

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

In re:

EVANS OIL COMPANY LLC
KCWL, LLC
LONG EQUIPMENT FINANCE, LLC
LONG PETROLEUM PRODUCTS, LLC
LONG RUN, LLC
OCTANE, LLC
RML, LLC

Chapter 11
Case No. 9-11-bk-1515-DHA
Case No. 9-11-bk-1519-DHA
Case No. 9-11-bk-1520-DHA
Case No. 9-11-bk-1521-DHA
Case No. 9-11-bk-1522-DHA
Case No. 9-11-bk-1523-DHA
Case No. 9-11-bk-1524-DHA

Debtors

(Jointly Administered Under
Case No. 9-11-bk-1515-DHA)

**AMENDED FINAL ORDER UNDER 11 U.S.C. §§ 105(A), 361, 362, 363, AND 364 AND
FEDERAL BANKRUPTCY RULES 4001, 6004, AND 9014: AUTHORIZING DEBTORS
TO OBTAIN SECURED SUPERPRIORITY POST-PETITION FINANCING AND
GRANTING RELATED RELIEF**

This matter came on for hearing on June 10, 2011 at 9:30 a.m. (“**Hearing**”) on the *Emergency Motion for Entry of Order Under 11 U.S.C. §§ 105(a), 361, 362, 363, and 364 and Federal Bankruptcy Rules 4001, 6004, and 9014: Authorizing Debtors to Obtain Secured Superpriority Post-Petition Financing and Granting Related Relief* [Docket No. 257] (“**Motion**”) seeking an Order, pursuant to sections 105, 361, 362, 363, and 364(c) of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (“**Bankruptcy Code**”), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”):

(1) authorizing and approving, pursuant to sections 364(c) and (d) of the Bankruptcy Code¹, Debtors Evans Oil Company LLC and RML, LLC to obtain debtor-in-possession financing (“**DIP Financing**”) from Naples Lending Group, L.C. (together with its participants, “**DIP Lender**”) on an interim and final basis in order to (a) fund, among other things, ongoing working capital needs of Debtors, and (b) pay fees and expenses (including, without limitation, reasonable attorneys’ fees and expenses) owed to the DIP Lender under the **DIP Facility** and the

¹ Unless otherwise defined, capitalized terms shall have the same meaning ascribed to them in the Motion.

DIP Financing Documents (as defined below) pursuant to the terms and conditions of this **Order**, and as set forth in (i) the budget as defined below (**“Budget”**), (ii) that certain Commitment (**“Commitment”**) whereby the DIP Lender has agreed to extend Debtors a line of credit of up to an aggregate principal amount of **\$1,000,000**, (and along with any other loan documents referred to therein and/or required to be executed in connection therewith listed on Exhibit A hereto and the Loan Agreement, Note and Security attached as Exhibit A-1, A-2 and A-3, respectively, **“DIP Financing Documents”**; the DIP Financing Documents and all borrowings and obligations thereunder and pursuant to this Order, collectively, **“DIP Facility”**). The DIP Financing consists of a total DIP Facility of \$1,000,000 secured by (i) a first priority lien on the twenty-one (21) titled vehicles listed on Exhibit B-1 to this Order, and all products and proceeds of any of the foregoing, including insurance proceeds, such vehicles being otherwise unencumbered or otherwise becoming unencumbered pursuant to this Order, and (ii) a first priority lien on the twelve (12) titled vehicles listed on Exhibit B-2 to this Order (the **“Pre-Petition Collateral”**), and all products and proceeds of any of the foregoing, including insurance proceeds, such vehicles being encumbered by prepetition security interests (the **“Pre-Petition Liens”**) in favor of General Electric Capital Corporation (**“GECC”**) (such vehicles, and the vehicles identified in the Motion hereafter collectively, the **“Collateral”**);

(2) authorizing Debtors to execute and enter into the DIP Financing Documents and to perform such other and further acts as may be required in connection with the DIP Financing Documents; and

(3) granting any further and related relief as this Court deems just and equitable.

Upon the record of the Case and this Court having held a hearing on May 26, 2011, and the final Hearing on June 10, 2011, and having considered the objections to the Motion filed by the United States Trustee [Docket No. 261], GECC [Docket No. 274] and Fifth Third Bank [Docket No. 277] (together, the **“Objections”**), all the pleadings filed with this Court and the record of the Hearing; and upon the record made by Debtors at the Hearing, including the Motion and other filings and pleadings in Debtors’ chapter 11 case, and after due deliberation

and consideration, the Objections have been resolved in part through amendment of the terms of the DIP Financing as set forth in this Order, granted in part as set forth in this Order and overruled in part as set forth in this Order, and good and sufficient cause appearing therefor, and it appearing to be in the best interests of Debtors' estates and creditors:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR PURPOSES OF ENTERING THIS ORDER:

A. ***Petition Date:*** On January 30, 2011 ("***Petition Date***"), each Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code in this Court. Debtors continue to operate their business and manage their property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee or examiner has been appointed. The Office of the United States Trustee for Region XXI reports the lack of interest in forming an official committee of unsecured creditors (a "***Committee***").

B. ***Jurisdiction and Venue:*** This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought herein are §§ 105, 361, 362, 363, and 364 of the Bankruptcy Code and Rule 4001(b) and (c) of the Bankruptcy Rules. Venue of Debtors' chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. ***Notice:*** Sufficient, proper, and adequate notice of the Motion, the relief requested, and of the Hearing under the urgent circumstances present has been provided by Debtors pursuant to Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014, and section 102(1) of the Bankruptcy Code, as required by sections 363(b), 364(c), and 364(d) of the Bankruptcy Code on the following parties: (i) the Office of the United States Trustee for Region XXI; (ii) counsel to the DIP Lender; (iii) counsel to Fifth Third Bank; (iv) counsel to GECC; (v) all parties asserting a security interest in the assets of Debtors to the extent known to Debtors; and (vi) all parties who have filed a notice of appearance or request for notice in this case as of the filing date hereof. (together, "***Notice Parties***") and no further notice of, or interim or preliminary hearing on, the Motion or this Order is necessary or required.

Findings Regarding Post-Petition Financing

D. ***Debtors' Request.*** Debtors have requested from the DIP Lender, and the DIP Lender is willing to extend, certain loans, advances and other financial accommodations, as more particularly described and on the terms and conditions set forth in this Order and the DIP Financing Documents.

E. ***Need for Post-Petition Financing.*** An immediate and critical need exists for Debtors to obtain new funds under the DIP Facility and use the Collateral in order to continue the operation of their business. Without such funds, Debtors will not be able to meet its payroll and other direct operating expenses or obtain goods and services needed to carry on its business during this sensitive period in a manner that will avoid irreparable harm to Debtors' estates. At this time, the ability of Debtors to finance its operations and the availability to Debtors of sufficient working capital and liquidity through the incurrence of new indebtedness for borrowed money is vital to the confidence of Debtors' vendors and suppliers of goods and services, to its customers, and to the preservation and maintenance of the going concern value of Debtors' estate. Without such cash and credit, Debtors' estates would be irreparably harmed.

F. ***No Credit Available on More Favorable Terms.*** Given its current financial condition, financing arrangements, and capital structure, Debtors have been unable to obtain financing from sources other than from the DIP Lender on terms more favorable than those under the DIP Financing Documents. Debtors are unable to obtain the required funds in the form of unsecured credit or unsecured debt allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense pursuant to section 364(a) or (b) of the Bankruptcy Code, unsecured debt having the priority afforded by section 364(c)(1) or debt secured only as described in section 364(c)(2). The DIP Lender is willing to advance monies to Debtors only upon the terms and subject to the conditions contained in this Order and the DIP Financing Documents including in exchange for, among other things: (a) the Superpriority Claim, (b) the ***Post-Petition Liens*** as defined and provided herein and in the DIP Financing Documents, and (c) the ***DIP Facility Lien***, as defined herein. The DIP Lender is willing to provide the post-petition

financing contemplated herein, subject to the terms and conditions set forth in the DIP Financing Documents and to the provisions of this Order assuring that the Post-Petition Liens and the various claims, superpriority claims, and other protections granted pursuant to this Order and the DIP Financing Documents will not be affected by any subsequent reversal or modification of this Order or any other order, as provided in section 364(e) of the Bankruptcy Code, which is applicable to the post-petition financing arrangements contemplated by this Order.

G. ***Budget.*** Debtors have prepared and delivered the Budget to the DIP Lender. The Budget has been thoroughly reviewed by Debtors and their management. Debtors represent that the Budget is achievable and will allow Debtors to operate their business and chapter 11 cases. The DIP Lender is relying upon Debtors' compliance with the Budget in accordance with the Order in determining to enter into the DIP Financing Documents and the post-petition financing arrangements provided for herein.

H. ***Business Judgment and Good Faith Pursuant to Section 364(e).*** Based on the record of the Hearing, the terms of the DIP Financing Documents and this Order, are fair, just and reasonable under the circumstances, ordinary and appropriate for secured financing to debtors-in-possession, reflect Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and constitute reasonably equivalent value and fair consideration. The terms of the DIP Financing Documents have been negotiated in good faith and in an arm's length, open, and honest fashion in accordance with the Bankruptcy Code among Debtors and the DIP Lender, with all parties represented by counsel, and any credit extended, loans made, and other financial accommodations extended to Debtors by the DIP Lender including, but not limited to, (i) all loans made to Debtors pursuant to the DIP Financing Documents, (ii) all advances, indebtedness, or obligations, contingent or absolute, which may now or from time to time hereafter be owing by Debtors to the DIP Lender including, without limitation, interest, expenses, and attorneys' fees as set forth in the DIP Financing Documents, and (iii) all obligations incurred (as defined in the DIP Financing Documents) (collectively, "***DIP Obligations***"), shall be deemed to have been extended, issued, or made, as the case may be, in

“good faith” as that term is used in Bankruptcy Code § 364(e) and in express reliance upon the protections afforded by Bankruptcy Code § 364(e) in the event that this Order or any provision hereof is vacated, reversed, or modified, on appeal or otherwise. Accordingly, the DIP Lender are entitled to the protection of section 364(e) of the Bankruptcy Code.

I. ***Adequate Protection.*** GECC is entitled to receive adequate protection to the extent of any diminution in value of its interests in the Collateral pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code resulting from Debtors’ use, sale or lease of the Collateral during this Case and for the release of GECC liens on two (2) certain vehicles where the loans on such vehicles have been paid in full but lien notations remain in the public record. Pursuant to sections 361, 363 and 507(b), as adequate protection GECC will receive: (i) adequate protection liens, superpriority claims, and additional adequate protection as more fully set forth in paragraph 8 herein.

J. ***Adequate Protection.*** All Points Capital Corp t/a Capital One Equipment Lease Finance (“APCC”) is entitled to receive adequate protection as more fully set forth in paragraph 9 herein, including a payment of Fifteen Thousand Dollars (\$15,000.00) to be applied against principal in consideration for the release of APCC liens on four (4) certain vehicles.

K. ***Interim Relief to Avoid Immediate and Irreparable Harm.*** Based on the record at the May 26, 2011 hearing, the Court entered that certain Order, entered June 1, 2011 (the “Interim Order”), approving the DIP Financing on an interim basis through the final Hearing as necessary to avoid immediate and irreparable harm to the estate pending a final hearing on the terms and subject to the conditions set forth in the Interim Order, which shall and hereby remain in full force and effect as a final order.

L. ***Final Relief.*** Based on the record at the June 10, 2011 hearing, the Court hereby approves the DIP Financing on a final basis on the terms and subject to the conditions set forth herein.

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

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. **Motion Granted.** The Motion is granted in accordance with Bankruptcy Rule 4001(b)(2) and (c)(2) to the extent provided in this Order, and, as to the DIP Financing approved in the Interim Order to the extent provided in the Interim Order. This Order shall immediately become effective upon its entry.

