



So Ordered.

Margaret Cangilos-Ruiz

Signed this 5 day of August, 2015. United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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In re

Chapter 11

COYNE INTERNATIONAL  
ENTERPRISES CORP.,

Case No. 15-31160 (MCR)

Debtor.<sup>1</sup>

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**ORDER AUTHORIZING DEBTOR TO: (A) USE CASH COLLATERAL ON AN EMERGENCY BASIS PENDING A FINAL HEARING; (B) INCUR POSTPETITION DEBT ON AN EMERGENCY BASIS PENDING A FINAL HEARING; AND (C) GRANT ADEQUATE PROTECTION AND PROVIDE SECURITY AND OTHER RELIEF TO PREPETITION SECURED PARTIES**

This matter came before this Court on the motion (the "Motion") of Coyne International Enterprises Corp. ("Debtor") requesting that this Court enter an order authorizing Debtor to: (a) use certain Cash Collateral on an emergency basis pending a Final Hearing; (b) incur Postpetition Debt on an emergency basis pending a Final Hearing; and (c) grant adequate protection and provide security and other relief to NXT Capital LLC ("NXT"), in its capacity as agent ("Prepetition Senior Agent") to the lenders party to the Prepetition Senior Credit

<sup>1</sup> The last four numbers of the Debtor's taxpayer identification number are 0758. The Debtor's address is 140 Cortland Avenue, Syracuse, New York 13202.

Agreement ("Prepetition Senior Lenders"), Medley Opportunity Fund II LP ("Medley"), in its capacity as agent ("Prepetition Junior Agent"; together with Prepetition Senior Agent, "Prepetition Agents" and each a "Prepetition Agent") to the lenders party to the Prepetition Junior Credit Agreement ("Prepetition Junior Lenders"; collectively with Prepetition Senior Lenders, "Prepetition Lenders" and each a "Prepetition Lender") and NXT in its capacity as agent ("Postpetition Agent"; together Prepetition Senior Agent, "Senior Agents") to the lenders party to the Postpetition Credit Agreement ("Postpetition Lenders"; together with Prepetition Senior Lenders, the "Senior Lenders"). Unless otherwise indicated, all capitalized terms used as defined terms herein have the meanings ascribed thereto in Exhibit A (Defined Term) attached hereto and by this reference are made a part hereof.

This Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable as of the Filing Date.

**WHEREAS:**

A. On the Filing Date, Debtor filed a voluntary petition for relief under chapter 11 of the Code. Debtor has retained possession of its property and continues to operate its business as debtor in possession pursuant to Code §§ 1107 and 1108.

B. The Court has jurisdiction over the Case and this proceeding pursuant to 28 U.S.C. § 1334. Determination of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue over this Motion is proper under 28 U.S.C. § 1409(a).

C. No Committee has been appointed in this Case.

D. Based solely upon the representations of the Debtor and subject to the rights of any other party in interest to challenge such representations as provided in Paragraph 8 of this Order, Debtor admits, stipulates and agrees that:

1. the Prepetition Senior Documents evidence and govern the Prepetition Senior Debt, the Prepetition Senior Liens and the prepetition financing relationship among Debtor, Prepetition Senior Agent and Prepetition Senior Lenders;

2. the Prepetition Junior Documents evidence and govern the Prepetition Junior Debt, the Prepetition Junior Liens and the prepetition financing relationship among Debtor, Prepetition Junior Agent and Prepetition Junior Lenders;

3. the Prepetition Senior Debt constitutes the legal, valid and binding obligation of Debtor, enforceable in accordance with the terms of the Prepetition Senior Documents;

4. the Prepetition Junior Debt constitutes the legal, valid and binding obligation of Debtor, enforceable in accordance with the terms of the Prepetition Junior Documents;

5. as of the Filing Date, Debtor is liable for payment of the Prepetition Senior Debt, and the Prepetition Senior Debt shall be an allowed secured claim in an amount not less than \$30,000,000 and an allowed claim in an amount not less than \$33,918,000, in each case exclusive of accrued and accruing Allowable 506(b) Amounts;

6. as of the Filing Date, Debtor is liable for payment of the Prepetition Junior Debt, and the Prepetition Junior Debt shall be an allowed claim in an amount not less than \$28,660,610.78;

7. no offsets, defenses or counterclaims to the Prepetition Senior Debt exist, and no portion of the Prepetition Senior Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise;

8. no offsets, defenses or counterclaims to the Prepetition Junior Debt exist, and no portion of the Prepetition Junior Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise;

9. the Prepetition Senior Liens are Priority Liens, subject to Permitted Priority Liens and secure payment of all of the Prepetition Senior Debt;

10. the Prepetition Junior Liens secure payment of all of the Prepetition Junior Debt and are subject to the Prepetition Senior Liens and Permitted Priority Liens;

11. upon the entry of this Order, for purposes of Code §§ 506(c) and 507(b) and Fed. R. Bankr. P. 3012, as of the Filing Date, the Debtor and Prepetition Senior Lenders agree that the value of the Prepetition Senior Lenders' interest in the Prepetition Collateral was not less than \$30,000,000; provided, however, that nothing herein shall prejudice Prepetition Senior Agent's and any Prepetition Senior Lender's right to later: (1) assert that their respective interests in the Prepetition Collateral lack adequate protection; and (2) seek a higher valuation of the Prepetition Collateral;

12. Debtor does not have, and hereby releases, and is forever barred from bringing any claims, counterclaims, causes of action, defenses or setoff rights relating to the Prepetition Documents, the Prepetition Liens, the Prepetition Debt or otherwise, against the Prepetition Agents, the Prepetition Lenders and their respective affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns.

E. Prepetition Senior Agent and Prepetition Senior Lenders have consented to, and, pursuant to the Prepetition Subordination Agreement, Prepetition Junior Agent and Prepetition Junior Lenders are deemed to have consented to, the terms of this Order and are entitled to adequate protection as set forth herein pursuant to Code §§ 361, 362, 363 and 364 for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date.

F. Debtor has represented to the Court that it needs to use Cash Collateral and incur Postpetition Debt as provided herein through the conclusion of the Final Hearing, in order to prevent immediate and irreparable harm to the estate and minimize disruption to and

avoid the termination of its business operations. Entry of this Order will also enhance the possibility of maximizing the value of Debtor's business.

G. Debtor has represented to the Court that is unable to obtain unsecured credit allowable under Code § 503(b)(1) sufficient to finance the operations of its business. Except as provided below, Debtor is unable to obtain credit allowable under Code §§ 364(c)(1) or (c)(2) on terms more favorable than those offered by Postpetition Agent and Postpetition Lenders.

H. Solely for purposes of the Cash Collateral and Postpetition Debt being used or otherwise incurred pending entry of the Final Order, the terms of such Postpetition Debt have been negotiated at arm's length, and such Postpetition Debt is being extended in good faith, as that term is used in Code § 364(e).

I. Solely for purposes of the Cash Collateral and Postpetition Debt being used or otherwise incurred pending entry of the Final Order, the terms and conditions of the Postpetition Documents are fair and reasonable, the best available under the circumstances, reflect Debtor's exercise of prudent business judgment consistent with its fiduciary duties, and are supported by reasonably equivalent value and consideration.

J. Under the circumstances of this Case, this Order is a fair and reasonable response to Debtor's request for Senior Agents' and Senior Lenders' consent to the use of Cash Collateral and provision of Postpetition Debt solely with respect to the Cash Collateral and Postpetition Debt being used or otherwise incurred pending entry of the Final Order, and the entry of this Order is in the best interest of Debtor's estate and its creditors.

K. The notice provided by Debtor of the Motion, the hearing on the Motion, and the entry of this Order satisfy the requirements of Fed. R. Bankr. P. 2002, 4001(b) and (c) and 9014 and Code §§ 102(1), 363, 364(c) and (d) and were otherwise sufficient and appropriate under the circumstances.

