debtor and the DIP Lender to implement the DIP Facility and perform pursuant to the DIP Financing Documents, including without limitation the provisions thereof with respect to the collection of Indebtedness, and (b) the creation and perfection of all DIP Liens granted or permitted by this Order. The Debtor and the DIP Lender shall not be required to enter into any additional security agreements or take any further action to create, memorialize, and/or perfect any such Liens, or to file UCC financing statements, mortgages, or other instruments with any other filing authority or take any other action to perfect any such DIP Liens, which shall be and is deemed valid, binding, enforceable, and automatically perfected by the docket entry of this Order by the Clerk of the Court. If, however, the DIP Lender elects to enter into, file, record, or serve any such financing statements or other documents with respect to any such DIP Lien, then the Debtor will endeavor to execute the same upon receipt of a reasonable written request from the DIP Lender, and the filing, recording, or service thereof shall be deemed to have been made at the time and on the date of the docket entry of this Order by the Clerk of the Court.

19. Carve-Out. The Adequate Protection provided to Regions Bank, the DIP Liens, the DIP Superpriority Claim and any liens in all of the Debtor's property shall be subject to right of payment of the following expenses (the following subparagraphs, collectively, the "**Carve-Out**," and all amounts payable in connection therewith, the "**Carve-Out Amounts**"):

- A. allowed administrative expenses pursuant to 28 U.S.C. § 1930(a)(6); and

B. allowed reasonable fees and expenses of the Case Professionals as provided in the Budget and incurred prior to the Termination Date, plus an amount up to \$40,000.00 for such fees and expenses incurred after a Termination Date.

20. DIP Lender's Events of Default. As it relates to the Debtor's use of DIP Facility funds and the DIP Lender's cash collateral, "**Event of Default**" means the continued existence of one or more of the following events upon Debtor's failure to cure the occurrence of one or more of the following events after the expiration of 14 calendar days from the date the Debtor receives written notice from the DIP Lender specifically identifying the existence of one or more of the following events. If one or more of the following events cannot be cured within 14 calendar days after the date the Debtor receive written notice from the DIP Lender specifically identifying the existence of one or more of the following events, and the Debtor has initiated within such 14-day period the appropriate action to cure the specific event(s) identified by the DIP Lender's written notice, then an Event of Default shall not come in existence unless and until after expiration of the 14-day period the specific event(s) identified by the DIP Lender's written notice remains uncured and the Debtor is no longer engaged in pursuing the appropriate action to cure the specific event(s) identified by the DIP Lender's written notice.

A. The failure, refusal or neglect of the Debtor to pay when due any part of the principal of, or interest on the Indebtedness owing to DIP Lender by the Debtor.

B. The failure of the Debtor to timely and properly observe, keep or perform any covenant, agreement, warranty or condition required herein or in any of the DIP Financing Documents or any other agreement with the DIP Lender.

C. Any representation contained herein or in any of the DIP Financing Documents made by the Debtor is false, misleading or erroneous in any material respect when made or when deemed to have been made.

D. The DIP Collateral or any portion thereof is taken on execution or other process of law in any action.

E. Any of the record or beneficial ownership of the Debtor shall have been transferred, assigned or hypothecated to any Person, when compared to such ownership as of the Effective Date.

F. Any of the following events shall occur or exist with respect to the Debtor or any ERISA Affiliate: (i) any prohibited transaction involving any plan; (ii) any reportable event with respect to any plan; (iii) the filing under Section 4041 of ERISA of a notice of intent to terminate any plan or the termination of any plan; (iv) any event or circumstance that might constitute grounds entitling the PBGC to institute proceedings under Section 4042 of ERISA for the termination of, or for the appointment of a trustee to administer, any plan, or the institution by the PBGC of any such proceedings; or (v) complete or partial withdrawal under Section 4201 or 4204 of ERISA from a multiemployer plan or the reorganization, insolvency, or termination of any multiemployer plan; and in each case above, such event or condition, together with all other events or conditions, if any, have subjected or could in the reasonable opinion of the DIP Lender subject the Debtor to any tax, penalty, or other liability to a plan, a multiemployer plan, the PBGC, or otherwise.

G. The holder of any lien or security interest on the DIP Collateral declared a default thereunder or institutes foreclosure or other proceedings for the enforcement of its remedies thereunder against the DIP Collateral.

H. The DIP Financing Documents shall at any time after its execution and delivery and for any reason cease (A) to create a valid and perfected security interest (subject in priority only to the Permitted Encumbrances) in and to the DIP Collateral; or (B) to be in full force and effect or shall be declared null and void, or (ii) the validity of enforceability the DIP Financing Documents shall be contested by the Debtor.