2. **Objections Overruled.** To the extent any objections were made to the relief sought in the Motion and the entry of this Order (and not withdrawn or otherwise resolved prior to the entry of this Order) such objections have been resolved in part through amendment of the terms of the DIP Financing as set forth in this Order, granted in part as set forth in this Order and overruled in part as set forth in this Order.

3. **Authorization to Obtain Debtor-In-Possession Financing.**

(a) Debtors be, and hereby are, authorized to enter into the DIP Financing Documents, including without limitation the Commitment, and the DIP Facility. Debtors hereby are authorized to borrow money pursuant to the DIP Financing Documents. In accordance with the terms of this Order and the DIP Financing Documents, the borrowings under the DIP Financing Documents, shall be used solely in accordance with, and subject to, the terms of this Order and the DIP Financing Documents, including the Budget to (a) fund Debtors' ordinary working capital and general corporate needs, and (b) to pay such other amounts as are required or permitted to be paid pursuant to the DIP Facility, this Order, and any other orders of this Court.

(b) Debtors are authorized and directed to execute, deliver, perform, and comply with all of the terms and covenants of the DIP Financing Documents, each of which constitute valid, binding, enforceable and non-avoidable obligations of Debtors for all purposes during Debtors' chapter 11 cases, any subsequently converted case of any Debtor under chapter 7 of the Bankruptcy Code, or after the dismissal or reorganization of any Debtor's chapter 11 case and are enforceable against Debtors and their estates in accordance with their terms. No DIP Obligations, payment, transfer, or grant of security under the DIP Financing Documents or this Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including under section 502(d) of the Bankruptcy Code), or subject to any defense, reduction, setoff, recoupment, or counterclaim. Debtors are authorized and directed to perform all acts, and execute and comply with the terms of all instruments and documents (including, without limitation, the execution of security agreements and financing statements), as the DIP Lender may reasonably require as evidence of and for the protection of the DIP Obligations and the Collateral or which may be otherwise deemed necessary by the DIP Lender to effectuate the terms and conditions of this Order and the DIP Financing Documents. Debtors are authorized to enter into such non-material modifications and amendments to the DIP

Financing Documents as may be agreed upon in writing by Debtors and the DIP Lender, except any modification of the amount, interest rate, or maturity of the DIP Obligations, which shall be subject to Court approval. Notice of all such modifications shall be filed with the Court and, other than those modifications and amendments that are ministerial or technical and do not adversely affect Debtors, must be served upon counsel to the Committee (if any), all parties requesting notice, and the U.S. Trustee. The provisions of the DIP Financing Documents are hereby approved in all respects.

(c) Interest shall accrue on the DIP Obligations and be paid as provided in the DIP Financing Documents (as described with greater specificity therein, a fixed rate of seven and three-quarters percent (7.75%) per annum, payable monthly in arrears), provided, however that in no event shall default interest exceed twenty-four percent (24%) and provided further that in no event shall the payment to establish and fund the Interest Reserve payable pursuant to this Order exceed a further payment of \$19,375.00 in addition to the \$19,375.00 authorized under the Interim Order.

4. **Approval of the Budget and Restriction on Use of Proceeds.** From and after the entry of this Order through the *Termination Date* (as defined herein) and subject to the terms and conditions of this Order, Debtors are hereby authorized to borrow funds pursuant to the terms and provisions of the DIP Financing Documents, including the Note, and to use such proceeds solely in accordance with the Budget. The DIP Lender shall have no obligation to make any loan unless all of the conditions precedent to the making of such extension of credit under the DIP Financing Documents have been satisfied in full or waived by the DIP Lender in its sole discretion.

5. **Grant of Post-Petition Liens and Partial Releases of Liens of GECC and APCC.** As security for the DIP Obligations arising pursuant to the DIP Facility, the DIP Financing Documents, and this Order, the security interests and liens described in subparagraphs (a) and (b) below hereby are granted to the DIP Lender (the “*Post-Petition Liens*”). As described in greater detail below, the Post-Petition Liens shall be valid, enforceable, effective,

and perfected by operation of law immediately upon entry of this Order by the Court and without the necessity of the execution, recordation, or filing by Debtors or the DIP Lender of mortgages, security agreements, pledge agreements, financing statements, control agreements, or other agreements.

(a) *Collateral*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon the Collateral, and all proceeds thereof.

(b) *Liens Priming GECC's Pre-Petition Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior priming security interest in and lien upon such Collateral as is subject to any of GECC's Pre-Petition Liens.

(c) *Releases of Specified GECC Pre-Petition Liens*. GECC is hereby deemed to have released its liens on two (2) vehicles, identified as (1) a 2006 Peterbilt 357 VIN # 1NPALT0X36N643375, and (2) a 2005 Peterbilt 335 VIN #2NPLHDX45M891056.

(d) *Releases of Specified APCC Pre-Petition Liens*. APCC is hereby deemed to have released its liens on four (4) vehicles, identified as (1) a 2005 Polar VIN # 1PMA2442865004645, (2) a 2005 Polar VIN # 1PMA2442365004634, (3) a 2005 Polar VIN # 1PMA2442065005045, and (4) a 2006 Peterbilt 357 VIN # 1NPALT0X27N661982.

6. **Carve-Out**. Liens, security interests, and superpriority administrative expense claims of the DIP Lender shall be subject to and subordinate only to amounts payable pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the clerk of the Court (collectively, “*UST/Clerk Fees*”) (the “*Carve-Out*”).

7. **DIP Lender's Superpriority Claim**. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute an allowed claim (“*Superpriority Claim*”) against Debtors, with priority over any and all administrative expenses, diminution

claims, and all other claims against Debtors, now existing or hereafter arising, of any kind whatsoever, including all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, and which Superpriority Claim shall be payable from and have recourse to all pre- and post-petition property of Debtors and all proceeds thereof, subject only to the payment of the Carve-Out to the extent specifically provided for herein. The Superpriority Claim and the Post-Petition Liens granted to the DIP Lender under this Order shall continue if Debtors' chapter 11 case is converted to a case under chapter 7 of the Bankruptcy Code, and such liens and security interests shall maintain their priority as provided in this Order until all obligations to the DIP Lender have been indefeasibly paid in full or otherwise satisfied with the consent of the DIP Lender ("***DIP Pay-Out***"). Until the DIP Pay-Out, Debtors shall not permit to exist any administrative expense claim against Debtors of any kind or nature whatsoever, including any administrative expenses specified in or arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113, and 1114 of the Bankruptcy Code, that has a priority that is equal to or superior to the priority of the Superpriority Claim, other than the Carve-Out.

8. **Adequate Protection for GECC**. GECC is entitled, pursuant to sections 361, 363(e), and 364(d)(1) of the Bankruptcy Code, to adequate protection for any diminution in value of its interest in the Pre-Petition Collateral as follows:

(i) **Adequate Protection Lien**. From the date of the entry of this Order through and including the date the DIP Financing is repaid, Debtors Evans Oil Company LLC and RML, LLC each grants, pledges, and assigns to GECC, a security interest in the vehicles listed on Exhibit B-1 (the "**GECC Adequate Protection Collateral**"), whether such Debtor's interest therein as owner, co-owner, lessee, consignee, secured party, or otherwise be now owned or existing or hereafter arising or acquired, and wherever located, together with all substitutions, replacements, additions, and accessions therefor or thereto, all replacement and repair parts therefor and all negotiable instruments related thereto (the "**Adequate Protection Security Interest**"), to which Adequate Protection Security Interest all of the provision of Paragraph 12 of this order as to perfection shall

and does apply; ***provided, however***, that until all indebtedness of the Debtors to the DIP Lender, whether now existing or hereafter arising direct or indirect, absolute or contingent, joint or several, secured or unsecured, due or not due (all such indebtedness, including interest thereon herein referred to collectively as the "**DIP Financing Obligations**"), shall have been fully paid in full, (i) all rights of GECC in and to the GECC Adequate Protection Collateral are hereby subordinated to the payment of the DIP Financing Obligations; (ii) GECC shall not take any action to enforce its rights in the GECC Adequate Protection Collateral without the express prior consent of DIP Lender; (iii) in the event of any distribution, division or application, partial or complete, voluntary or involuntary, by operation or law or otherwise, of all or any part of the GECC Adequate Protection Collateral, the proceeds thereof, shall be payable or delivered to DIP Lender for application to the DIP Financing Obligations until the same is paid in full; and (iv) GECC shall execute and deliver to the DIP Lender such powers of attorney, assignments or other instruments as may be requested by DIP Lender in order to enable DIP Lender to enforce any and all claims upon or with respect to the DIP Financing Obligations and to collect and receive any and all payments or distributions which may be payable or deliverable at any time upon or with respect to the DIP Financing Obligations. The Adequate Protection Security Interest granted herein is and is intended to be a continuing conditional security interest and shall remain in full force and effect only so long as the DIP Financing Obligations, or any portion thereof, remains outstanding and unpaid but shall immediately terminate, without further notice, upon payment in full of the DIP Financing Obligations.

(ii) **Adequate Protection Payments**. GECC shall be paid regular monthly payments as adequate protection (the "***Adequate Protection Payments***").

(iii) **Insurance**. GECC shall continue to be a loss payee on Debtors' insurance on the Pre-Petition Collateral (the "***Adequate Protection Insurance***").

(iv) **Adequate Protection Liens**. To the extent applicable, GECC shall be granted replacement and additional security interests in and liens upon the Pre-Petition Collateral, including the proceeds thereof (the "***Adequate Protection Liens***").

(v) **Administrative Expense Claim**. In the event the Adequate Protection Payments and Adequate Protection Liens are insufficient to provide GECC with adequate protection, then GECC shall be granted a superpriority claim as provided for in § 507(b) of the Bankruptcy Code in an amount equal to the aggregate diminution in value in its Pre-Petition Collateral.

(vi) **Liquidation Preference**. In the event the DIP Lender liquidates any of its collateral, the DIP Lender first shall liquidate the DIP Lender's collateral other than the Pre-Petition Collateral.

Further, Debtors shall continue to maintain and insure the Pre-Petition Collateral.

9. **Adequate Protection for APCC.** APCC is entitled, pursuant to sections 361, 363(e), and 364(d)(1) of the Bankruptcy Code, to adequate protection for any diminution in value of its interest in its Collateral (consisting of 18 vehicles) as follows:

(i) **Payment.** Debtors shall pay APCC Fifteen Thousand Dollars (\$15,000.00) immediately upon the entry of the order.

(ii) **Adequate Protection Payments.** APCC shall be paid all regular monthly payments.

(iii) **Insurance.** APCC shall continue to be a loss payee on Debtors' insurance on the APCC collateral.

(iv) **Ratification.** Debtors will not be attempting a cram-down or similar action that would require legal defense as it relates to the remaining APCC debt.

Further, Debtors shall continue to maintain and insure the APCC collateral.

10. **Automatic Stay Modification.** The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified to the extent necessary to effectuate all of the terms and provisions of this Order, including, without limitation, (i) to permit the DIP Lender to enforce any and all remedies available to it hereunder and under the DIP Financing Documents; provided, however, that the automatic stay shall not be deemed vacated and modified with respect to the exercise by the DIP Lender of any rights or remedies with respect to the Collateral following an Event of Default unless and until the DIP Lender has given Debtors, counsel for the Committee (if any), and the U.S. Trustee five (5) days' prior notice of the DIP Lender's intention to exercise such remedies, with notice filed with this Court concurrently, (ii) to permit Debtors to implement the terms of the DIP Financing Documents and this Order, and (iii) to permit Debtors to create, and the DIP Lender to perfect, any and all liens, mortgages and security interests granted to them hereunder. In any hearing regarding the DIP Lender's exercise of any rights or remedies set forth in this Order, the Interim Order or in the DIP Financing Documents, the only issue that may be raised by any party in opposition thereto shall be whether an Event of Default has occurred and is continuing. Debtors hereby waives its right to seek relief, including under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair, restrict or

delay the exercise of the rights and remedies of the DIP Lender set forth in this Order, the Interim Order or in the DIP Financing Documents.