**WHEREFORE, IT IS HEREBY ORDERED THAT, SUBJECT TO THE FINAL ORDER AND ANY ORDER ENTERED ON A CHALLENGE ASSERTED**

**(“CHALLENGE” AS DEFINED IN PARAGRAPH 9 OF EXHIBIT A TO THIS ORDER),  
THE MOTION IS GRANTED, AND THAT:**

1. Authorization to Use Cash Collateral. Debtor is authorized to use Cash Collateral solely in accordance with the terms and provisions of this Order, to the extent required to pay when due those expenses enumerated in the Budget subject to the Permitted Variance, including the Carveout, and to pay Allowable 506(b) Amounts and the Postpetition Charges. The aggregate amount of Cash Collateral authorized by this Order pending the Final Hearing will not exceed the amounts set forth in the Budget for the period prior to the Final Hearing.

2. Procedure for Use of Cash Collateral.

(a) Delivery of Cash Collateral to Postpetition Agent. Debtor shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Postpetition Agent in a manner satisfactory to Postpetition Agent) promptly upon receipt thereof. If there is no Postpetition Debt outstanding, so long as no Event of Default then exists and this Order is in full force and effect, Postpetition Agent shall authorize Debtor to use Cash Collateral, in lieu of incurring additional Postpetition Debt, to fund Budget expenses and make payments on account of the Prepetition Senior Debt, subject to the terms and conditions of this Order.

(b) Cash Collateral in Senior Agents' or Senior Lenders' Possession. Postpetition Agent is authorized to collect upon, convert to cash and enforce checks, drafts, instruments and other forms of payment now or hereafter coming into its or any Senior Lender's possession or control which constitute Aggregate Collateral or proceeds thereof.

(c) Cash Collateral in Third Party's Possession. Debtor shall cause all depository banks (the "Other Banks") at which Debtor maintains a deposit account to remit the available balance in such accounts to the Blocked Accounts on a daily basis, subject to any valid and enforceable rights of setoff or other secured claims in favor of the Other Banks as of the Filing Date.

(d) Application of Cash Collateral. Other than the use of Cash Collateral resulting from the use of proceeds of Postpetition Debt in accordance with the Budget

and subject to the Permitted Variance, Postpetition Agent, at its election, is authorized to apply all Cash Collateral now or hereafter in Postpetition Agent's or any Senior Lender's possession or control as follows: (1) first, to the payment of Postpetition Debt consisting of Postpetition Charges, and (2) second, to payment of other Postpetition Debt in accordance with the Postpetition Credit Agreement.

(e) Prohibition Against Use of Cash Collateral. Except as provided for in this Order, including in respect of the Carveout, Debtor will not use or seek to use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363: (1) Senior Agents have consented to such order; (2) at the time such an order is entered, there is no Postpetition Debt outstanding and no obligation of Postpetition Lenders to extend Postpetition Debt; or (3) such Cash Collateral is first used to pay the Postpetition Debt in full in cash.

3. Authorization to Incur Postpetition Debt.

(a) Postpetition Documents. Debtor is hereby authorized and has agreed to: (1) execute the Postpetition Documents, including all documents that Postpetition Agent and Postpetition Lenders find reasonably necessary to implement the transactions contemplated by the Postpetition Documents; and (2) perform its obligations under and comply with all of the terms and provisions of the Postpetition Documents and this Order. Upon execution and delivery thereof, the Postpetition Documents shall constitute valid and binding obligations of Debtor enforceable in accordance with their terms. No obligation, payment, transfer or grant of security under the Postpetition Documents or this Order shall be stayed, restrained, voidable or recoverable under the Code or any other applicable law (including, without limitation, under Code § 502(d)) or subject to any defense, reduction, setoff, recoupment or counterclaim. To the extent there exists any conflict among the terms of the Motion, the Postpetition Documents, and this Order, this Order shall govern and control.

(b) Permitted Uses of Postpetition Debt. To the extent that there is insufficient Cash Collateral, Debtor is authorized and has agreed to incur Postpetition Debt solely: (1) in accordance with the terms and provisions of this Order, (2) to the extent required to pay those expenses enumerated in the Budget, as and when such expenses become due and payable, subject to the Permitted Variance, and (3) to provide for adequate protection in favor of

the Prepetition Senior Lenders. If Postpetition Lenders advance monies to Debtor and Debtor uses such monies other than in accordance with the terms or provisions of this Order, such advances shall be considered Postpetition Debt for purposes of this Order. Notwithstanding anything to the contrary contained herein, no proceeds of Postpetition Debt may be used to provide any payments in favor of the Prepetition Junior Lenders (including adequate protection payments) or for application of the Prepetition Junior Debt or any interest, fees, charges or expenses on account of Prepetition Junior Debt. In addition, unless otherwise agreed in writing between the Debtor and Postpetition Agent, the proceeds of Postpetition Debt shall not be used to pay the Carveout which will otherwise be funded exclusively from Cash Collateral from time to time available, including in connection with the sale of Aggregate Collateral.

(c) Additional Terms of Postpetition Debt.

(i) Maximum Amount. The maximum principal amount of Postpetition Debt (exclusive of capitalized interest, fees, costs and other charges) outstanding shall not at any time exceed the sum of \$3,500,000 plus the amount of Prepetition Senior Debt paid or deemed repaid or refinanced with proceeds of Postpetition Debt; provided, however that pending the Final Hearing, the maximum principal amount of Postpetition Debt outstanding shall not at any time exceed the Interim DIP Amount.

(ii) Interest. The Postpetition Debt shall bear interest at the same existing default rate of interest in respect of the Prepetition Senior Debt under the Prepetition Credit Agreement. Base Rate Loans under the Postpetition Credit Agreement bear interest at a per annum rate at the Base Rate (as defined in the Postpetition Credit Agreement) plus 7%. LIBOR Loans under the Postpetition Credit Agreement bear interest at LIBOR (as defined in the Postpetition Credit Agreement) plus 8%.

(iii) Closing Fee. Debtor shall pay to Postpetition Agent, for the benefit of Postpetition Lenders, a closing fee (the "Closing Fee") in an amount equal to (1) \$25,000 shall be fully earned, due and

payable immediately upon the closing of the Postpetition Credit Agreement, and (2) \$65,000 shall be fully earned, due and payable upon entry of the earlier of entry of the Final Order or any extension of this Order that provides for additional Postpetition Debt to be incurred by Debtor.

(iv) Maturity. The Postpetition Debt shall mature and be due and payable in full by Debtor on the Termination Date.

(v) Milestones. Debtor covenants and agrees to satisfy the Milestones (as defined in the Postpetition Credit Agreement) in connection with the sale of all or substantially all of its assets and properties as more fully set forth in the Postpetition Credit Agreement in accordance with the terms thereof.

(vi) Control Agreements. All deposit account control agreements in effect as of the Filing Date shall remain in full force and effect notwithstanding the entry of this Order and any subsequent orders amending this Order.

(d) Superpriority Administrative Expense Status; Postpetition Liens. The Postpetition Debt is hereby granted superpriority administrative expense status under Code § 364(c)(1), with priority over all costs and expenses of administration of the Case that are incurred under any provision of the Code other than the Carveout as provided in Paragraph 6, and except as otherwise provided by further order of this Court, any avoidance actions under Code §§ 544, 547, 548, 549, 550 and 553. In addition, Postpetition Agent is hereby granted the Postpetition Liens, for the benefit of Postpetition Lenders to secure the Postpetition Debt. The Postpetition Liens: (1) are in addition to the Prepetition Senior Liens; (2) pursuant to Code §§ 364(c)(2), (c)(3) and 364(d), are Priority Liens (junior only to the Permitted Priority Liens and senior to the Prepetition Junior Liens) without any further action by Debtor or Postpetition Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) unless otherwise provided by further order of this Court, shall be subject to any avoidance actions under Code §§ 544, 547,

548, 549, 550 and 553; (4) shall not be subject to any security interest or lien which is avoided and preserved under Code § 551; (5) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Case; and (6) shall not be subject to Code § 510(c). Notwithstanding the foregoing, Debtor shall execute and deliver to Postpetition Agent such financing statements, mortgages, instruments and other documents as Postpetition Agent may request from time to time, and any such documents filed by Postpetition Agent shall be deemed filed as of the Filing Date. Further, Prepetition Senior Agent shall serve as agent for Postpetition Agent for purposes of perfecting Postpetition Agent's security interest in any Postpetition Collateral that requires perfection by possession or control, and all Prepetition Third Party Documents shall be deemed to be for the benefit of Postpetition Agent and Postpetition Lenders without further action by any party.