I. The Debtor's breach of any provision of the Loan Documents.

J. The Debtor's breach or other form of noncompliance with the Budget.

K. Expiration of the Budget Period, unless a supplemental budget is approved upon the express written agreement between the Debtor and the DIP Lender.

L. Any reversal or modification without the express written consent of the DIP Lender of any order of the Bankruptcy Court resulting in a Material Adverse Effect.

M. The filing of any claims or causes of action against the DIP Lender by the Debtor arising from the Loan Documents.

N. The Debtor's default, violation, or breach of any term in any Order.

O. The Debtor's filing of a motion to convert the Bankruptcy Case to a chapter 7 case.

P. The Debtor's filing of a motion to appoint a chapter 11 trustee or an examiner in the Bankruptcy Case.

Q. The Debtor's filing of a motion to dismiss the Bankruptcy Case.

R. The Debtor's filing of an application, motion or other pleading seeking to amend, modify, supplement, or extend an Order approving the DIP Loan without the prior written consent of the DIP Lender.

S. Other than the Permitted Encumbrances, the Debtor's granting or treating any other security interest, lien, claim, or encumbrance in the DIP Collateral as pari passu with or senior to the claims of the DIP Lender.

T. The Debtor's filing a challenge to the extent, validity, priority, or unavailability of the DIP Lender's DIP Liens in the DIP Collateral.

U. The Debtor's attempt to modify, reverse, rescind, vacate, or amend the Order without the DIP Lender's prior written consent.

V. The Debtor's filing of a motion to obtain additional financing from a party other than the DIP Lender.

W. Failure to close a sale of substantially all of the Debtor's assets by February 28, 2017.

X. Entry of an order by the Bankruptcy Court granting relief from the automatic stay imposed by § 362 of the Bankruptcy Code (1) to allow any creditor to execute on or enforce a lien or security interest on any DIP Collateral, or (2) with respect to any lien or security interest of or to permit the granting of any lien or security interest on any DIP Collateral to any state or local agency or party, other than the Permitted Encumbrances.

21. DIP Lender's Remedies. Upon the occurrence of an Event of Default, and such Event of Default is not timely cured and has not been waived by the DIP Lender, and without limiting any other rights and remedies provided herein, under any of the DIP Loan Documents or

otherwise available to the DIP Lender, the DIP Lender may exercise one or more of the rights and remedies provided under the law.

A. Upon the occurrence of an Event of Default, and such Event of Default is not timely cured and has not been waived by the DIP Lender, the Debtor's right to borrow under the DIP Facility and any obligation of the DIP Lender to loan under the DIP Facility shall be restricted or terminated upon the DIP Lender's election and delivery to the Debtor, the Case Professionals, and the Office of the United States Trustee in the Bankruptcy Case of written notice of the DIP Lender's election of the same. Upon the Debtor's receipt of the DIP Lender's written notice of election to accelerate the maturity date for payment of the Indebtedness in full, the entire unpaid balance of principal of the Note, together with all accrued but unpaid interest thereon, and all other Indebtedness owing to the DIP Lender by the Debtor at that time shall, at the option of the DIP Lender, become immediately due and payable. Upon the occurrence of an Event of Default, all rights and remedies of the DIP Lender set forth in the DIP Loan Documents may also be exercised by the DIP Lender, and the DIP Lender's exercising such rights is not in substitution or diminution of any rights now or hereafter held by the DIP Lender under the terms of any other agreement.

B. Notwithstanding any other remedies set forth in the DIP Credit Agreement and the other DIP Loan Documents and those legal and equitable remedies available under applicable law, upon the occurrence of an Event of Default, the DIP Lender is entitled to seek relief from the automatic stay on an expedited basis, but in no event shall an evidentiary hearing be held sooner than 14 days after the DIP Lender files a motion in the Bankruptcy Court seeking relief from the automatic stay for "cause" due to the occurrence of an Event of Default ("**Stay Motion**"). Upon filing a Stay Motion, the DIP Lender must

give a minimum of 14 Days' advance written notice to the Debtor, the Case Professionals, Regions Bank and its counsel of record, Dallas County, Texas and its counsel of record, and the Office of the United States Trustee in the Bankruptcy Case of the DIP Lender's intentions to pursue an expedited evidentiary hearing on the Stay Motion ("**Expedited Hearing**"). During such 14-Day notice period, the Debtor, Regions Bank and its counsel of record, the Case Professionals, Dallas County, Texas and its counsel of record, and the United States Trustee are entitled to file a response to the Stay Motion with the Bankruptcy Court. The sole purpose of the Expedited Hearing is to consider whether an Event of Default has occurred and remains uncured as of the date of the Expedited Hearing. If the Bankruptcy Court determines that an Event of Default has not occurred and/or is not continuing in existence, the automatic stay of Section 362(a) of the Bankruptcy Code shall continue in existence and the DIP Lender, shall be prevented from exercising its remedies identified herein. If during the Expedited Hearing the Bankruptcy Court finds that an Event of Default is then in existence, then the DIP Lender shall be granted relief from the automatic stay and shall be permitted to exercise its default remedies identified herein.