11. **Maturity Date.** The DIP Obligations shall be due and payable, without notice or demand, on the Maturity Date as defined in the DIP Financing Documents (as described with greater specificity therein, the date which is six (6) months after the date of the initial funding of the DIP Facility). Notwithstanding the occurrence of an Event of Default or the Maturity Date or anything herein, all of the rights, remedies, benefits, and protections provided to the DIP Lender under the DIP Financing Documents and this Order shall survive the Maturity Date.

12. **No Additional Filings Required For Perfection.**

(a) All Post-Petition Liens granted herein and in the DIP Financing Documents to or for the benefit of the DIP Lender and the Adequate Protection Liens granted herein shall pursuant to this Order be, and they hereby are, valid, enforceable, and perfected, effective as of the entry of this Order (notwithstanding any provisions of any agreement, lease, instrument, document, the Uniform Commercial Code, or any other relevant law or regulation of any jurisdiction) no further notice, filing, or other act shall be required to effect such perfection.

(b) Debtors and the DIP Lender are hereby authorized, but not required, to file or record notices of lien, or similar instruments, in any jurisdiction or take any other action to validate and perfect the liens and security interests granted hereunder. Whether or not the DIP Lender shall choose to file or record such notices of lien, or similar instruments, in any jurisdiction or otherwise confirm perfection of the liens and security interests granted hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute or subordination, at the time and on the date of entry of this Order.

(c) A certified copy of this Order may, in the discretion of the DIP Lender, be filed with or recorded in any filing or recording office in addition to or in lieu of such notices of lien, or similar instruments, in any jurisdiction, and all filing offices are hereby authorized and directed to accept such certified copy of this Order for filing and recording.

(d) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of other parties or (ii) the payment of any fees, taxes or obligations to any governmental entity, for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or other post-petition collateral related thereto, shall be deemed to have no force and effect with respect to the transactions granting Post-Petition Liens or Adequate Protection Liens in accordance with the terms of the DIP Financing Documents or this Order (though Debtors and the DIP Lender are permitted but not required to pay recordation or filing fees).

(e) If the DIP Lender shall, in its sole discretion, elect for any reason to file, record or serve any such financing statements or other documents with respect to such liens and security interests, Debtors shall execute the same upon request and the filing, recording or service thereof (as the case may be) shall be deemed to have been made at the time and on the date required to implement the priority of such liens and security interests as provided in this Order.

(f) The Florida Department Of Highway Safety and Motor Vehicles is hereby ordered to issue to Debtors the certificates of titles listed in Exhibit B-2 with Naples Lending Group LLC as first lien holder with a date of June 10, 2011 and General Electric Capital Corporation as second lien holder with their original lien dates.

(g) The Florida Department Of Highway Safety and Motor Vehicles is hereby ordered to issue to Debtors the certificates of titles listed in Exhibit B-1 with Naples Lending Group LLC as first lien holder with a date of June 10, 2011 and General Electric Capital Corporation as second lien holder with a date of June 10, 2011.

13. **Preservation of Rights Granted Under this Order.**

(a) Debtors shall not seek, and it shall constitute an Event of Default under the DIP Financing Documents and a termination of the right to obtain borrowings under the DIP Facility if Debtors seek, or if there is entered, (i) any modifications or extensions of this Order without

the prior written consent of the DIP Lender, each in its sole discretion, and no such consent shall be implied by any other action, inaction or acquiescence by the DIP Lender, (ii) an order dismissing the case, (iii) any plan of reorganization that does not provide for the DIP Pay Out, or (iv) any motion involving any sale of Debtors' assets that does not provide for the DIP Pay-Out or is not consented to by the DIP Lender. If an order dismissing the Case under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide that (x) the Superpriority Claim, priming liens, security interests, and replacement security interests granted to the DIP Lender pursuant to this Order shall continue in full force and effect and shall maintain their priorities as provided in this Order until the DIP Pay-Out and (y) subject to the provisions of section 350 of the Bankruptcy Code, the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests or replacement security interests referred to in (x) above.

(b) If any or all of the provisions of this Order are hereafter reversed, modified, vacated, or stayed, such reversal, stay, modification, or vacation shall not affect (i) the validity of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Lender of the effective date of such reversal, stay, modification, or vacation or (ii) the validity or enforceability of any security interest, lien, or priority authorized or created hereby or pursuant to the DIP Financing Documents with respect to any DIP Obligations or Adequate Protection Obligations. Notwithstanding any such reversal, stay, modification, or vacation, any DIP Obligations and Adequate Protection Obligations incurred by Debtors to the DIP Lender shall be governed in all respects by the provisions of this Order, and the DIP Lender shall be entitled to all the rights, remedies, privileges, and benefits granted in section 364(e) of the Bankruptcy Code, this Order and pursuant to the DIP Financing Documents with respect to all DIP Obligations.

(c) Except as expressly provided in this Order or in the DIP Financing Documents, the Post-Petition Liens, and all other rights and remedies, of the DIP Lender granted by the provisions of this Order and the DIP Financing Documents shall survive, and shall not be

modified, impaired or discharged by the entry of an order converting this Case to a case under chapter 7, dismissing this Case, or by any other act or omission, nor shall the Post-Petition Liens, the Superpriority Claim, or any of the other rights and remedies of the DIP Lender granted by the provisions of this Order and the DIP Financing Documents be modified, impaired or discharged by the entry of an order confirming a plan of reorganization in this Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, Debtors will waive any discharge as to any remaining DIP Obligations. The terms and provisions of this Order and the DIP Financing Documents shall continue in this Case, in any successor case, or in any superseding chapter 7 case under the Bankruptcy Code, and the Post-Petition Liens and all other rights and remedies of the DIP Lender granted by the provisions of this Order and the DIP Financing Documents shall continue in full force and effect until the DIP Pay-Out, with respect to the DIP Lender. No indebtedness, Obligation, or liability owed by Debtors to the DIP Lender under this Order or the DIP Facility Documents, prior to the effective date of any modification, vacation or stay of this Order can, as a result of any subsequent order in this chapter 11 case, or in any superseding case, be subordinated, lose its lien priority or superpriority administrative claim status, or be deprived of the benefit of the status of the liens and claims granted to the DIP Lender under this Order or the DIP Financing Documents.

14. **Remedies upon Occurrence of Event of Default.** In the event of any of the following: (a) the failure of Debtors to perform in any material respect any of its obligations pursuant to this Order, (b) the occurrence and continuation of any “Event of Default” as defined under the DIP Financing Documents, or (c) the termination or nonrenewal of any DIP Financing Document, or if terminated sooner by an order of this Court, (each an “*Event of Default*” and collectively, “*Events of Default*”); then (unless such Event of Default is specifically waived in writing by the DIP Lender as provided for in the DIP Financing Documents, which waiver shall not be implied from any other action, inaction, or acquiescence by the DIP Lender) the DIP Lender may take any or all of the following actions: (i) terminate or reduce any lending under the DIP Financing Documents whereupon any lending shall immediately be terminated or reduced,

(ii) declare all or a portion of the DIP Financing then outstanding to be due and payable, whereupon all or such portion of the aggregate principal of such loans, all accrued and unpaid interest thereon, all fees, and all other amounts payable under the DIP Financing Documents shall become immediately due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by Debtors, and (iii) exercise any and all of its other rights and remedies hereunder, under the DIP Financing Documents, applicable law, or otherwise; provided, however, notwithstanding anything to the contrary contained herein, the DIP Lender shall be permitted to exercise any remedy in the nature of a liquidation of, or foreclosure on, any interest of Debtors in the Collateral only upon five (5) business days' prior notice to Debtors, Fifth Third Bank, GECC, the U.S. Trustee, and any counsel approved by the Bankruptcy Court for the Committee (if any) of the DIP Lender's intention to exercise such remedies. Upon the occurrence of an Event of Default and the exercise by the DIP Lender of its rights and remedies under the DIP Financing Agreement, and subject to the adequate protection provisions in favor of GECC pursuant to paragraph 8 of this Order, Debtors shall assist the DIP Lender to the extent practicable in effecting a sale or other disposition of the Collateral upon such terms as are designed to maximize the proceeds obtainable from such sale or other disposition. Nothing contained in this Order or otherwise shall be construed to obligate the DIP Lender in any way to lend or advance any additional funds to Debtors, or provide other financial accommodations to Debtors upon or after the occurrence of an Event of Default.

15. **Collateral Rights.** Until all of the DIP Obligations shall have been indefeasibly paid and satisfied in full in cash, unless otherwise agreed to by the DIP Lender, and without further order of the Court:

(a) In the event that any party who holds a lien or security interest in any of the Collateral that is junior or subordinate to the liens and claims of the DIP Lender in such Collateral receives or is paid proceeds of the Collateral prior to the DIP Pay-Out and satisfaction in full of all DIP Obligations (other than adequate protection payments made to GECC pursuant

to the terms of this Order or otherwise prior to the entry of this Order, including the payment of fees and expenses) and subject to the adequate protection provisions in favor of GECC pursuant to paragraph 8 of this Order, such junior or subordinate lienholder shall be deemed to have received, and shall hold, such Collateral proceeds in trust for the DIP Lender and shall immediately turnover to the DIP Lender such proceeds for application to the Obligations in accordance with the DIP Financing Documents or this Order;

(b) Upon an Event of Default, and subject to the DIP Lender providing the notice required by this Order or the DIP Financing Documents, in connection with a liquidation of any of the Collateral, the DIP Lender (or any of their employees, agents, consultants, contractors, or other professionals) shall have the right, at the cost and expense of Debtors to be added to the DIP Obligations, to enter upon and use any Collateral, subject to the adequate protection provisions in favor of GECC pursuant to paragraph 8 of this Order. If the DIP Lender exercises any remedies provided for in this paragraph, the DIP Lender will be responsible for the payment of any amounts due any third party in respect of such property for the period of time that the DIP Lender actually use the equipment.

16. **Reimbursement of Fees, Costs, and Expenses.** Debtors are authorized and directed to pay all fees, including attorney's fees, payable and expenses reimbursable by Debtors (collectively, "***Fees and Expenses***") to the DIP Lender under the DIP Financing Documents and this Order, upon motion and subject to Court approval upon notice and hearing.

17. **No Waiver and Reservation of Rights.** The failure of the DIP Lender to seek relief or otherwise exercise its rights and remedies under this Order, the DIP Financing Documents, or applicable law, as this Case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Lender. Notwithstanding anything herein, the entry of this Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair, (x) any of the rights of the DIP Lender under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of the DIP Lender to (i) request additional protection of its interest in the Post-Petition Collateral or relief from or

modification of the automatic stay extant under section 362 of the Bankruptcy Code, (ii) request conversion of Debtors' chapter 11 cases to chapter 7, and (iii) object to the fees and expenses of any retained professionals of Debtors, the Committee (if any), or any other party in interest, or (y) any of the rights, claims, or privileges (whether legal, equitable or otherwise) of the DIP Lender.

18. **Binding Effect Upon Successors and Assigns.** The provisions of this Order shall be binding upon and inure to the benefit of the DIP Lender, Debtors and their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of Debtors or with respect to the property of the estate of Debtors).

19. **Cash Collateral Proviso.** For avoidance of any doubt, and as provided in the Eighth Interim Order authorizing Debtors' use of cash collateral [Docket No. 280], notwithstanding anything to the contrary set forth in this Order, any other Order or the Cash Collateral Budget, Debtors are authorized to use Cash Collateral to purchase fuel, refined petroleum products, lubricants and other product. This shall not affect the Cash Collateral Budget calculations for default purposes solely between Debtors and Fifth Third.

20. **Immediate Effect.** For purposes of this Order, the "*Effective Date*" shall be the date hereof and the ten day-stay imposed by Rule 6004(h) of the Bankruptcy Rules, to the extent applicable, is hereby waived.

21. **No Waiver by Failure to Seek Relief.** The Failure of the DIP Lender to seek relief or otherwise exercise their rights and remedies under this Order, the DIP Loan Documents or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Lender.