(e) Prohibition Against Additional Debt. Debtor will not incur or seek to incur debt secured by a lien which is equal to or superior to the Prepetition Senior Liens or the Postpetition Liens, or which is given superpriority administrative expense status under Code § 364(c)(1) *pari passu* to the status of the Postpetition Debt, unless, in addition to the satisfaction of all requirements of Code § 364: (1) Senior Agents have consented to such order; (2) at the time such an order is entered, there is no Postpetition Debt outstanding, and no obligation of Postpetition Lenders to extend Postpetition Debt; or (3) such credit or debt is first used to pay the Postpetition Debt in full in cash.

(f) Prepetition Subordination Agreement. The Prepetition Subordination Agreement shall remain in full force and effect with respect to all Aggregate Debt as "Senior Debt" (as defined in the Prepetition Subordination Agreement) subject only to the terms of this Order and the Final Order. To the extent that any proceeds of the Postpetition Debt are applied to repay or deemed to have repaid the Prepetition Debt, the Postpetition Documents are deemed to be "Permitted Refinancing Senior Debt Documents" under the Prepetition Subordination Agreement.

4. Adequate Protection of Interests of Prepetition Agents and Prepetition Lenders in the Prepetition Collateral and the Prepetition Liens. Prepetition Agents and Prepetition Lenders have consented to, or has been deemed to have consented to, the terms of

this Order and are entitled to adequate protection as set forth herein and to the extent required under Code §§ 361, 362, 363 or 364 (including for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date).

(a) Priority of Prepetition Liens/Allowance of Prepetition Lenders' Claim. Subject to the terms of Paragraph 8 of this Order: (1) the Prepetition Senior Liens shall constitute Priority Liens, subject only to the Permitted Priority Liens; (2) the Prepetition Junior Liens shall constitute Priority Liens, subject only to the Permitted Priority Liens, Prepetition Senior Liens and Postpetition Liens; (3) the Prepetition Senior Debt constitutes the legal, valid and binding obligation of Debtor, enforceable in accordance with the terms of the Prepetition Senior Documents; (4) the Prepetition Junior Debt constitutes the legal, valid and binding obligation of Debtor, enforceable in accordance with the terms of the Prepetition Junior Documents; (5) no offsets, defenses or counterclaims to the Prepetition Senior Debt exist, and no portion of the Prepetition Senior Debt is subject to avoidance, recharacterization or subordination pursuant to the Code or applicable nonbankruptcy law; (6) no offsets, defenses or counterclaims to the Prepetition Junior Debt exist, and no portion of the Prepetition Junior Debt is subject to avoidance, recharacterization or subordination pursuant to the Code or applicable nonbankruptcy law; (7) Prepetition Senior Agent's and Prepetition Senior Lenders' claim with respect to the Prepetition Senior Debt shall for all purposes constitute an allowed secured claim within the meaning of Code § 506 in an amount not less than \$30,000,000, exclusive of accrued and accruing Allowable 506(b) Amounts and (8) Prepetition Junior Agent's and Prepetition Junior Lenders' claim with respect to the Prepetition Junior Debt shall for all purposes constitute an allowed claim within the meaning of Code § 506 in an amount not less than \$28,660,610.78.

(b) Senior Replacement Liens. Prepetition Senior Agent is hereby granted the Senior Replacement Liens, for the benefit of Prepetition Senior Lenders, as security for payment of the Prepetition Senior Debt. The Senior Replacement Liens: (1) are and shall be in addition to the Prepetition Senior Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtor or Prepetition Senior Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Case, (4) shall be junior to the Prepetition Senior

Liens, Senior Replacement Liens and Postpetition Liens pursuant to the Prepetition Subordination Agreement and this Order and (5) shall be subject to the Carveout as provided in Paragraph 6 and the Senior Replacement Liens will not, by definition, include any avoidance actions under Code §§ 544, 547, 548, 549, 550 and 553. Notwithstanding the foregoing, Debtor is authorized to and shall execute and deliver to Prepetition Senior Agent such financing statements, mortgages, instruments and other documents as Prepetition Senior Agent may request from time to time in respect of the Senior Replacement Liens.

(c) Junior Replacement Liens. Prepetition Junior Agent is hereby granted the Junior Replacement Liens, for the benefit of Prepetition Junior Lenders, as security for payment of the Prepetition Junior Debt. The Junior Replacement Liens: (1) are and shall be in addition to the Prepetition Junior Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtor or Prepetition Junior Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Case, (4) shall be subject to the Prepetition Subordination Agreement and (5) shall be subject to the Carveout as provided in Paragraph 6 and the Junior Replacement Liens will not, by definition, include any avoidance actions under Code §§ 544, 547, 548, 549, 550 and 553. Notwithstanding the foregoing, Debtor is authorized to and shall execute and deliver to Prepetition Junior Agent such financing statements, mortgages, instruments and other documents as Prepetition Junior Agent may request from time to time in respect of the Junior Replacement Liens.

(d) Allowed Senior Code § 507(b) Claim. Subject to the Prepetition Subordination Agreement, if and to the extent the adequate protection of the interests of Prepetition Senior Agent and Prepetition Senior Lenders in the Prepetition Collateral granted pursuant to this Order proves insufficient, Prepetition Senior Agent and Prepetition Senior Lenders shall have an allowed claim under Code § 507(b), subject to the Carveout, in the amount of any such insufficiency, with priority over: (1) all costs and expenses of administration of the Case (other than Postpetition Agent's and Postpetition Lenders' claims under Code § 364) that are incurred under any provision of the Code; and (2) the claims of any other party in interest under Code § 507(b) (including, without limitation the Prepetition Junior Agent and Prepetition

Junior Lenders), except as otherwise provided by further order of this Court, such priority shall exclude avoidance actions under Code §§ 544, 547, 548, 549, 550 and 553.

(e) Allowed Junior Code § 507(b) Claim. Subject to the Prepetition Subordination Agreement, if and to the extent the adequate protection of the interests of Prepetition Junior Agent and Prepetition Junior Lenders in the Prepetition Collateral granted pursuant to this Order proves insufficient and Prepetition Senior Agent and Prepetition Senior Lenders have an allowed claim under Code § 507(b), Prepetition Junior Agent and Prepetition Junior Lenders shall also have an allowed claim under Code § 507(b), subject to the Carveout, in the amount of any such insufficiency, with priority over: (1) all costs and expenses of administration of the Case (other than Postpetition Agent's and Postpetition Lenders' claims under Code § 364) that are incurred under any provision of the Code; and (2) the claims of any other party in interest under Code § 507(b) (other than the Prepetition Senior Agent and Prepetition Senior Lenders), except as otherwise provided by further order of this Court, such priority shall exclude avoidance actions under Code §§ 544, 547, 548, 549, 550 and 553.

5. Termination Date; Rights and Remedies.

(a) Effect of Termination Date. The Postpetition Agent shall give written notice to Debtor, and Debtor shall give written notice to the U.S. Trustee and the Committee, of any occurrence of the Termination Date other than the final scheduled maturity date under the Postpetition Credit Agreement. Unless extended by the Court upon the written agreement of Postpetition Agent, upon the Termination Date without further notice or order of Court: (1) Debtor's authorization to use Cash Collateral and incur Postpetition Debt hereunder will automatically terminate; and (2) at Postpetition Agent's election: (i) the Postpetition Debt shall be immediately due and payable, (ii) Debtor shall be prohibited from using Cash Collateral for any purpose other than application to the Aggregate Debt in accordance with Paragraph 3(b) of this Order and funding the Carveout Account in accordance with Paragraph 6 of this Order and (iii) Postpetition Agent shall be entitled to setoff any cash in any Senior Lender's possession or control and apply such cash to the Aggregate Debt in accordance with Paragraph 3(b) of this Order.