C. Upon the occurrence of an Event of Default, and such Event of Default is not timely cured and has not been waived by the DIP Lender, the DIP Lender may take the following actions, subject to the rights of other holders of Permitted Encumbrances and the timeframes and protocols identified in the DIP Credit Agreement, including, without limitation, Section 13 of the DIP Credit Agreement.

- (1) Exercise in respect of the DIP Collateral all the rights and remedies of a secured party under the Code (whether or not the Code applies to the affected Collateral);

(2) Require the Debtor to assemble the DIP Collateral as directed by the DIP Lender and make it available to the DIP Lender at a place to be designated by the DIP Lender that is reasonably convenient to both parties;

(3) Reduce its claim to judgment or foreclose or otherwise enforce, in whole or in part, the security interest granted hereunder by any available judicial procedure;

(4) Sell or otherwise dispose of the DIP Collateral;

(5) Buy the DIP Collateral at any public sale; or

(6) Buy the DIP Collateral at any private sale if the DIP Collateral is of a type customarily sold in a recognized market or is of a type that is the subject of widely distributed standard price quotations.

The Debtor agrees that in the event the Debtor is entitled to receive any notice under the Code, as it exists in the state governing any such notice, of the sale or other disposition of any DIP Collateral, reasonable notice shall be deemed given when such notice is deposited in a depository receptacle under the case and custody of the United States Postal Service, postage prepaid, at Debtor's address set forth on the signature page of the DIP Credit Agreement, **TEN (10)** days prior to the date of any public sale, any private sale or any other disposition of the DIP Collateral is to be held. The DIP Lender shall not be obligated to make any sale of the DIP Collateral regardless of notice of sale having been given. The DIP Lender may adjourn any public sale, any private sale or any other disposition of the DIP Collateral from time to time by announcement at the time and place fixed therefor, and such public sale, private sale or other disposition of the DIP Collateral may, upon further written notice, be made at the time and place to which it was so adjourned. Provided, however, reasonably prior to exercise of any remedies by the DIP Lender, Regions Bank

shall have the right, as a right of first refusal and not as an obligation, to assume and acquire at par (including all outstanding principal, interest, permitted charges and allowed fees and professional fees) the position of the DIP Lender under the DIP Loan Documents and the then-prevailing Financing Order(s), and thereupon succeed to the standing and rights of the DIP Lender therein.

22. DIP Facility Reporting. Until all Indebtedness extended under the DIP Financing Documents has been indefeasibly paid and satisfied, the Debtor agrees and covenant that it will furnish or cause to be furnished to the DIP Lender and Regions Bank (via counsel of record) the following:

A. Within five (5) business days, or as soon as commercially practicable thereafter, upon receipt of a commercially reasonable request from the DIP Lender, the Debtor shall furnish to the DIP Lender certain reports reasonably requested by the DIP Lender, specifically including, without limitation, periodic financial and DIP Collateral reporting, including monthly and quarterly internally prepared financial statements, periodic borrowing base certificates, appraisals, payables and receivables agings, and other information reasonably requested from time to time by the DIP Lender.

B. Within five (5) business days, or as soon as commercially practicable thereafter, upon receipt of a commercially reasonable request from the DIP Lender, the Debtor-in-Possession shall furnish to the DIP Lender a copy of any management letter or written report submitted to the Debtor by independent certified public accountants with respect to the business, condition (financial or otherwise), operations, prospects, or properties of Debtor.

C. Within five (5) business days, or as soon as commercially practicable thereafter, upon receipt of a commercially reasonable request from the DIP Lender, the

Debtor shall furnish to the DIP Lender copies of all reports, including annual reports, and notices that the Debtor file with or receive from the PBGC or the U.S. Department of Labor under ERISA.

D. Within five (5) business days, or as soon as commercially practicable thereafter, upon receipt of a commercially reasonable request from the DIP Lender, the Debtor shall furnish to the DIP Lender such other information that the DIP Lender may reasonably request.

23. Credit Bidding. The DIP Lender shall possess the rights and remedies to credit bid the amount of the then outstanding balance of the Indebtedness extended under the DIP Financing Documents, as such amount of Indebtedness shall be determined at the time of the proposed disposition of any DIP Collateral, with such credit bid rights applicable in any bid procedure or other process relating to any disposition of any DIP Collateral, whether under a sale process pursuant to § 363 of the Bankruptcy Code, under a chapter 11 plan of reorganization, or otherwise.