22. **Good Faith.** Based on the findings set forth in this Order, and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the post-petition financing arrangement contemplated by this Order, in the event any or all of the provisions of this Order are hereafter modified, amended, or vacated by a subsequent order of this or any other Court, no

such modification, amendment, or vacatur shall affect the validity and enforceability of any lien or priority authorized or created hereby. Notwithstanding any such modification, amendment or vacatur, any claim granted to the DIP Lender hereunder arising prior to the effective date of such modification, amendment, or vacatur shall be governed in all respects by the original provisions of this Order and the DIP Lender shall be entitled to all of the rights, remedies, privileges and benefits, including the liens and priorities granted herein, with respect to any such claim. No order confirming, dismissing, or converting the case of any Debtor under Section 305 or 1112 of the Code or otherwise shall be entered unless prior to the entry thereof all of the DIP Obligations shall have been indefeasibly paid in full.

23. **Additional Documents and Performance.** Debtors are authorized to do and perform all acts, to make, execute, and deliver all instruments, and documents and to pay fees and expenses which may be required or necessary for Debtors' performance under the DIP Financing Documents, including the Note, or this Order.

24. **Survival After Confirmation, Conversion or Dismissal.** The rights of the DIP Lender under the DIP Financing Documents or this Order, the provisions of this Order and any actions taken pursuant hereto shall survive the entry of any order (i) confirming a plan or plans of reorganization in this Case (and, to the extent not satisfied in full in cash, the DIP Obligations shall not be discharged by the entry of any such order, or pursuant to Bankruptcy Code § 1141(d)(4), Debtors having hereby waived such discharge); (ii) converting this Case to a chapter 7 case; or (iii) dismissing this Case, and the terms and provisions of this Order as well as the Superpriority Claim and the Post-Petition Liens granted to and conferred upon the DIP Lender and the protection afforded to the DIP Lender pursuant to this Order and the DIP Financing Documents shall continue in full force and effect notwithstanding the entry of any such order, and such claims and liens shall maintain their priority as provided by this Order and the DIP Financing Documents and to the maximum extent permitted by law until all of the DIP Obligations shall have been paid and satisfied in full in accordance with the provisions of the

DIP Financing Agreement and all of the Existing Obligations have been paid in full or a plan of reorganization is confirmed that is in form and substance acceptable to the DIP Lender.

25. **Controlling Effect.** Except where expressly indicated in this Order to the contrary, in the event there is any inconsistency between the provisions of this Order and the DIP Financing Documents, the provisions of this Order shall govern.

26. **Effectiveness.** Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order shall (a) be immediately enforceable, and (b) not be stayed absent the grant of such stay under Bankruptcy Rule 8005 after a hearing upon notice to Debtors and the DIP Lender. This Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon execution hereof.

27. **Jurisdiction.** The Court has, and will retain exclusive jurisdiction to interpret and enforce this Order and the DIP Financing Documents according to their respective terms.

DONE and **ORDERED** in Chambers at Ft. Myers, Florida, July 07, 2011



BARRY S. SCHERMER
United States Bankruptcy Judge

Copies to:

The following is the list of **parties** who are currently on the list to receive e-mail notice/service for this case and who were served by the Court's electronic noticing system:

- Daniel A DeMarco dademarco@hahnlaw.com,
hlpcr@hahnlaw.com;cmbeitel@hahnlaw.com
- Denise D Dell-Powell ddPowell@burr.com,
ahutchinson@burr.com;mposada@burr.com;jcrawfor@burr.com;dkelley@burr.com

- Bert Echols bert.echols@thehalelawgroup.com,
emily.webb@thehalelawgroup.com;ben.elvert@thehalelawgroup.com;sharri.bruce@thehalelawgroup.com
- Brian T Giles bgiles@statmanharris.com
- Paul Anthony Giordano pgiordano@fowlerwhite.com,
ann.greulich@fowlerwhite.com;cynthia.ferguson@fowlerwhite.com
- Teresa M Hair midbkmail@defaultlawfl.com
- David E Hicks theresa.byington@gmail.com
- Mark D. Hildreth mhildreth@slk-law.com, dcooper@slk-law.com
- Brad W. Hissing bankruptcynotices@kasslaw.com, bankruptcynotices@yahoo.com
- Robert S Hoofman rhoofman@rushmarshall.com, arivera@rushmarshall.com
- Richard Johnston richard.johnston@fowlerwhite.com,
cynthia.ferguson@fowlerwhite.com;ann.greulich@fowlerwhite.com
- Roger A Kelly rkelly@rushmarshall.com, kgrochol@rushmarshall.com
- James P S Leshaw leshawj@gtlaw.com,
miaecfbky@gtlaw.com;mialitdock@gtlaw.com
- John S Sarrett jsarrett@hahnlaw.com, hlpcr@hahnlaw.com;cmbeitel@hahnlaw.com
- John S Schoene schoenej@earthlink.net, snydercd@earthlink.net
- Arthur J Spector aspector@bergersingerman.com,
efile@bergersingerman.com;byglesia@bergersingerman.com
- Jeffrey S Stein PACERteam@gardencitygroup.com
- Steve Dinh Tran bkfiling@consuegralaw.com
- United States Trustee - FTM USTPRegion21.TP.ECF@USDOJ.GOV
- Casey K Weidenmiller cweidenmiller@lawfirmnaples.com,
nbeaty@lawfirmnaples.com;scopeland@lawfirmnaples.com
- Christopher B Wick cwick@hahnlaw.com, hlpcr@hahnlaw.com
- J Steven Wilkes steven.wilkes@usdoj.gov

The Garden City Group, Inc., the Debtors claim and noticing agent, is, at the direction of the Debtors' counsel, serving the foregoing on the parties identified below on this 7th day of JuLY 2011 (the "GCG Service"). An affidavit detailing the GCG Service will be filed with the Court.

The following parties will be served by GCG:

Debtors, Debtors' Attorney, United States Trustee
Alan J. Statman, Esq., Statman, Harris, & Eyrich LLC, 441 Vine Street, Ste. 3700, Cincinnati, OH 45202
Local Rule 1007(d) Parties in Interest List (Equity Security Holders / Top 20)
United States Treasury, Internal Revenue Service, Cincinnati, OH 45999-0039
U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001
Office of the Attorney General, State of Florida, the Capitol PL-01, Tallahassee, FL 32399-1050
All Points (Capital One Equipment Leasing), 275 Broadhollow Road, Melville, NY 11747
Ally, PO Box 9001948, Louisville, KY 40290-1948
Alter Moneta Corporation, 50 Lakefront Blvd., Ste 208, Buffalo, NY 14202
BB&T of Florida Business Loan Center, PO Box 580050, Charlotte, NC 28258-0050
BMW Bank of North America, PO Box 78066, Phoenix, AZ 85062-8066
Branch Banking and Trust Company, 8840 Tamiami Trail North, Naples, FL 34108
CitiCapital Commercial Corporation, 3950 Regent Blvd., Irving, TX 75063
Fifth Third Bank, 1000 Town Center #1400, Southfield, MI 48075
Fifth Third Bank, 999 Vanderbilt Beach Road 1MOC2A, Naples, FL 34108
Fifth Third Bank, PO Box 630778, Cincinnati, OH 45263-0778
Ford Motor Credit, PO Box 790119, St. Louis, MO 63179-0119
General Electric Capital Corporation, PO Box 140849, Irving, TX 75014
GE Transportation Finance, PO Box 822108, Philadelphia, PA 19182-2108
Land Rover Capital Group, PO Box 78069, Phoenix, AZ 85062-8069
Long Time Insurance Co. Ltd., 3170 Horseshoe Dr. S., Naples, FL 34104
Mercedes Benz Financial, 6716 Grade lane, Bldg. 9, Suite 910, Louisville, KY 40213
Northern Trust Bank, NA 700 Brickell Avenue, Miami, FL 33131
Northern Trust, NA, 375 Fifth Avenue South, Naples, FL 34102
OFC Capital Corp./Wachovia, 576 Colonial Park Dr., Suite 100, Rosewell, GA 30075
Patriot Capital Corp., PO Box 790448, St. Louis, MO 63179-0448
Seneca Tank, Inc., 5585 N.E. 16th Street, Des Moines, IA 50313
US Bancorp, PO Box 580337, Minneapolis, MN 55458-0337
Wells Fargo Dealer Services, PO Box 25341, Santa Ana, CA 92799-5341

EXHIBITS ATTACHED

- A - List of DIP Financing Documents**
- A-1 Loan Agreement**
- A-2 Promissory Note**
- A-3 Commercial Security Agreement**
- B-1 Unencumbered Vehicles**
- B-2 Pre-Petition Collateral**

EXHIBIT A

- A-1 Loan Agreement**
- A-2 Promissory Note**
- A-3 Commercial Security Agreement**

EXHIBIT A-1 **Loan Agreement**

LOAN AGREEMENT

THIS AGREEMENT is entered into as of the 10 day of June, 2011, by and between EVANS OIL COMPANY LLC, a Florida limited liability company, and RML, LLC, a Florida limited liability company, whose address for purposes hereof is 3170 S. Horseshoe Drive, Naples, Florida 34104 ("Borrower") and NAPLES LENDING GROUP, LC, a Florida limited liability company, whose address for purposes hereof is 13490 Old Livingston Road, Naples, Florida 34109. ("Lender")

WHEREAS, simultaneously herewith Lender is making a loan (the "Loan") to Borrower in the amount of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00), which Loan is secured by a Commercial Security Agreement (the "Security Agreement") of even date herewith, together with other collateral documents; and

WHEREAS, the terms of the Loan are outlined in that certain commitment letter dated May 20, 2011 from Lender to Borrower (the "Commitment Letter") which Commitment Letter Borrower did accept; and

WHEREAS, Lender and Borrower desire to continue the terms of the Commitment Letter in connection with the Loan.

NOW, THEREFORE, in consideration of the advances made by Lender to Borrower under the Loan simultaneously herewith or to be made, the payment of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby accepted, the parties agree as follows:

1. The foregoing recitals are acknowledged to be true and correct and incorporated herein by reference.
2. The Commitment Letter between Lender and Borrower referenced above, a copy of which is attached hereto as Exhibit "A", is incorporated herein and made a part hereof by reference. For purposes of disbursing the proceeds of the Loan, the terms and covenants of the Commitment Letter shall survive closing and continue in full force and effect until such time as the Loan is repaid in full.
3. All of the documents executed in connection with the Loan, including without limitation, that certain Promissory Note in the amount of \$1,000,000.00, and the Security Agreement, shall be governed by the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned have set forth their hands and seals as of the date first written above intending to be legally bound hereby.

BORROWER:

EVANS OIL COMPANY LLC, a Florida
limited liability company

By: 

Randy M. Long

As its: Manager

RML, LLC, a Florida limited liability company

By: 

Randy M. Long

As its: Manager

LENDER:

NAPLES LENDING GROUP, LC, a Florida
limited liability company

BY: ITG INVESTOR GROUP II, INC., a
Florida corporation, as its sole Managing
Member

By: _____

Dan Carter

As its: President

EXHIBIT A-2 Promissory Note

Borrower's Taxpayer
 Identification No. 65-1069593 (Evans) and 16-1697544 (RML)

Fl. Meyer, Florida

PROMISSORY NOTE
 (Amended and Restated)

\$1,000,000.00

June 10, 2011

FOR VALUE RECEIVED, **EVANS OIL COMPANY LLC, a Florida limited liability company**, and **RML, LLC, a Florida limited liability company**, jointly and severally if more than one (sometimes hereinafter referred to as the "**Undersigned**" or the "**Borrower**"), promises to pay to the order of **NAPLES LENDING GROUP, LC, a Florida limited liability company**, or any subsequent holder of this note ("**Lender**") at its principal offices located at 13490 Old Livingston Road, Naples, Florida 34109 (or at such other place or places as **Lender** may designate) the principal sum of **ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)** or so much thereof as may be from time to time outstanding, plus interest thereon at the Rate hereinafter defined, all in accordance with the terms and conditions of this Promissory Note (the "**Note**") and in accordance with the Loan Agreement of even date herewith by and between Borrower and Lender (all of the foregoing being referred to herein as the "**Loan Agreement**"). This Note is secured by a Commercial Security Agreement of even date herewith and other agreements by and between Borrower and Lender. The Commercial Security Agreement and such other agreements are hereinafter referred to collectively as the "**Security Documents**" and the loan evidenced thereby is hereinafter referred to as the "**Loan**." Terms used herein but not otherwise defined hereunder are defined as set forth in the Security Documents or the Loan Agreement. All of the terms, definitions, conditions and covenants of the Loan Agreement and the Security Documents are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length, and any holder of this Note is entitled to the benefits of and remedies provided in the Loan Agreement and the Security Documents.