(b) Rights and Remedies. Notwithstanding the foregoing, during the five (5) business day period following the Termination Date, Debtor or any other party in interest may seek an order of this Court determining that an Event of Default alleged to have given rise to the Termination Date did not occur; provided, however, that during such five (5) business day period, Postpetition Lenders shall have no obligation to advance Postpetition Debt to Debtor.

6. Carveout.

(a) The Postpetition Liens, the Prepetition Senior Liens, the Priority Liens, the Permitted Priority Liens and the Prepetition Junior Liens (collectively, the “Lender Liens”) shall be subject to the right of payment of the following expenses (collectively, the “Carveout”):

(i) all fees required to be paid to the clerk of the Court and to the Office of the United States Trustee under 28 U.S.C. §1930(a) plus interest pursuant to 31 U.S.C. §3717 (the “Statutory Fees”), in each case accruing or required to be paid prior to the Termination Date;

(ii) all reasonable fees and expenses incurred by a trustee appointed under section 726(b) of the Bankruptcy Code in an amount not to exceed \$50,000;

(iii) to the extent allowed at any time by the Court, but subject in all respects to the aggregate amounts set forth in the Budget for each applicable time period, all accrued and unpaid fees, disbursements, costs and expenses incurred by professionals or professional firms retained by Debtor and the Committee prior to the first Business Day following delivery by the Postpetition Agent of a Carveout Trigger Notice (as defined below); and

(iv) to the extent allowed at any time by the Court, but subject in all respects to the Budget, all accrued and unpaid fees, disbursements, costs and expenses incurred by professionals or professionals firms retained by Debtor and the Committee at any time after the first Business Day following delivery of the Postpetition Agent of the Carveout Trigger Notice in an aggregate amount not to exceed \$75,000 (the amount set forth in this clause (a)(iv) being the “Post Carveout Trigger Notice Cap”). For purposes of the foregoing, “Carveout Trigger Notice” shall mean a written notice delivered by the Postpetition Agent to Debtor and its counsel, the U.S. Trustee and counsel to the Committee, which notice may delivered following the

occurrence of and during the continuance of an Event of Default, and stating that the Post Carveout Trigger Notice Cap has been invoked. Notwithstanding anything to the contrary contained in this Order, the Carveout shall be senior to the Lender Liens and all liens and claims (including, without limitation, administrative and superpriority claims) securing the Obligations, and all forms of adequate protection, Liens, security interests and other claims granted pursuant to this Order.

(b) Debtor shall maintain an account which shall be funded in the aggregate amount not to exceed the aggregate amount for Carveout Professional to the extent set forth in the Budget, which shall be used exclusively for the payment of the Carveout (the “Carveout Account”), which account shall be funded in the amounts and on the dates set forth in the Budget from (i) collections of cash collateral or (ii) proceeds of sales of Aggregate Collateral. Subject to the Budget and further orders of this Court approving payment of professional fees and expenses, Debtor shall pay the Carveout compensation and reimbursement of expenses that accrue after the Petition Date in compliance with the provisions of this Paragraph 6 as the same may become due and payable; *provided, however*, that, prior to the delivery of a Carveout Trigger Notice, Debtor shall pay Carveout compensation and reimbursement of expenses first by the application by the applicable professional of any retainer then held, and second from the Carveout Account. Payment of professional compensation and reimbursement of expenses shall reduce the amount of the Carveout Account dollar-for-dollar. No amounts may be paid for professionals compensation and expense reimbursement from the Carveout Account in respect of services rendered after the delivery of the Carveout Trigger Notice. After payment in full of permitted Carveout compensation and reimbursement of expenses in compliance and subject to the provisions of this Paragraph 6, any excess amounts in the Carveout Account shall be remitted to the Postpetition Agent to be applied in accordance with the terms of the Postpetition Credit Agreement and this Order. Provided that once the amounts the Postpetition Agent is obligated to allocate to the Carve-out as required in this paragraph 6 have been funded in accordance herewith, all obligations of the Postpetition Agent and the Postpetition Lenders with respect to the Carveout shall be terminated.

(c) To the extent that the Carveout Account has not been fully funded in accordance with the Budget prior to the delivery of a Carveout Trigger Notice, the

Postpetition Agent, on behalf of the Postpetition Lenders, shall remit to Debtor for deposit into the Carveout Account proceeds of Aggregate Collateral in an amount equal to the difference between (x) the balance in the Carveout Account as of the date of the Carveout Trigger Notice and (y) the amount of accrued expenses of the Carveout Professionals as of such date to the extent such accrued expenses are included in the Budget as of such date. Payment of any amounts on account of the Carveout, whether by or on behalf of the Postpetition Agent or the Postpetition Lenders, shall not reduce the Aggregate Debt, and shall not subordinate any of the Postpetition Agent's and the Postpetition Lenders' liens and security interests in the Aggregate Collateral or their superpriority claims to any junior pre-or post-petition Lien, interest or claim in favor of any other party. The Postpetition Agent and the Postpetition Lenders shall not, under any circumstances, be responsible for the direct payment or reimbursement of any fees or disbursements of any professionals retained by Debtor or the Committee incurred in connection with the Chapter 11 Case under any chapter of the Bankruptcy Code.

(d) Carveout Usage. No portion of the Carveout and no Postpetition Debt or Aggregate Collateral may be used to pay any fees or expenses incurred by any entity, including Debtor, any Committee or the Carveout Professionals, in connection with claims or causes of action adverse to Senior Agents' or Senior Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Senior Agents' or Senior Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Senior Agents' and Senior Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Aggregate Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Senior Agents and Senior Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Senior Agents or Senior Lenders; provided, however, that the foregoing shall not apply to costs and expenses, in an amount not to exceed \$25,000, incurred by the Committee's professionals in connection with the investigation of a potential Challenge in accordance with Paragraph 8 of this Order; provided, further, however, that the Carveout may be used to pay fees and expenses incurred by the

Carveout Professionals in connection with the negotiation, preparation and entry of this Order or any amendment hereto consented to by Postpetition Agent. Senior Agents' and Senior Lenders' agreement to the Carveout provisions herein shall be automatically rescinded if Debtor challenges or attempts to affect (by action, proceeding or otherwise) the payment of the Postpetition Debt or the Prepetition Senior Debt or the validity, priority or extent of the Prepetition Senior Liens, Senior Replacement Liens or Postpetition Liens.

(e) Carveout Procedure. Debtor shall periodically, upon the request of the Postpetition Agent, provide to the Postpetition Agent a written report (the "Carveout Report"), in which Debtor discloses its then current estimate of (1) the aggregate amount of unpaid professional fees, costs and expenses accrued or incurred by the Carveout Professionals, through the date of the Carveout Report, and (2) projected fees, costs and expenses of the Carveout Professionals for the 30 day period following the date of such Carveout Report. Nothing herein shall be construed as consent by Senior Agents and Senior Lenders to the allowance of any fees or expenses of the Carveout Professionals or shall affect the right of Senior Agents or any Senior Lender to object to the allowance and payment of such fees, costs or expenses, or the right of Senior Agents or any Senior Lender to the return of any portion of the Carveout that is funded with respect to fees and expenses for a Carveout Professional that are approved on an interim basis that are later denied on a final basis.

7. No Surcharge for Carveout Professionals; 506(c) Waiver.

- (a) In exchange for the payment of the Carveout in accordance with the terms of this Order and with the consent and agreement of the Carveout Professionals and Debtor (and any Trustee), other than the Carveout there shall be no surcharge of the Aggregate Collateral to enable the payment of administrative expenses incurred by or for the benefit of the Carveout Professionals; whether under Code § 506(c), 552(b) or otherwise.
- (b) The amounts, if any, of any other administrative expenses that a trustee may recover under Code § 506(c) shall be recoverable solely from the specific property (or the proceeds of such property)

for which the subject costs and expenses have in fact been incurred.