24. No Control by DIP Lender. In making decisions to advance any extensions of credit to the Debtor pursuant to the DIP Facility or in taking any other actions reasonably related to this Order or the DIP Financing Documents (including, without limitation, the exercise of its approval rights with respect to any Budget), the DIP Lender shall have no liability to any third party and shall not be deemed to be in control of the operations of the Debtor or to be acting as a “control person,” “responsible person,” or other “owner or operator” with respect to the operation or management of the Debtor (as such terms, or any similar terms, is used in the Internal Revenue Code, the United States Comprehensive Environmental Response Compensation and Liability Act, as amended, or any similar Federal or state statute), and the DIP Lender’s relationship with the

Debtor shall not constitute or be deemed to constitute a joint venture or partnership of any kind between the DIP Lender and the Debtor.

25. Successors and Assigns. This Order shall be binding on and inure to the benefit of Regions Bank, the DIP Lender, the Debtor, and its respective successors and assigns, including, without limitation, any trustee, responsible officer, examiner, estate administrator, or representative, or similar person appointed in a case for the Debtor under any chapter of the Bankruptcy Code. No rights is created under this Order for the benefit of any creditor of the Debtor, any other party in interest in the Debtor's Bankruptcy Case, or any other persons or entities, or any direct, indirect or incidental beneficiaries thereof.

26. Continuing Nature of DIP Facility Liens and Claims. Any order dismissing the Bankruptcy Case under Bankruptcy Code section 1112 or otherwise shall be deemed to provide (in accordance with Bankruptcy Code sections 105 and 349) that (a) the adequate protection provided to Regions Bank shall continue in full force and effect notwithstanding such dismissal until the diminution in value of Region's Bank's pre-Petition Date security interests, if any, is restored in full, (b) the DIP Lender's liens in the DIP Collateral shall continue in full force and effect notwithstanding such dismissal until the Indebtedness is indefeasibly paid and satisfied in full, in cash; and (c) this Court shall retain jurisdiction, to the extent permissible under applicable law, notwithstanding such dismissal, for the purposes of enforcing the terms set forth in this order.

27. Order Controls. To the extent that any of the provisions of this Order shall conflict with any provisions of the DIP Credit Agreement or any of the other DIP Financing Documents, this Order is deemed to control and supersede the conflicting provisions therein.

28. Immediate Effect of Order. The terms and conditions of this Order shall be effective and immediately enforceable upon its entry by the Clerk of the Court notwithstanding

any potential application of Bankruptcy Rule 6004(h) or otherwise. Furthermore, to the extent applicable, the notice requirements and/or stays imposed by Bankruptcy Rules 4001(a)(3), 6003(b), and 6004(a) is hereby waived for good and sufficient cause. The requirements of Bankruptcy Rules 4001, 6003, and 6004, in each case to the extent applicable, is satisfied by the contents of the Motion.

29. DIP Facility Modifications. Upon written agreement between the Debtor and the DIP Lender, the Debtor and the DIP Lender may implement modifications of the DIP Credit Agreement and other DIP Financing Documents (other than this Order) without the need for notice or further approval of this Court, provided, however, that copies of such amendments will be provided to the U.S. Trustee and the Committee (if any). The Debtor and the DIP Lender may implement modifications of such DIP Financing Documents on at least seven (7) calendar days prior notice to the Committee (if any), Highland Park Emergency Center LLC (if no Committee is appointed), and the U.S. Trustee.

30. Further Assurances. The Debtor is authorized to do and perform all acts, to make, execute, and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages, deeds of trust, and financing statements), and to pay all fees and expenses that may be required or necessary for the Debtor's performance under this Order or the DIP Financing Documents, including, without limitation, (a) the execution of the DIP Credit Agreement, (b) the payment of any fees and other expenses described herein or in the DIP Financing Documents, if any, as such become due.

31. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the provisions of this Order, the Debtor's use of Regions Bank's cash collateral, the adequate protection provided to Regions Bank, the DIP Facility, the DIP Credit Agreement, and the other

DIP Financing Documents, and this Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this Order, the Debtor's use of Regions Bank's cash collateral, the adequate protection provided to Regions Bank, the DIP Facility, the DIP Credit Agreement, and the other DIP Financing Documents.

32. 364(e) Protections. This Court has considered and determined the matters addressed herein pursuant to its powers under the Bankruptcy Code, including the power to authorize the Debtor to obtain credit on terms and conditions to which the Debtor and the DIP Lender have agreed. Thus, each of the terms and conditions constitutes a part of the authorization under Bankruptcy Code section 364, and is, therefore, subject to the protections contained in Bankruptcy Code section 364(e), regardless of (i) any stay, modification, amendment, vacation, or reversal of this Order or any of the DIP Financing Documents or any term hereunder or thereunder; or (ii) the dismissal or conversion of any of the Bankruptcy Case.

END OF ORDER

Prepared by:

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DEBTOR AND DEBTOR-IN-POSSESSION**