1. Interest Rate. The Loan and this Note shall bear interest at a fixed rate of seven and three quarters of one percent (7.75%) per annum (the "**Rate**"). Interest will be calculated on the basis of the 365/360 method, which computes a daily amount of interest for a hypothetical year of 360 days, then multiplies such amount by the actual number of days elapsed in an interest calculation period.
2. Payment Of Interest. Interest accrued in accordance with this Note shall be due and payable monthly, in arrears, beginning thirty (30) days from the date of this Note and on the same day of each calendar month thereafter until the Maturity Date. In the event the payment date would fall on a day for which there is no corresponding date in a calendar month, then such payment shall be due on the last day of such month. All accrued but unpaid interest and principal shall be due and payable in full on the Maturity Date, as defined in the paragraph titled "**Maturity Date**" below. All payments of principal and interest shall be made in lawful currency of the United States of America which shall be legal tender in payment of all debts, public and private, at the time of payment. All payments received during normal banking hours after 2:00 p.m. shall be deemed received at the opening of the next banking day.

3. Prepayment. This Note may be prepaid in whole or in part at any time without fee, premium or penalty. Any partial prepayment shall be applied in accordance with paragraph titled "Application of Payments" below and shall not postpone the due date of any subsequent periodic installments or the Maturity Date, or change the amount of such installments due, unless Lender shall otherwise agree in writing.

4. Late Charges. Should Borrower fail to pay the installments of interest or principal (if applicable) on any due date provided for herein or within ten (10) days thereafter, then Borrower further promises to pay a late payment charge equal to five percent (5%) of the amount of the unpaid installment as liquidated compensation to Lender for the extra expense to Lender to process and administer the late payment, Borrower agreeing, by execution hereof, that any other measure of compensation for a late payment is speculative and impossible to compute. This provision for late charges shall not be deemed to extend the time for payment or be a "grace period" or "cure period" that gives Borrower a right to cure a Default or Default Condition. Imposition of late charges is not contingent upon the giving of any notice or lapse of any cure period provided for in the Commercial Security Agreement and shall not be deemed a waiver of any right or remedy of Lender, including without limitation, acceleration of this Note.

5. Maturity Date. The then outstanding principal balance plus all accrued but unpaid interest shall be due and payable on **December** ____, 2011 (the "Maturity Date").

6. Default. Any failure of Borrower to comply with any term, covenant, or condition of this Note, including without limitation, Borrower's failure to pay principal, interest, or expenses within five (5) days of when same shall become due or the existence of any Default Condition or Default under the Security Documents or Loan Agreement shall be deemed, at the option of Lender, a Default under this Note, subject to any grace period provided for in the Loan Agreement.

7. Acceleration. Upon the occurrence of a Default hereunder or under the terms of any one or more of the Security Documents or the Loan Agreement, and only in compliance with the notice provisions of the Order (as defined below), Lender may declare the then outstanding principal and all accrued but unpaid interest immediately due and payable and upon acceleration and thereafter this Note shall bear interest at the Default Rate, hereinafter defined, until all indebtedness evidenced hereby and secured by the Security Documents has been paid in full. Further, in the event of such acceleration, the Loan, and all other indebtedness of Borrower to Lender arising out of or in connection with the Loan shall become immediately due and payable, without presentation, demand, protest or notice of any kind, all of which are hereby waived by Borrower.

8. Default Rate. After default or maturity or upon acceleration, and thereafter, the unpaid indebtedness then evidenced by this Note and due under and secured by the Security Documents shall bear interest at a fixed rate equal to the lesser of (a) the maximum rate then permitted under applicable law, or (b) the Rate plus sixteen and one quarter of one percent (16.25%) per annum.

9. Application of Payments. All sums received by Lender for application to the Loan may be applied by Lender to late charges, expenses, costs, interest, principal, and other amounts owing to Lender in connection with the Loan in the order selected by Lender in its sole discretion.
10. Expenses. In the event this Note is not paid when due on any stated or accelerated maturity date, or should it be necessary for Lender to enforce any other of its rights under this Note, the Loan Agreement, or the Security Documents, Borrower will pay to Lender, in addition to principal, interest and other charges due hereunder or under the Loan Agreement or the Security Documents, all costs of collection or enforcement, including reasonable attorneys' fees, paralegals' fees, legal assistants' fees, costs and expenses, whether incurred with respect to collection, litigation, bankruptcy proceedings, interpretation, dispute, negotiation, trial, appeal, defense of actions instituted by a third party against Lender arising out of or related to the Loan, enforcement of any judgment based on this Note, or otherwise, whether or not a suit to collect such amounts or to enforce such rights is brought or, if brought, is prosecuted to judgment.
11. Waiver. All persons now or at any time liable for payment of this Note, whether directly or indirectly, including without limitation any Guarantor, hereby waive presentment, protest, notice of protest and dishonor. The undersigned expressly consents to any extensions and renewals, in whole or in part, to the release of any or all Guarantors or co-makers and any collateral security or portions thereof, given to secure this Note, and all delays in time of payment or other performance which Lender may grant, in its sole discretion, at any time and from time to time without limitation all without any notice or further consent of Borrower, and any such grant by Lender shall not be deemed a waiver of any subsequent delay or any of Lender's rights hereunder or under the Loan Agreement or the Security Documents.
12. Usury. In no event shall this or any other provision herein or in the Loan Agreement or Security Documents, permit the collection of any interest which would be usurious under the laws of the State of Florida. If any such interest in excess of the maximum rate allowable under applicable law has been collected, Borrower agrees that the amount of interest collected above the maximum rate permitted by applicable law, together with interest thereon at the rate required by applicable law, shall be refunded to Borrower, and Borrower agrees to accept such refund, or, at Borrower's option, such refund shall be applied as a principal payment hereunder.
13. Modification. This Note may not be changed orally, but only by an agreement in writing signed by the Lender and Borrower.
14. Applicable Law. This Note shall be governed by and construed in accordance with the laws of the State of Florida.
15. Notices. All notices or other communications required or permitted to be given pursuant to the provisions of this Note shall be given in accordance with the notice provisions of the Commercial Security Agreement.

16. Successors and Assigns. As used herein, the terms "Borrower" and "Lender" shall be deemed to include their respective heirs, personal representatives, permitted successors and assigns.

17. Severability. In the event any one or more of the provisions of this Note shall for any reason be held to be invalid, illegal, or unenforceable, in whole or in part or in any respect, or in the event that any one or more of the provisions of this Note operates or would prospectively operate to invalidate this Note, then and in any of those events, only such provision or provisions shall be deemed null and void and shall not affect any other provision of this Note. The remaining provisions of this Note shall remain operative and in full force and effect and shall in no way be affected, prejudiced, or disturbed thereby. In the event any provisions of this Note are inconsistent with the provisions of the Loan Agreement, the Security Documents, or any other agreements or documents executed in connection with this Note, this Note shall control.

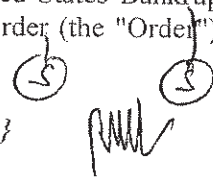
18. Captions; Pronouns. Captions are for reference only and in no way limit the terms of this Note. The pronouns used in this instrument shall be construed as masculine, feminine, or neuter as the occasion may require. Use of the singular includes the plural, and vice versa.

19. Business Day. Any reference herein or in the Loan Agreement or Security Documents to a day or business day shall be deemed to refer to a banking day which shall be a day on which Lender is open for the transaction of business, excluding any national holidays, and any performance which would otherwise be required on a day other than a banking day shall be timely performed in such instance, if performed on the next succeeding banking day. Notwithstanding such timely performance, interest shall continue to accrue hereunder until such payment or performance has been made.

20. WAIVER OF JURY TRIAL. LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER MAKING THIS LOAN TO BORROWER.

21 This Note is given pursuant to *Emergency Motion for Entry of Order Under 11 U.S.C. §§ 105(a), 361, 362, 363, and 364 and Federal Bankruptcy Rules 4001, 6004, and 9014: Authorizing Debtors to Obtain Secured Superpriority Post-Petition Financing and Granting Related Relief*, Case no. 9-11-bk-1515-DHA (Joint Administration), United States Bankruptcy Court, Middle District of Florida, Ft. Myers Division, and the resulting Order (the "Order") on same. Said Order is incorporated herein by reference.

{Borrowers' signatures appear on the following page.}



IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed as of the day and year first above written.

BORROWER:

EVANS OIL COMPANY LLC, a Florida
limited liability company

By: 

Randy M. Long

As its: Manager

RML, LLC, a Florida limited liability
company

By: 

Randy M. Long

As its: Manager

Address of Borrower:
3170 S. Horseshoe Drive
Naples, Florida 34104

This Note is given to modify, amend and restate the face amount of that certain Promissory Note dated May 26, 2011 in the principal amount of \$500,000.00 (the "Original Note") and consolidate same with a future advance in the amount of \$500,000.00 (the "Advance"). All documentary stamp taxes payable upon the indebtedness represented by the Original Note were previously paid in full as noted on the face thereof. Accordingly, no documentary stamp tax is due on the restated amount of this Note. Documentary Stamp Tax due on the Advance in the amount of \$700.00 as a result of the statutory cap on such tax is being paid simultaneously with the making hereof. Therefore the total documentary stamp tax paid on the Loan evidenced by this Note is \$2,450.00.

EXHIBIT A-3 Commercial Security Agreement

NAPLES LENDING GROUP, LC
 13490 Old Livingston Road
 Naples, Florida 34109
 "LENDER"

COMMERCIAL SECURITY AGREEMENT

<p>BORROWER EVANS OIL COMPANY LLC, a Florida limited liability company RML, LLC, a Florida limited liability company Address 3170 S. Horseshoe Drive Naples, Florida 34104</p> <p>Telephone No. Identification Nos. 65-1069593 (Evans) and 16- 1697544 (RML)</p>	<p>OWNER EVANS OIL COMPANY LLC, a Florida limited liability company RML, LLC, a Florida limited liability company Address 3170 S. Horseshoe Drive Naples, Florida 34104</p> <p>Telephone No. Identification Nos. 65-1069593 (Evans) and 16- 1697544 (RML)</p>
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1. **SECURITY INTEREST.** For good and valuable consideration, Owner and Borrower each grant to Lender identified above a continuing security interest in the Collateral described below to secure the Obligations described in this Agreement.