- (c) The amounts, if any, recovered from the Collateral pursuant to § 506(c) or deemed to not be Aggregate Collateral pursuant to § 552(b) may only be recovered by Debtor (or any Trustee) and will be preserved generally for the benefit of the estate and applied in strict accordance with the priorities of administrative expenses and claims pursuant to the terms of the Code and this Order.
- (d) Effective upon entry of the Final Order containing the provisions of this Section 7, Debtor (and any Trustee) shall be deemed to have waived, any rights, benefits or claims under Code § 506(c) the enhancement of collateral provisions of Code § 552, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) as they may relate to or be asserted against the Senior Agents, the Senior Lenders or the Aggregate Collateral.

8. Reservation of Rights; Bar of Challenges and Claims. Subject to entry to a subsequent interim order in respect of the Motion or Final Order, the stipulations and representations contained in this Order, including, without limitation, in Paragraphs D, shall be binding on all Challenge Parties, unless and solely to the extent that (i) Debtor receives notice of a potential Challenge during the Investigation Period from any Challenge Party and (ii) the Court rules in favor of the plaintiff in any such timely and properly filed Challenge.

(a) Challenge Procedure. During the Investigation Period, a Challenge Party shall be entitled to determine whether a basis to assert a Challenge exists. If a Challenge Party identifies a basis to assert a Challenge, it must notify Debtor during the Investigation Period of its demand that Debtor initiate an action or adversary proceeding relating thereto and from the date that Debtor is so notified, Debtor shall have five (5) days to notify the Challenge Party of whether Debtor intends to initiate such action and ten (10) days to initiate such action. If Debtor notifies such Challenge Party that Debtor does not intend to initiate an

action or adversary proceeding, the Challenge Party shall have ten (10) days from the receipt of such notice to initiate an action or adversary proceeding. Nothing herein shall be deemed to grant standing in favor of any Challenge Party absent further order of this Court. Debtor, if timely notified of a potential Challenge, shall retain authority to prosecute, settle or compromise such Challenge in the exercise of its business judgment and subject to any applicable further order of court.

(b) Bar of Challenges and Claims. If Debtor does not receive notice of a potential Challenge during the Investigation Period (or such later date as agreed in writing by Prepetition Senior Agent and Prepetition Senior Lenders, solely with respect to a potential Challenge against such party, or for cause shown by an order of this Court), without further order of the Court, the claims, liens and security interests of the Prepetition Senior Agent and the Prepetition Senior Lenders shall be deemed to be allowed for all purposes in these Case and shall not be subject to challenge by any party in interest as to extent, validity, priority or otherwise.

(c) Limitation on Use of Postpetition Debt, Cash Collateral and Postpetition Collateral. Notwithstanding anything herein or in any other order by this Court to the contrary, no proceeds of Postpetition Debt, Cash Collateral, or Postpetition Collateral may be used to pay any allowed administrative claims and expenses of the Case or in connection with a Challenge:

- (i) preventing, hindering or otherwise delaying the Postpetition Agent's or the Postpetition Lenders' assertion, enforcement or realization on the Postpetition Collateral once an Event of Default has occurred and is continuing in accordance with the Postpetition Documents or this Order; provided, however, that Debtor and the Committee may contest in good faith whether an Event of Default has occurred;
- (ii) seeking to modify the rights granted to the Senior Agents or Senior Lenders hereunder or under the

Postpetition Documents or the Prepetition Senior Documents, in each of the foregoing cases, without such parties' prior written consent,

- (iii) paying any amount on account of any claims arising prior to the Filing Date unless such payments are (1) approved by an order of this Court and (2) in accordance with the Postpetition Credit Agreement and the Budget,
- (iv) using or seeking to use Cash Collateral except to the extent permitted under the Postpetition Documents and not otherwise prohibited hereunder,
- (v) selling or otherwise disposing of the Postpetition Collateral except as permitted by the Postpetition Documents or otherwise with the consent of the Postpetition Agent or the Postpetition Lenders, or
- (vi) using or seeking to use any insurance proceeds related to the Postpetition Collateral, except as permitted by the Postpetition Documents or otherwise with the consent of the Postpetition Agent or the Postpetition Lenders.

9. Right to Accept Non-Cash Consideration and Credit Bid. In connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, (a) Senior Agents may consent to non-cash consideration in the form of assumption of all or any portion of the Aggregate Debt by any purchaser and (b) Senior Agents shall have the right to use the Aggregate Debt or any part thereof to offset against the purchase price or otherwise "credit bid" with respect to such Aggregate Collateral.

10. Reserved.

11. Application of Sale Proceeds. Without prejudice to any Challenges under Paragraph 8, all proceeds from sales or other dispositions of all or any portion of the Aggregate Collateral, net of the Carveout, other than sales or dispositions in the ordinary course shall be remitted to Senior Agents for application in accordance with Paragraph 2(d) of this Order.

12. Waiver of Right to Return/Consent to Setoff. Debtor hereby waives its rights: (a) to return any of the Aggregate Collateral pursuant to Code § 546(h); (b) to consent to setoff pursuant to Code § 553.

13. Indemnification. Subject to the terms of the Postpetition Credit Agreement, Debtor shall indemnify and hold harmless Senior Agents and Senior Lenders.

14. No Abandonment to Senior Agents or Senior Lenders. Debtor may not seek to abandon any Aggregate Collateral into the possession or control of Prepetition Senior Lenders, Postpetition Lenders, Prepetition Senior Agent or Postpetition Agent without the prior written consent of Senior Agents. Nothing in this Section will be deemed to limit or prejudice Debtor's right to abandon pursuant to Code § 554.

15. Postpetition Charges. All Postpetition Charges are hereby approved and shall be promptly paid by Debtor in accordance with this Order and the Postpetition Documents, without need for filing an application with the Court for approval or payment of the Postpetition Charges.

16. Force and Effect of Prepetition Documents and Postpetition Documents. To the extent there exists any conflict among the terms of the Motion, the Prepetition Senior Documents and this Order, this Order shall govern and control. Except as modified herein and subject to the other provisions of this Order and the Code, the Prepetition Junior Documents shall remain in full force and effect with respect to the Prepetition Junior Debt. To the extent there exists any conflict among the terms of the Motion, the Prepetition Junior Documents and this Order, this Order shall govern and control. To the extent there exists any conflict among the terms of the Motion, the Postpetition Documents and this Order, this Order shall govern and control.

17. Modification of Stay. The automatic stay of Code § 362 is hereby modified with respect to Senior Agents and Senior Lenders to the extent necessary to effectuate the provisions of this Order, including, after the Termination Date, to permit Senior Agents and Senior Lenders to exercise their respective rights contemplated by Paragraph 5 above.

18. No Waiver. Senior Agents and Senior Lenders shall not be deemed to have suspended or waived any of their rights or remedies under this Order, the Prepetition Senior Documents, the Postpetition Documents, the Code, and applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of Senior Agents or the Senior Lenders, as applicable, and directed to Debtor. No failure of Senior Agents or Senior Lenders to require strict performance by Debtor (or by any Trustee) of any provision of this Order shall waive, affect or diminish any right of Senior Agents or Senior Lenders thereafter to demand strict compliance and performance therewith, and no delay on the part of Senior Agents or Senior Lenders in the exercise of any right or remedy under this Order, the Prepetition Senior Documents, the Postpetition Documents, the Code, or applicable nonbankruptcy law shall preclude the exercise of any right or remedy. Further, this Order shall not constitute a waiver by Prepetition Senior Agent or the Prepetition Senior Lenders of any of their rights under the Prepetition Senior Documents, the Code or applicable nonbankruptcy law, including, without limitation their right to later assert: (1) that, any of their interests in the Aggregate Collateral lack adequate protection within the meaning of Code §§ 362(d) or 363(e) or any other provision thereof; or (2) a claim under Code § 507(b).