2. **OBLIGATIONS.** The collateral shall secure the payment and performance of all of Borrower's and Owner's present and future, joint and/or several, direct and indirect, absolute and contingent, express and implied indebtedness to Lender under any promissory note or agreement described below, including all future advances made by Lender to Borrower or Owner and expenditures incurred by Lender upon the occurrence of a default (collectively "Obligations"):

A. this Agreement and/or the following promissory notes and agreements:

Interest Rate	Principal Amount/ Credit Limit	Funding/ Agreement Date	Maturity Date	Customer Number	Loan Number
7.75%	\$1,000,000	June ____, 2011	December ____, 2011		

B. ☐ all other presently existing or future, evidences of indebtedness, obligations, agreements, instruments, guarantees or otherwise of Borrower or Owner to Lender (**whether incurred for the same or different purposes than the foregoing**); and

C. all renewals, extensions, amendments, modifications, replacements or substitutions to any of the foregoing.

3. **COLLATERAL.** All of Owner's rights, title and interest in the following described property whether now or hereafter existing or now owned or hereafter acquired by Owner and wherever located shall constitute the "Collateral":

- ☐ All accounts and contract rights including, but not limited to, any accounts and contract rights described on Schedule A attached hereto and incorporation herein by this reference;
- ☐ All chattel paper including, but not limited to, any chattel paper described on Schedule A attached hereto and incorporated herein by this reference;
- ☐ All documents including, but not limited to, any documents described on Schedule A attached hereto and incorporated herein by this reference;
- ☐ All equipment including, but not limited to, any equipment described on Schedule A attached hereto and incorporated herein by this reference;

- ☐ All fixtures including, but not limited to, any fixtures described on Schedule A and located or to be located on the real property described on Schedule B attached hereto and incorporated herein by this reference;
- ☐ All general intangibles including, but not limited to, any general intangibles described on Schedule A attached hereto and incorporated herein by this reference;
- ☐ All instruments including, but not limited to, any instruments described on Schedule A attached hereto and incorporated herein by this reference;
- ☐ All inventory including, but not limited to, any inventory described on Schedule A attached hereto and incorporated herein by this reference;
- ☐ All minerals or the like and accounts resulting from sales at the wellhead or minehead located on or related to the real property described on Schedule B attached hereto and incorporated herein by this reference;
- ☐ All outstanding timber which is to be cut and removed under a conveyance or contract for sale located on the real property described on Schedule B attached hereto and incorporated herein by this reference;
- ☒ Other: All specific equipment listed in Schedule A attached hereto and incorporated herein by reference.

4. **OWNER'S TAXPAYER IDENTIFICATION.** Owner's social security number or federal taxpayer identification number is: 65-1069593 (Evans) and 16-1697544 (RML).

5. **RESIDENCY/LEGAL STATUS.** ☐ Owner is an individual and a resident of the state of _____. ☒ Owner is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Florida.

6. **REPRESENTATIONS, WARRANTIES AND COVENANTS.** Owner represents, warrants and covenants to Lender that:

- A. Owner is and shall remain the sole owner of the Collateral;
- B. Owner's chief executive office, principal place of business, office where its business records relating to the Collateral or residence is the address identified above. The Collateral is located and has been located during the four (4) month period prior to the date hereof, at the address described above or any address described on Schedule C attached hereto and incorporated herein by this reference. Owner shall immediately advise Lender in writing of any change in or addition to the foregoing addresses;
- C. Owner shall not become a party to any restructuring of its form of business or participate in any consolidation, merger, liquidation or dissolution without Lender's prior written consent;
- D. Owner shall notify Lender of the nature of any intended change of Owner's name, or the use of any trade name, and the effective date of such change;
- E. The Collateral is and shall at all times remain free of all tax and other liens, security interests, encumbrances and claims of any kind except for those belonging to Lender and those described on Schedule D attached hereto and incorporated herein by this reference. Without waiving the Event of Default as a result thereof, Owner shall take any action and execute any document needed to discharge any liens, security interests, encumbrances and claims not described on Schedule D;
- F. Owner shall defend the Collateral against all claims and demands of all persons at any time claiming any interest therein;
- G. All of the goods, fixtures, minerals or the like, and standing timber constituting the Collateral are and shall be located at Owner's executive offices, places of business, residence and domiciles specifically described in this Agreement. Owner shall not change the location of any Collateral without the prior written consent of Lender;
- H. Owner shall provide Lender with possession of all chattel paper and instruments constituting the Collateral, and Owner shall promptly mark all chattel paper, instruments and documents constituting the Collateral to show that the same are subject to Lender's security interest;
- I. All of Owner's accounts or contract rights, chattel paper, documents, general intangibles, instruments and federal, state, county and municipal government and

other permits and licenses, trusts, liens, contracts, leases and agreements constituting the Collateral are and shall be valid, genuine and legally enforceable obligations and rights belonging to Owner against one or more third parties and not subject to any claim, defense, setoff or counterclaim of any kind;

- J. Owner shall not amend, modify, replace or substitute any account or contract right, chattel paper, document, general intangible or instrument constituting the Collateral without the prior written consent of Lender;
- K. Owner has the right and is duly authorized to enter into and perform its obligations under this Agreement. Owner's execution and performance of these obligations do not and shall not conflict with the provisions of any statute, regulation, ordinance, rule of law, contract or other agreement which may now or hereafter be binding on Owner;
- L. No action or proceeding is pending against Owner which might result in any material or adverse change in its business operations or financial condition or materially affect the Collateral;
- M. Owner has not violated and shall not violate any applicable federal, state, county or municipal statute, regulation or ordinance (including, but not limited to, those governing Hazardous Materials) which may materially and adversely affect its business operations or financial condition of the Collateral;
- N. Owner agrees to the terms of the Obligations and to the term of any renewals, extensions, amendments, modifications, replacements or substitutions of the Obligations;
- O. Owner agrees Lender may enter into agreements in the future with Borrower which, if this Agreement so provides, will become Obligations secured by the Collateral described in this Agreement;
- P. Owner agrees property other than the Collateral may also secure the Obligations; Lender shall have no obligation to exercise its rights against such property prior to exercising its rights against the Collateral; Lender may accept substitutions or exchanges for any such property; Lender may release its security interest in such property at any time; and, parties other than Borrower may be or may become obligated under the Obligations; and
- Q. This agreement and the obligations described in this Agreement are executed and incurred for business and not consumer purposes.

7. **SALE OF COLLATERAL.** Owner shall not assign, convey, lease, sell or transfer any of the Collateral to any third party without the prior written consent of Lender except for sales of inventory to buyers in the ordinary course of business.

8. **FINANCING STATEMENTS AND OTHER DOCUMENTS.** Owner shall at any time and from time to time take all actions and execute all documents required by Lender to attach, perfect and maintain Lender's security interest in the Collateral and establish and maintain Lender's right to receive the payment of the proceeds of the Collateral including, but not limited to, executing any financing statements, fixture filings, continuation statements, notices of security interest and other documents required by the Uniform Commercial Code and other applicable law. Owner shall pay the costs of filing such documents in all offices wherever filing or recording is deemed by Lender to be necessary or desirable. Lender shall be entitled to perfect its security interest in the Collateral by filing carbon, photographic or other reproductions of this Agreement and/or the aforementioned documents with any authority required by the Uniform Commercial Code or other applicable law. Owner authorizes Lender to execute and file any financing statements, as well as extensions, renewals and amendments of financing statements in such form as Lender may require to perfect and maintain perfection of any security interest granted in this Agreement.

9. **INQUIRIES AND NOTIFICATION TO THIRD PARTIES.** Owner hereby authorizes Lender to contact any third party and make any inquiry pertaining to Owner's financial condition or the Collateral. In addition, Lender is authorized to provide oral or written notice of its security interest in the Collateral to any third party.

10. **POWER OF ATTORNEY.** Owner hereby appoints Lender as its attorney-in-fact to endorse Owner's name on all instruments and other remittances payable to Owner with respect to the

Indebtedness, including any items received by Lender in any lockbox account, or other documents pertaining to Lender's actions in connection with the Indebtedness. In addition, Lender shall be entitled, but not required, to perform any action or execute any document required to be taken or executed by Owner under this Agreement. Lender's performance of such action or execution of such documents shall not relieve Owner from any obligation or cure any default under this Agreement. The powers of attorney described in this paragraph are coupled with an interest and are irrevocable.

11. USE AND MAINTENANCE OF COLLATERAL. Owner shall use the Collateral solely in the ordinary course of its business, for the usual purposes intended by the manufacturer (if applicable), with due care, and in compliance with the laws, ordinances, regulations, requirements and rules of all federal, state, county and municipal authorities including environmental laws and regulations and insurance policies. Owner shall not make any alterations, additions or improvements to the Collateral without the prior written consent of Lender. Owner shall ensure that Collateral which is not now a fixture does not become a fixture. Without limiting the foregoing, all alterations, additions and improvements made to the Collateral shall be subject to the security interest belonging to Lender, shall not be removed without the prior written consent of Lender and shall be made at Owner's sole expense. Owner shall take all actions and make any repairs or replacements needed to maintain the Collateral in good condition and working order.

12. LOSS OR DAMAGE. Owner shall bear the entire risk of any loss, theft, destruction or damage (collectively "Loss or Damage") to all or any part of the Collateral. In the event of any Loss or Damage, Owner will either restore the Collateral to its previous condition, replace the Collateral with similar property acceptable to Lender in its sole discretion, or pay or cause to be paid to Lender the decrease in the fair market value of the affected Collateral.

13. INSURANCE. The Collateral will be kept insured for its full value against all hazards including loss or damage caused by fire, collision, theft or other casualty. If the Collateral consists of a motor vehicle, Owner will obtain comprehensive and collision coverage in amounts at least equal to the actual cash value of the vehicle with deductibles not to exceed \$N/A. Insurance coverage obtained by Owner shall be from a licensed insurer subject to Lender's approval. Owner shall assign to Lender all rights to receive proceeds of insurance not exceeding the amount owed under the Obligations described above, and direct the insurer to pay all proceeds directly to Lender. The insurance policies shall require the insurance company to provide Lender with at least 30 day's written notice before such policies are altered or cancelled in any manner. The insurance policies shall name Lender as a loss payee and provide that no act or omission of Owner or any other person shall affect the right of Lender to be paid the insurance proceeds pertaining to the loss or damage of the Collateral. In the event Owner fails to acquire or maintain insurance, Lender (after providing notice as may be required by law) may, in its discretion procure appropriate insurance coverage upon the Collateral and charge the insurance cost as an advance of principal under the promissory note. Owner shall furnish Lender with evidence of insurance indicating the required coverage. Lender may act as attorney-in-fact for Owner in making and settling claims under insurance policies, cancelling any policy or endorsing Owner's name on any draft or negotiable instrument drawn by any insurer.

14. INDEMNIFICATION. Lender shall not assume or be responsible for the performance of any of Owner's obligations with respect to the Collateral under any circumstances. Owner shall immediately provide Lender with written notice of and hereby indemnifies and holds Lender and its shareholders, directors, officers, employees and agents harmless from all claims, damages, liabilities (including attorneys' fees and legal expenses), causes of action, actions, suits and other legal proceedings (collectively "Claims") pertaining to its business operations or the Collateral including, but not limited to, those arising from Lender's performance of Owner's obligations with respect to the Collateral or claims involving Hazardous Materials. Owner, upon the request of Lender, shall hire legal counsel to defend Lender from such Claims, and pay the attorneys' fees, legal expenses and other costs to the extent permitted by applicable law, incurred in connection therewith. In the alternative, Lender shall be entitled to employ its own legal counsel to defend such Claims at Owner's cost.

15. TAXES AND ASSESSMENTS. Owner shall execute and file all tax returns and pay all taxes, licenses, fees and assessments relating to its business operations and the Collateral (including,

but not limited to, income taxes, personal property taxes, withholding taxes, sales taxes, use taxes, excise taxes and workers' compensation premiums) in a timely manner.

16. **INSPECTION OF COLLATERAL AND BOOKS AND RECORDS.** Owner shall allow Lender or its agents to examine, inspect and make abstracts and copies of the Collateral and Owner's books and records pertaining to Owner's business operations and financial condition or the Collateral during normal business hours. Owner shall provide any assistance required by Lender for these purposes. All of the signatures and information pertaining to the Collateral or contained in the books and records shall be genuine, true, accurate and complete in all respects. Owner shall note the existence of Lender's security interest in its books and records pertaining to the Collateral.