19. "Responsible Person." By taking any actions pursuant to this Order, Senior Agents and Senior Lenders shall not: (a) be deemed to be in control of the operations or liquidation of Debtor; or (b) be deemed to be acting as a "responsible person" with respect to the operation, management or liquidation of Debtor. The foregoing provision of this Paragraph 19 shall not be effective until entry of the Final Order.

20. Reserved.

21. Amendments. On not less than three (3) Business Days' notice to the Committee and the Trustee, Debtor, Postpetition Agent and the Postpetition Lenders required under the Postpetition Credit Agreement may enter into amendments or modifications of the

Postpetition Documents or the Budget without further notice and hearing or order of this Court; provided, that (a) such modifications or amendments do not materially and adversely affect the rights of any creditor or other party-in-interest and (b) notice of any such amendment or modification is filed with this Court.

22. Reserved.

23. Binding Effect. Except as provided in Paragraph 8 herein, this Order shall be binding on all parties in interest in the Case and their respective successors and assigns, including any Trustee, except that any Trustee shall have the right to terminate this Order after notice and a hearing. If, in accordance with Code § 364(e), this Order does not become a final nonappealable order, if a Trustee terminates this Order, or if any of the provisions of the Order are hereafter modified, amended, vacated or stayed by subsequent order of this Court or any other court, such termination or subsequent order shall not affect: (a) subject to Paragraph 8 of this Order, the stipulations, representations, and findings contained in this Order and the relief granted by and the releases contained in this Order; and (b) the priority, validity, enforceability or effectiveness of any lien, security interest or other benefit or claim authorized hereby with respect to Cash Collateral used or Postpetition Debt incurred prior to the effective date of such termination or subsequent order. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Order, and Postpetition Agent and Postpetition Lenders shall be entitled to all the rights, remedies, privileges and benefits granted hereto, including the liens and priorities granted herein, with respect to the Postpetition Debt. Except as otherwise explicitly set forth in this Order, no third party is intended to be, or shall be deemed to be, a third party beneficiary of this Order.

24. Survival. The provisions of this Order, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Case: (a) confirming any chapter 11 plan, (b) converting the Case to a case under chapter 7 of the Code, (c) dismissing the Case, (d) withdrawing of the reference of the Case from this Court, or (e) providing for abstention from handling or retaining of jurisdiction of the Case in this Court. The terms and provisions of this Order, including, without limitation, the rights granted Postpetition Agent and Postpetition

Lenders under Code §§ 364(c) and (d), shall continue in full force and effect until all of the Aggregate Debt is indefeasibly paid in full in cash and discharged.

25. Notice of Final Hearing. The Final Hearing is scheduled for August 31, 2015, and may be continued from time to time without further notice other than that given in open court. Debtor is directed to immediately serve a copy of this Order and the proposed form of Final Order by first class mail, postage prepaid, on counsel for Senior Agents, Prepetition Junior Agent, Debtor's other secured creditors, Debtor's twenty (20) largest unsecured creditors, and the United States Trustee, which service shall constitute adequate and proper notice of the Final Hearing. Any objection to the Order must be filed with the Court and received by counsel for Debtor, the Senior Agents, the Prepetition Junior Agent and the United States Trustee no later than three (3) business days prior to the commencement of the Final Hearing. Any timely and properly filed and served objection will be heard at the Final Hearing.

###

**EXHIBIT A**

**DEFINED TERMS**

1. ***Aggregate Collateral.*** Collectively, the Prepetition Senior Collateral and the Postpetition Collateral.
2. ***Aggregate Debt.*** Collectively, the Prepetition Senior Debt and the Postpetition Debt.
3. ***Allowable 506(b) Amounts.*** To the extent allowable under Code § 506(b), interest at the default rate of interest as set forth in Section 8.4 of the Prepetition Senior Credit Agreement, all fees, costs, expenses, and other charges due or coming due under the Prepetition Senior Documents or in connection with the Prepetition Senior Debt (regardless of whether such fees, costs, interest and other charges are included in the Budget), and all costs and expenses at any time incurred by Prepetition Senior Agent and Prepetition Senior Lenders in connection with: (a) the negotiation, preparation and submission of this Order and any other order or document related hereto, and (b) the representation of Prepetition Senior Agent and Prepetition Senior Lenders in the Case, including in defending any Challenge.
4. ***Blocked Account.*** The Restricted Account identified as Debtor's main operating account on Annex A to that certain Restricted Accounts Agreement (Non-Sweeping) entered into as of March 15, 2012, by and among First Niagara Bank, N.A., Debtor and Prepetition Senior Agent.
5. ***Budget.*** The budget attached to this Order as Exhibit B, as amended, modified or supplemented from time to time, as may be agreed to by Postpetition Agent and the Postpetition Lenders required under the Postpetition Credit Agreement.
6. ***Carveout Professionals.*** The non-ordinary course professionals authorized by the Court to be retained by Debtor and the Committee, and the United States Trustee.
7. ***Case.*** The chapter 11 case or any superseding chapter 7 case of Debtor.

8. **Cash Collateral.** All "cash collateral," as that term is defined in Code § 363(a), in which Senior Agents (on behalf of Senior Lenders) have an interest, all deposits subject to setoff rights in favor of Senior Agents and Senior Lenders, and all cash arising from the collection or other conversion to cash of the Aggregate Collateral, including from the sale of inventory and the collection of accounts receivable.

9. **Challenge.** A claim or cause of action challenging the extent, validity, perfection, priority or enforceability of the Prepetition Senior Debt, Prepetition Junior Debt, the Prepetition Senior Liens, the Prepetition Junior Liens, or any other claims or causes of action against Prepetition Senior Agent, Prepetition Junior Agent, Prepetition Senior Lenders, and Prepetition Junior Lenders, which Debtor, the Committee, or another party-in-interest may bring, in accordance with Paragraph 8 of this Order.

10. **Challenge Party.** The Committee, any Trustee, or other party-in-interest with the requisite standing (provided that such party has received appropriate notice of the Motion).

11. **Code.** The United States Bankruptcy Code (11 U.S.C. § 101 *et seq.*), as amended, and any successor statute. Unless otherwise indicated, all statutory section references in this Order are to the Code.

12. **Committee.** Any official creditors' committee appointed to represent unsecured creditors in this Case pursuant to Code § 1102.

13. **Court.** The United States Bankruptcy Court for the Northern District of New York.

14. **Cumulative Basis.** For purposes of measuring the cumulative amount of the Permitted Variance, (a) during the first week after the Filing Date, cumulatively for such one-week period, (b) during the first two weeks after the Filing Date, cumulatively for such two-week period, (c) during the first three weeks after the Filing Date, cumulatively for such three-week period, and (d) from and after the first four weeks after the Filing Date, cumulatively for the most recent four-week period.

15. **DIP Commitment.** \$3,500,000, plus accruing interest, fees, costs and other charges, plus the amount of Prepetition Senior Debt repaid or refinanced under the Postpetition Credit Agreement, this Order and the Final Order.

16. **Event of Default.** At Postpetition Agent's election, (a) the occurrence and continuance of any Event of Default first arising after the Filing Date under the Postpetition Credit Agreement; and (b) Debtor's failure to comply with the covenants or perform any of its obligations in strict accordance with the terms of this Order.

17. **Filing Date.** July 31, 2015.

18. **Final Hearing.** The final hearing on the Motion conducted in accordance with Fed. R. Bankr. P. 4001.

19. **Final Order.** A final order authorizing Debtor to use Cash Collateral and incur Postpetition Debt entered at or in connection with the Final Hearing.

20. **Interim DIP Amount.** The amount necessary, after taking into account the permitted use of Cash Collateral as provided in this Order, to enable the Debtor to pay the Budget expenses incurred in accordance with and payable at the times provided in the Budget pending entry of the Final Order.

21. **Investigation Period.** The period from the Filing Date until the date that is the earlier of (1) seventy-five (75) days after the Filing Date, (2) sixty (60) days after the date that a Committee is formed and (3) the date scheduled for the auction of substantially all of the Aggregate Collateral.