17. **EVENT OF DEFAULT.** An Event of Default will occur under this Agreement in the event that Owner, Borrower or any guarantor of any of the Obligations:

- A. fails to make any payment under this Agreement or any other indebtedness to Lender when due;
- B. fails to perform any obligation or breaches any warranty or covenant to Lender contained in this Agreement or any other present or future written agreement regarding this or any other indebtedness to Lender;
- C. provides or causes any false or misleading signature or representation to the provided to Lender;
- D. sells, conveys or transfers rights in any collateral without the written approval of Lender; destroys, loses or damages such Collateral in any material respect; or subjects such Collateral to seizure, confiscation, or condemnation;
- E. seeks to revoke, terminate or otherwise limit its liability under any continuing guaranty;
- F. has a garnishment, judgment, tax levy, attachment or lien entered or served against Owner, Borrower, or any guarantor, or any of their property including the Collateral;
- G. dies, becomes legally incompetent, is dissolved or terminated, ceases to operate its business, becomes insolvent, makes an assignment for the benefit of creditors, fails to pay any debts as they become due, or becomes the subject of any bankruptcy, insolvency or debtor rehabilitation proceeding;
- H. allows the Collateral to be used by anyone to transport or store goods, the possession, transportation, or use of which, is illegal;
- I. fails to provide Lender evidence of satisfactory financial condition;
- J. has a majority of its outstanding voting securities sold, transferred or conveyed to any person or entity other than any person or entity that has the majority ownership as of the date of the execution of this Agreement; or
- K. if Lender deems itself insecure in good faith with respect to any of the indebtedness or obligations.

18. **RIGHTS OF LENDER ON EVENT OF DEFAULT.** Upon the occurrence of an Event of Default under this Agreement, and only in compliance with the notice provisions of the Order (as defined below), Lender shall be entitled to exercise one or more of the following remedies without notice or demand (except as required by law):

- A. to declare the Obligations immediately due and payable in full, such acceleration shall be automatic and immediate if the Event of Default is a filing under the Bankruptcy Code;
- B. to collect the outstanding Obligations with or without resorting to judicial process;
- C. to change Owner's mailing address, open Owner's mail, and retain any instruments or other remittances constituting the Collateral contained therein;
- D. to take possession of any Collateral in any manner permitted by law;
- E. to apply for and obtain, without notice and upon ex parte application, the appointment of a receiver for the Collateral without regard to Owner's financial condition or solvency, the adequacy of the Collateral to secure the payment or performance of the obligations, or the existence of any waste to the Collateral;
- F. to require Owner to deliver and make available to Lender any Collateral at a place reasonably convenient to Owner and Lender;

- G. to sell, lease or otherwise dispose of any Collateral and collect any deficiency balance with or without resorting to legal process;
- H. to set off Owner's obligations against any amounts due to Owner including, but not limited to, monies, instruments, and deposit accounts maintained with Lender; and
- I. to exercise all other rights available to Lender under any other written agreement or applicable law.

Lender's rights are cumulative and may be exercised together, separately, and in any order. Unless the Collateral is perishable, threatens to decline speedily in value or is of a type normally sold on a recognized market, Lender will mail written notice to Borrower at least five (5) days in advance of the time and place of any sale or intended disposition as required under the Uniform Commercial Code. If the Collateral consists of securities, Lender shall be entitled to transfer the securities into the name of Lender or its designee and to vote the securities. Lender shall be authorized to notify the issuer of the securities to remit any related dividends, interest and securities resulting from stock splits, reorganizations and capitalizations directly to Lender or its designees. In the event that Lender institutes an action to recover any Collateral or seeks recovery of any Collateral by way of a prejudgment remedy in an action against Owner, Owner waives the posting of any bond which might otherwise be required. Upon default, Owner shall segregate all proceeds of Collateral and hold such proceeds in trust for Lender. Lender's remedies under this paragraph are in addition to those under any other written agreement or applicable law.

19. APPLICATION OF PAYMENTS. Whether or not a default has occurred under this Agreement, all payments made by or on behalf of Owner and all credits due to Owner from the disposition of the Collateral or otherwise may be applied against the amounts paid by Lender (including attorneys' fees and legal expenses) in connection with the exercise of its rights or remedies described in this Agreement and any interest thereon and then to the payment of the remaining Obligations in whatever order Lender chooses.

20. ADVANCES TO PERFORM COVENANTS. Owner shall reimburse Lender for all amounts (including attorneys' fees and legal expenses) expended by Lender in the performance of any action required to be taken by Owner or the exercise of any right or remedy belonging to Lender under this Agreement, together with interest thereon at the lower of the highest rate described in any promissory note or credit agreement executed by Borrower or Owner or the highest rate allowed by law from the date of payment until the date of reimbursement. These sums shall be included in the definition of Obligations, shall be secured by the Collateral identified in this Agreement and shall be payable upon demand. Lender has no duty to take any action to protect the value of the Collateral or to exercise any rights of the Owner with respect to the Collateral.

21. ASSIGNMENT. Owner shall not be entitled to assign any of its rights, remedies or obligations described in this Agreement without the prior written consent of Lender. Consent may be withheld by Lender in its sole discretion. Lender shall be entitled to assign some or all of its rights and remedies described in this Agreement without notice to or the prior consent of Owner in any manner in compliance with the Order.

22. MODIFICATION AND WAIVER. The modification or waiver of any of Owner's Obligations or Lender's rights under this Agreement must be contained in a writing signed by Lender. Lender may perform any of Owner's Obligations or delay or fail to exercise any of its rights without causing a waiver of those Obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Owner's Obligations under this Agreement shall not be affected. If Lender amends, compromises, exchanges, fails to exercise, impairs or releases any of the obligations belonging to any Owner or third party or any of its rights against any Owner, third party, Collateral or any other property securing the Obligations.

23. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of Owner and Lender and their respective permitted successors, assigns, trustees, receivers, administrators, personal representatives, legatees and devisees.

24. NOTICES. Any notice or other communication to be provided under this Agreement shall be in writing and sent to the parties at the addresses described in this Agreement or such other address as

the parties may designate in writing from time to time.

25. **SEVERABILITY.** If any provision of this Agreement violates the law or is unenforceable, the rest of the Agreement shall remain valid.

26. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the state indicated in Lender's address. Unless applicable law provides otherwise, Owner consents to the jurisdiction and venue of any court located in such state selected by Lender in the event of any legal proceeding under this Agreement

27. **COLLECTION COSTS.** If Lender hires an attorney to assist in collecting any amount due or enforcing any right or remedy under this Agreement, Owner agrees to pay Lender's reasonable attorneys' fees and collection costs, including, but not limited to, all fees and costs incurred on appeal, in bankruptcy, and for post-judgment collection actions to the extent permitted by law.

28. **MISCELLANEOUS.** This Agreement is executed for commercial purposes. Owner shall supply information regarding Owner's business operations and financial condition or the Collateral in the form and manner as requested by Lender from time to time. All information furnished by Owner to Lender shall be true, accurate and complete in all respects. Owner and Lender agree that time is of the essence. Owner waives presentment, demand for payment, notice of dishonor and protest except as required by law. All references to Owner in this Agreement shall include all parties signing below except Lender. This Agreement shall be binding upon the heirs, successors and assigns of Owner and Lender. If there is more than one Owner, their obligations under this Agreement shall be joint and several. This Agreement shall remain in full force and effect until Lender provides Owner with written notice of termination. This Agreement represents the complete and integrated understanding between Owner and Lender regarding the terms hereof.

29. **WAIVER OF JURY TRIAL.** LENDER AND OWNER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY CIVIL ACTION ARISING OUT OF, OR BASED UPON, THIS SECURITY AGREEMENT.

30. **ADDITIONAL TERMS.** This Security Agreement is given pursuant to *Emergency Motion for Entry of Order Under 11 U.S.C. §§ 105(a), 361, 362, 363, and 364 and Federal Bankruptcy Rules 4001, 6004, and 9014: Authorizing Debtors to Obtain Secured Superpriority Post-Petition Financing and Granting Related Relief*, Case no. 9-11-bk-1515-DHA (Joint Administration), United States Bankruptcy Court, Middle District of Florida, Ft. Myers Division, and the resulting Order (the "Order") on same. Said Order is incorporated herein by reference.



{Signatures appear on the following page.}



OWNER ACKNOWLEDGES THAT OWNER HAS READ, UNDERSTANDS, AND AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. OWNER ACKNOWLEDGES RECEIPT OF AN EXACT COPY OF THIS AGREEMENT.

Dated: 6/10/11

LENDER:

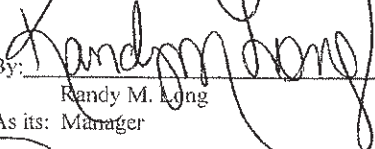
NAPLES LENDING GROUP, LC, a Florida limited liability company

BY: ITG INVESTOR GROUP II, INC., a Florida corporation, as its sole Managing Member

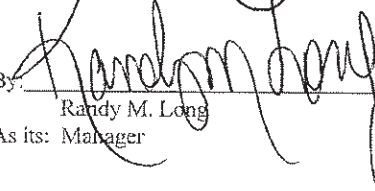
By: _____
Dan Carter
As its: President

BORROWER/OWNER:

EVANS OIL COMPANY LLC, a Florida limited liability company

By: 
Randy M. Long
As its: Manager

RML, LLC, a Florida limited liability company

By: 
Randy M. Long
As its: Manager

SCHEDULE A

UNENCUMBERED VEHICLES						
	<u>No. of Units</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Trailer No.</u>	<u>Serial Number/VIN</u>
	1	2002	LBT		205	4J8T042222T001503
	1	2005	POLAR		206	1PMA2442555004164
	1	2003	POLAR		209	1PMA2442735003627
	1	2005	POLAR		211	1PMA2442865004645
	1	2005	LBT		212	4J8T042275T003803
	1	2005	POLAR		214	1PMA2442455004365
	1	2002	HEIL		215	5HTAM442627H65959
	1	2005	POLAR		216	1PMA2442365004634
	1	2006	POLAR		217	1PMA2442065005045
	1	2003	POLAR		218	1PMA2442335003592
	1	2005	POLAR		219	1PMA2442955004541
	1	2004	LBT	200	207	4J8T0422X4T008301
					<u>Tankwagons</u>	
	1	2006	PETERBILT	357	104	1NPALTOX27N661982
	1	2006	PETERBILT	335	105	2NPLHD7X16M644496
	1	2006	PETERBILT	357	121	1NPALTOX36N643375
					<u>Box Trucks</u>	
	1	2005	PETERBILT	335	407	2NPLHD7X45M891056
					<u>Pick-up Trucks</u>	
	1	2007	Ford	Explorer	502	51587
	1	2009	Ford	F-150	503	57767
	1	2009	Ford	F-150	504	76537
ENCUMBERED VEHICLES						
<u>(GL Acct)</u>	<u>Lender</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Truck</u>	<u>Vin #</u>
2295	GE	2007	PETERBILT	357	109	1NPALTOX27N667040
2299	GE	2007	PETERBILT	357	102	1NPALTOX47N667041
2406	GE	2007	PETERBILT	357	122	1NPALTOX67N667042
2407	GE	2007	PETERBILT	357	123	1NPALTOX87N667043
2410	GE	2007	PETERBILT	385	305	1XPGDU9X17N692307
2412	GE	2007	PETERBILT	385	321	1XPGDU9XX7N692306
2433-1	GE	2008	PETERBILT	335	406	2NPLHM6X98M746889
2433-2	GE	2007	PETERBILT	335	404	2NPLHM6X58M746890
2437	GE	2008	PETERBILT	365	108	1NPSL00X98D742911
2438	GE	2008	PETERBILT	365	111	1NPSL00X08D742912
2439	GE	2008	PETERBILT	365	106	1NPSL00X48D742914
2441	GE	2008	POLAR	TANKER TRAILER	220	1PMA2442585007652

SCHEDULE B

Not applicable.