22. **Junior Replacement Liens.** Priority Liens in the Postpetition Collateral granted to Prepetition Junior Agent (for the benefit of the Prepetition Junior Lenders), pursuant to this Order, subject only to the Senior Replacement Liens, the Prepetition Senior Liens, the Postpetition Liens and the Permitted Priority Liens.

23. **Obligations.** The "Obligations", as that term is defined in the Postpetition Credit Agreement.

24. ***Permitted Priority Liens.*** Collectively, (a) the Carveout, and (b) liens in favor of third parties upon the Prepetition Collateral, which third-party liens, as of the Filing Date: (1) had priority under applicable law over the Prepetition Senior Liens, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Filing Date.

25. ***Permitted Variance.*** Budget deviations (a) with respect to the amount set forth in any weekly Budget period for "Payroll" and "Payroll Taxes" up to 5% measured on a Cumulative Basis, (b) with respect to the amount set forth in the Budget as "Other", up to 10% measured on a Cumulative Basis, and (c) with respect to all other cash uses for "Operations" (excluding "Non-Operating" uses, "Payroll", "Payroll Taxes" and "Other"), up to the sum of (i) 10% of such items measured on a Cumulative Basis plus (ii) any reduction in the Budget for the permitted amounts payable in respect of "Utility Deposits" and "Critical Vendor Payments".

26. ***Postpetition Charges.*** Interest at the applicable rate of interest under the Postpetition Credit Agreement and all fees, costs, and expenses provided for in the Postpetition Credit Agreement, including those incurred by Postpetition Agent and Postpetition Lenders in connection with the Postpetition Debt (regardless of whether any such fees, costs, interest and other charges are included in the Budget).

27. ***Postpetition Collateral.*** All of the real and personal property of Debtor of any description whatsoever, wherever located and whenever arising or acquired, including all cash, accounts, inventory, equipment, fixtures, chattel paper, general intangibles (excluding claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553), all leaseholds, all commercial torts, all other "Collateral" (as that term is defined in the Postpetition Credit Agreement), and all proceeds, rents, issues, profits and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any of the foregoing; provided, however, the Postpetition Collateral will exclude the real property owned by Debtor and located in Syracuse, NY.

28. ***Postpetition Credit Agreement.*** That certain Debtor-in-Possession Credit Agreement dated as of July 31, 2015, by and between Debtor, Postpetition Agent and

Postpetition Lenders party thereto, as amended, modified, supplemented, replaced or refinanced from time to time.

29. ***Postpetition Debt.*** All indebtedness or obligations of Debtor to Postpetition Agent and Postpetition Lenders incurred on or after the Filing Date pursuant to this Order or otherwise.

30. ***Postpetition Documents.*** The Postpetition Credit Agreement and the "Financing Documents" (as that term is defined in the Postpetition Credit Agreement).

31. ***Postpetition Liens.*** Priority Liens in the Aggregate Collateral, subject only to Permitted Priority Liens.

32. ***Prepetition Collateral.*** All of the "Collateral" (as that term is defined in the that certain Guarantee and Collateral Agreement dated as of December 16, 2011, by and among Debtor and Prepetition Senior Agent (on behalf of the Prepetition Senior Lenders)) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.

33. ***Prepetition Debt.*** The Prepetition Senior Debt and Prepetition Junior Debt.

34. ***Prepetition Documents.*** The Prepetition Senior Documents and Prepetition Junior Documents.

35. ***Prepetition Junior Credit Agreement.*** That certain Credit Agreement dated as of December 16, 2011, by and among Debtor, Prepetition Junior Agent and Prepetition Junior Lenders party thereto, as amended, modified and supplemented from time to time.

36. ***Prepetition Junior Debt.*** All indebtedness, obligations and liabilities of every nature under the Prepetition Junior Documents as of the Filing Date and all fees, costs, interest, and expenses as and when due and payable pursuant to the Prepetition Junior Documents.

37. ***Prepetition Junior Documents.*** The Prepetition Junior Credit Agreement and the Medley Loan Documents (as that term is defined in the Prepetition Subordination Agreement).

38. ***Prepetition Junior Liens.*** Prepetition Junior Agent's (on behalf of Prepetition Junior Lenders) asserted security interests in the Prepetition Collateral under the Prepetition Junior Documents, subject only to Permitted Priority Liens, the Prepetition Senior Liens and the Postpetition Liens.

39. ***Prepetition Liens.*** The Prepetition Senior Liens and Prepetition Junior Liens.

40. ***Prepetition Senior Credit Agreement.*** That certain Credit Agreement dated as of December 16, 2011, by and among Debtor, Prepetition Senior Agent and Prepetition Senior Lenders party thereto, as amended, modified and supplemented from time to time.

41. ***Prepetition Senior Debt.*** (a) All indebtedness or obligations under the Prepetition Senior Documents as of the Filing Date, including all "Obligations" (as defined in the Prepetition Senior Credit Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the Prepetition Senior Documents, plus (b) all Allowable 506(b) Amounts.

42. ***Prepetition Senior Documents.*** The Prepetition Senior Credit Agreement and the "Financing Documents" (as that term is defined in the Prepetition Senior Credit Agreement).

43. ***Prepetition Senior Liens.*** Prepetition Senior Agent's (on behalf of Prepetition Senior Lenders) asserted security interests in the Prepetition Collateral under the Prepetition Senior Documents, subject only to Permitted Priority Liens.

44. ***Prepetition Subordination Agreement.*** That certain Subordination and Intercreditor Agreement dated as of December 16, 2011, by and among Debtor, Prepetition Senior Agent and Prepetition Junior Agent, as amended, modified and supplemented from time to time.

45. ***Prepetition Third Party Documents.*** Collectively, Debtor's deposit account control agreements, leases, licenses, landlord agreements, warehouse agreements, bailment agreements, insurance policies, contracts or other similar agreements in which Prepetition Senior Agent or Prepetition Junior Agent has an interest.

46. ***Priority Liens.*** Liens which are first priority, properly perfected, valid and enforceable security interests, which are not subject to any claims, counterclaims, defenses, setoff, recoupment or deduction, and which are otherwise unavoidable and not subject to recharacterization or subordination pursuant to any provision of the Code, any agreement, or applicable nonbankruptcy law.

47. ***Replacement Liens.*** The Senior Replacement Liens and Junior Replacement Liens.

48. ***Senior Replacement Liens.*** Priority Liens in the Postpetition Collateral granted to Prepetition Senior Agent (for the benefit of the Prepetition Senior Lenders), pursuant to this Order, junior only to the Permitted Priority Liens and senior to the Prepetition Junior Liens and Junior Replacement Liens.

49. ***Termination Date.*** At Postpetition Agent's election, the earliest to occur of: (a) the date on which Postpetition Agent provides, via facsimile, overnight mail or email, written notice to counsel for Debtor and counsel for any Committee of the occurrence and continuance of an Event of Default; (b) August 31, 2015; (c) the date of the Final Hearing, if this Order is modified at the Final Hearing in a manner unacceptable to Senior Agents and Senior Lenders; (d) the closing date of the sale of substantially all of the assets of Debtor in accordance with the Milestones; and (e) 91 days following the Filing Date (or such later date agreed to in writing by Postpetition Agent).

50. ***Trustee.*** Any trustee appointed or elected in the Case.

**EXHIBIT B**

| Forecast                                  | 08/08/15 | 08/15/15 | 08/22/15 | 08/29/15 | 09/05/15 | 09/12/15 | 09/19/15 | 09/26/15 | 10/03/15 | 10/10/15 | 10/17/15 | 10/24/15 | 10/31/15   | Total      |
|---|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------------|------------|
| <b>Cash Sources</b>                       |          |          |          |          |          |          |          |          |          |          |          |          |            |            |
| A/R Collections                           | 1,286    | 1,356    | 1,199    | 924      | 1,151    | 1,277    | 1,265    | 1,103    | 902      | 1,182    | 1,352    | 1,129    | 951        | 15,077     |
| A/R Collections - Wind Down               | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| Sale of Real Estate and M&E               | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| Misc Deposits                             | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| <b>Total Cash Sources</b>                 | \$ 1,286 | \$ 1,356 | \$ 1,199 | \$ 924   | \$ 1,151 | \$ 1,277 | \$ 1,265 | \$ 1,103 | \$ 902   | \$ 1,182 | \$ 1,352 | \$ 1,129 | \$ 951     | \$ 15,077  |
| <b>Cash Uses</b>                          |          |          |          |          |          |          |          |          |          |          |          |          |            |            |
| Payroll & Payroll Taxes                   | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 422      | 544        | 5,608      |
| Other                                     | 232      | 193      | 182      | 234      | 234      | 232      | 193      | 182      | 234      | 234      | 232      | 193      | 235        | 2,810      |
| Employee Reimburse and Union Payments     | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 11       | 22         | 154        |
| Inventory (Merchandise)                   | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 55       | 368        | 1,528      |
| Utilities                                 | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | 85         | 425        |
| Lease Payments                            | 2        | 41       | 52       | -        | -        | 2        | 41       | 52       | -        | 2        | 41       | 52       | -          | 285        |
| Health Insurance                          | -        | 265      | -        | -        | -        | -        | 265      | -        | -        | -        | -        | 265      | -          | 795        |
| WC and Commercial Ins & DO                | 104      | -        | -        | 45       | -        | 47       | -        | -        | 40       | -        | 47       | -        | 40         | 243        |
| Capex                                     | -        | -        | -        | 40       | -        | -        | -        | -        | -        | -        | -        | -        | -          | 120        |
| Waterbury Pension Fund & Pension Withdraw | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| Taxes - Sales and Use                     | -        | 4        | -        | 92       | -        | 4        | 45       | 92       | -        | -        | 4        | 45       | 92         | 423        |
| Taxes - Property, Business, etc           | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| Fleet Lease - Penske (10th and 25th)      | 175      | -        | -        | 35       | -        | 175      | -        | 35       | -        | -        | 175      | -        | 75         | 670        |
| Fleet Fuel - Wright Express               | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 35       | 59         | 479        |
| <b>Total Operations Cash Uses</b>         | 1,036    | 761      | 1,112    | 924      | 757      | 983      | 1,067    | 884      | 1,007    | 967      | 1,193    | 1,277    | 1,571      | 13,539     |
| <b>Total Cash Flow from Operations</b>    | 250      | 595      | 87       | 394      | 394      | 294      | 198      | 219      | (105)    | 215      | 159      | (148)    | (620)      | 1,539      |
| <b>Lender Interest and Other Costs</b>    |          |          |          |          |          |          |          |          |          |          |          |          |            |            |
| Interest - NXT (18th and 31st)            | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | -          |
| Restructuring Fees                        | -        | -        | -        | 175      | -        | -        | -        | -        | 175      | -        | -        | -        | 695        | 1,740      |
| DIP Loan Interest and Fees                | 100      | -        | -        | 30       | -        | -        | -        | -        | 31       | -        | -        | -        | 28         | 190        |
| Utility Deposits                          | 680      | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | 680        | 680        |
| Critical Vendor Payments                  | 500      | 500      | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | 1,000      | 1,000      |
| KEIP/Severance/Other                      | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | 1,000      | 1,000      |
| Other Accrued Adm'n Expenses              | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20       | 20         | 1,735      |
| Other - Contingency Fees                  | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | 260        |
| Earned Unpaid Vacation Time (3 Plants)    | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -        | -          | 90         |
| <b>Total Non-Operating Cash Uses</b>      | 620      | 1,200    | 20       | 225      | 20       | 20       | 20       | 20       | 226      | 20       | 20       | 20       | 1,833      | 6,694      |
| <b>Total Cash Uses</b>                    | 1,656    | 1,961    | 1,132    | 1,149    | 777      | 1,003    | 1,087    | 904      | 1,233    | 987      | 1,213    | 1,297    | 3,404      | 20,233     |
| <b>Net Cash Flow</b>                      | \$ (370) | \$ (605) | \$ 67    | \$ (225) | \$ 374   | \$ 274   | \$ 178   | \$ 199   | \$ (331) | \$ 195   | \$ 139   | \$ (168) | \$ (2,453) | \$ (5,150) |
| Beginning Book Cash Balance               | \$ 500   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 391   | \$ 250   | \$ 255   | \$ 394   | \$ 250     |            |
| Revolver Draw / DIP Draw                  | 120      | 605      | (67)     | 225      | (374)    | (274)    | (178)    | (58)     | 190      | (190)    | -        | 24       | 2,453      |            |
| <b>Ending Book Cash Balance</b>           | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 391   | \$ 250   | \$ 255   | \$ 394   | \$ 250   | \$ 250     |            |

|  | DIP Loan | Sales Proceeds <sup>1</sup> | Total   |
|--|----------|-----------------------------|---------|
|  | 15,077   | -                           | 15,077  |
|  | -        | -                           | -       |
|  | -        | -                           | -       |
|  | -        | -                           | -       |
|  | 15,077   | -                           | 15,077  |
|  | 5,608    | -                           | 5,608   |
|  | 2,810    | -                           | 2,810   |
|  | 154      | -                           | 154     |
|  | 1,528    | -                           | 1,528   |
|  | 425      | -                           | 425     |
|  | 285      | -                           | 285     |
|  | 795      | -                           | 795     |
|  | 243      | -                           | 243     |
|  | 120      | -                           | 120     |
|  | 423      | -                           | 423     |
|  | 670      | -                           | 670     |
|  | 479      | -                           | 479     |
|  | 13,539   | -                           | 13,539  |
|  | 1,539    | -                           | 1,539   |
|  | -        | -                           | -       |
|  | 1,045    | 695                         | 1,740   |
|  | 190      | -                           | 190     |
|  | 680      | -                           | 680     |
|  | 1,000    | -                           | 1,000   |
|  | 1,000    | -                           | 1,000   |
|  | 260      | 1,735                       | 1,735   |
|  | 90       | -                           | 90      |
|  | 4,265    | 2,430                       | 6,694   |
|  | 17,803   | 2,430                       | 20,233  |
|  | (2,726)  | (2,430)                     | (5,150) |

|                                 | 08/08/15 | 08/15/15 | 08/22/15 | 08/29/15 | 09/05/15 | 09/12/15 | 09/19/15 | 09/26/15 | 10/03/15 | 10/10/15 | 10/17/15 | 10/24/15 | 10/31/15 | Total |
|---------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------|
| Beginning Book Cash Balance     | \$ 500   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 391   | \$ 250   | \$ 255   | \$ 394   | \$ 250   |       |
| Revolver Draw / DIP Draw        | 120      | 605      | (67)     | 225      | (374)    | (274)    | (178)    | (58)     | 190      | (190)    | -        | 24       | 2,453    |       |
| <b>Ending Book Cash Balance</b> | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 250   | \$ 391   | \$ 250   | \$ 255   | \$ 394   | \$ 250   | \$ 250   |       |
| Beginning DIP Loan Balance      | \$ -     | \$ 120   | \$ 725   | \$ 659   | \$ 884   | \$ 509   | \$ 236   | \$ 58    | \$ -     | \$ 190   | \$ -     | \$ -     | \$ 24    |       |
| DIP Loan Draw (Repayment)       | 120      | 605      | (67)     | 225      | (374)    | (274)    | (178)    | (58)     | 190      | (190)    | -        | 24       | 2,453    |       |
| <b>Ending DIP Loan Balance</b>  | \$ 120   | \$ 725   | \$ 659   | \$ 884   | \$ 509   | \$ 236   | \$ 58    | \$ -     | \$ 190   | \$ -     | \$ -     | \$ 24    | \$ 2,476 |       |

<sup>1</sup> Any excess cash will be used to offset Total Paid by Sale Proceeds amounts.