SCHEDULE C

ADDRESS WHERE COLLATERAL KEPT IF NOT OWNER'S PRINCIPAL ADDRESS

SCHEDULE D

ENCUMBERED COLLATERAL

<u>(GL Acct)</u>	<u>Lender</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Truck</u>	<u>Vin #</u>
2295	GE	2007	PETERBILT	357	109	INPALTOX27N667040
2299	GE	2007	PETERBILT	357	102	INPALTOX47N667041
2406	GE	2007	PETERBILT	357	122	INPALTOX67N667042
2407	GE	2007	PETERBILT	357	123	INPALTOX87N667043
2410	GE	2007	PETERBILT	385	305	IXPGDU9X17N692307
2412	GE	2007	PETERBILT	385	321	IXPGDU9XX7N692306
2433-1	GE	2008	PETERBILT	335	406	2NPLHM6X98M746889
2433-2	GE	2007	PETERBILT	335	404	2NPLHM6X58M746890
2437	GE	2008	PETERBILT	365	108	1NPSL00X98D742911
2438	GE	2008	PETERBILT	365	111	1NPSL00X08D742912
2439	GE	2008	PETERBILT	365	106	1NPSL00X48D742914
2441	GE	2008	POLAR	TANKER TRAILER	220	1PMA2442585007652

EXHIBIT A-4 Commitment

Naples Lending Group

13490 Old Livingston Rd.

Naples, FL 34109

Tel: 239-514-4484; Fax: 239-514-4484

May 20, 2011

Mr. Randy Long
Evans Oil Company LLC/RML, LLC
3170 S. Horseshoe Drive
Naples, FL 34104

In re: **Financing Request for a Chapter 11 Debtor-In-Possession Term Loan in the maximum principal amount of \$1,000,000 (Including Fees, Costs and Expenses to be Paid) to be provided by Naples Lending Group, LC to Evans Oil Company LLC, Case 9:11-bk-01515-FTM, and RML, LLC, Case 9:11-bk-1524-FTM (the "Bankruptcy Case").**

Gentlemen:

In reference to the above-captioned matter, the undersigned is pleased to provide this non-assignable commitment (this "Commitment") to Evans Oil LLC, and RML, LLC, for a debtor-in-possession term loan (the "Loan") upon the terms and conditions described below.

LENDER: **Naples Lending Group, LC, a Florida limited liability company, and/or its participants("Lender").**

BORROWER: **Evans Oil Company LLC, and RML, LLC, each a Florida limited liability Company, jointly and severally (together, "Borrower"), debtors and debtors-in-possession in the above referenced Bankruptcy Case.**

AMOUNT OF

LOAN/ADVANCES: The maximum aggregate principal amount of the Loan shall be **\$1,000,000** which amount includes the Interest Reserve (defined below), the Commitment Fee (defined below), Monitoring Fee (defined below), and the Closing Costs (defined below) which, together with any other fees or costs as provided herein and/or in the Loan Documents (defined below), shall collectively be referred to as the "Maximum Loan Amount", which sum shall be loaned as follows:

A. Upon entry of an order of the Bankruptcy Court issued in the Bankruptcy Case satisfying the requirements of this Commitment and granting the liens and other rights described herein, unless such order has been appealed, modified, stayed, vacated or reversed (the "Final Order"), and upon satisfaction of all conditions and requirements of this Commitment and of the Loan Documents to be approved by the Bankruptcy Court and executed by the Borrower (see below), the Lender will make the Loan in the maximum aggregate principal amount of **\$1,000,000**, the Loan to include the Interest Reserve Account (defined below), the Commitment/Legal Fee (defined below), the Closing Costs (defined below), the Monitoring Fee (defined below), together with any other costs as advances provided herein and/or in the Loan Documents. Said funding may be provided in one or more disbursements, pursuant to the Budget upon written request of Borrower, within five (5) business days after receipt of such written request of Borrower, not more frequently than once per calendar month, with each disbursement in an amount of not less than \$50,000. Except as otherwise provided herein, in the Lender's discretion, in no case shall the Lender be required to advance more than the Maximum Loan Amount. Interest shall accrue on funds advanced to borrower as of the date of transfer of funds.

B. In addition, Lender may make advances on the Loan, in Lender's discretion and without further order of the Bankruptcy Court, to pay Lender's costs and expenses incurred both in connection with closing of the Final Advance and in connection with the Bankruptcy Case (in each case including, but not limited to, reasonable fees, and costs of the Lender's counsel) and protection of Lender's collateral, which advances may collectively result in a sum in excess of the Maximum Loan Amount of **\$1,000,000** and shall become part of the principal amount of the Loan.

TERM: The maturity date of the Loan shall be the date which is six (6) months after the date of the initial funding (the "Maturity Date").

PREPAYMENT: Borrower may prepay all or any part of the Loan at any time and from time to time without being subject to penalty. In the event of a

prepayment, the Application Fee, Commitment Fee, the Closing Costs, Monitoring Fees, or other costs paid pursuant to the terms hereof and in the Loan Documents shall be deemed earned, not to be refunded under any circumstances.

USE

OF PROCEEDS:

Loan proceeds shall be used by Borrower in accordance with the budget(TBD) and in substantially the same form as that which is attached hereto as Exhibit A (the "Budget"), which Budget may be modified as approved by Lender on or before the date of the hearing before the Bankruptcy Court for approval of this Commitment and the Loan.

INTEREST/

INTEREST RESERVE:

A. The interest rate shall be seven and three quarters percent (7.75%) per annum (hereafter the "Contract Rate").

B. Monthly payments of interest only on the unpaid principal balance shall be due on the first day of each month for the prior month's interest until the Maturity Date of the Loan, at which time the entire balance of principal and accrued unpaid interest thereon together with any costs and expenses then owing, shall be due and payable in full. To the extent of the balance therein, monthly payments of interest shall be made from funds set aside in an Escrow Account (the "Escrow Account") and reserved for the payment of interest from the date of Closing through the Maturity Date (the "Interest Reserve"), provided, however, that nothing herein shall relieve the Borrower of the absolute obligation to pay interest and other amounts due in connection with the Loan.

C. Monthly payments will be computed on a 30-day month and a 360-day year, unless such computation results in the effective interest rate of the Loan exceeding the maximum rate of interest allowable under applicable state and federal law. It is hereby understood and agreed upon by and between the Borrower and Lender that the Lender does not intend, under any circumstances, to charge, collect, assess or receive interest, at an effective rate, in excess of the maximum rate allowable under applicable state and federal law. If the effective interest rate does exceed the maximum rate allowable by applicable state or federal law, the Borrower and Lender intend to and hereby agree to reduce the effective interest rate to the maximum rate allowable by applicable state or federal law.

D. Upon occurrence of an event of default, interest shall accrue to the Lender at the lower of the sum of the Contract Rate and an additional sixteen and one quarter percent (16.25%) for a total default rate of

twenty four percent (24.00%) or the maximum effective interest rate allowable under applicable state or federal law on all amounts then outstanding from the date of default ("Default Rate"). Without limiting the generality of the foregoing, payments made more than five (5) business days past their due date shall be deemed to be in default and shall be assessed at the Default Rate. If the Default Rate's effective interest rate exceeds the maximum rate allowable by applicable state or federal law, the Borrower and Lender intend to and hereby agree to reduce the Default Rate's effective interest rate to the maximum rate allowable by state or federal law. Furthermore, nothing herein shall relieve the Borrower of the absolute obligation to pay interest and other amounts due in connection with the Loan.

MONITORING FEE: Lender's out-of-pocket costs associated with the post-approval administration and monitoring of the Loan and the Debtor's compliance with the terms of the Loan Documents shall be assessed to the Borrower at the hourly rate of \$375 (the "Monitoring Fee"). Said Monitoring Fee shall be advanced by the Lender in accordance with the Loan Documents in this Commitment and shall automatically become part of the principal balance of the Loan.

**COLLATERAL/
OTHER RIGHTS:**

A. The Loan shall be secured by a first priority lien on twenty-nine (29) unencumbered vehicles and twelve (12) vehicles subject to prepetition security interests, more particularly described under "Exhibit B-1, and B-2" attached hereto (the "Collateral").

The priming mortgage liens and security interests in favor of Lender shall be senior to any and all other liens pertaining to said Collateral pursuant to 11 U.S.C. §§ 364 (d) and 364(c)(2). Lender's liens and security interests in the Collateral shall be senior to all other interests in the Collateral, if any, and related instruments, and any and all covenants, deed restrictions, equitable servitudes or other rights in such Collateral as may be acceptable to Lender, its counsel and the Title Company (defined below).

B. In addition, as a condition precedent to Lender's obligation to make the Loan and as a material inducement to the Lender, the Lender shall also receive a superpriority administrative expense in the Bankruptcy Case pursuant to 11 U.S.C. §§ 364(c)(1), 503(b) and 507(b), with priority over all other administrative expense claims in the Bankruptcy Case except fees payable to the Office of the United States

Trustee, and the Lender shall not be required, without its consent, to accept property other than cash in satisfaction of (a) its liens and security interests which encumber the Collateral as security for payment of the Loan and (b) the super-priority administrative expense claim, notwithstanding 11 U.S.C. § 1129 (a)(7) or (b)(2)(A) . The Borrower hereby agrees not to seek to modify, reduce, impair, alter, extinguish or otherwise change either the priming lien or superpriority administrative expense claims of the Lender pursuant to any provisions of Title 11 or other applicable law. None of the Lender's rights as set forth herein may be modified except with the express written consent of the Lender.

C. Lender's primary liens and security interests shall not be primed, surcharged, altered or impaired, marshaled or otherwise adversely affected in any way, whether requested by a creditor of the Borrower or any other party. No claim or expense shall have priority over, or be *pari pasu* with, Lender's rights in the Collateral. Except as provided in the immediately preceding paragraphs A and B, no administrative expense, and no claim allowed and payable under 11 U.S.C. §§ 330, 331, 503(b) 506(c), 507 or 726, shall have priority over, or be *pari pasu* with, the Lender with respect to any asset of the Borrower which constitutes either the Collateral pursuant to 11 U.S.C. §364(d) or with respect to the claims of the Lender pursuant to 11 U.S.C. §364(c)(1). In the event that (a) the loan is unpaid at maturity, or (b) upon termination of the automatic stay in accordance with this Commitment following an event of default, the Lender may sell the Collateral without further order of the Court. Borrower may sell some or all of the Collateral with Court approval, provided Lender consents, and (i) net sale proceeds from Collateral on Exhibit B-1 are paid to the Lender up to the amount lent by the Lender and outstanding, on such Collateral, determined on a pro rata basis, and (ii) net sale proceeds from Collateral on Exhibit B-2 are paid first to the Lender up to the amount lent by the Lender and outstanding, on such Collateral, determined on a pro rata basis, and next, to GECC up to the amount lent by and outstanding to GECC on such Collateral.

D. The Final Order authorizing the first priority liens and super-priority administrative expense claims in favor of the Lender and incorporating the terms and requirements of this Commitment, shall also contain both a finding by the Bankruptcy Court that the extension of credit and making of loans by Lender hereunder to Borrower is being made in good faith and, therefore, Lender shall be entitled to the full protections of 11 U.S.C. §364(e) and shall be made effective immediately without any stay of the effect of such Final Order so as to permit, in Lender's sole discretion, immediate funding within the provisions and protections of 11 U.S.C. §364(e).

COVENANTS:

In addition to all standard covenants required by the Lender in debtor-in-possession loans made under like circumstances, including all standard commercially appropriate terms in the Lender's absolute discretion, the Lender will require that:

A. Borrower shall: (a) own the Collateral, (b) disburse funds for the payment of expenses only as set forth in the Budget, (c) comply with all provisions of the Final Order, this Commitment and the Loan Documents, (d) Maintain full automotive insurance coverage on pledged collateral, (e) present to the Lender such additional instruments as may be required for endorsements such Insurance Policy as Lender may require insuring that all advances of the Loan retain the lien priority described herein and that the Lender's liens have priority over mechanic's lien claims or unpaid Notices to Owner applicable to the Collateral as provided by the Final Order or any such mechanic's lien claims or unpaid Notices to Owner are not excepted from the applicable Title Insurance Policy referred to above, and (f) notify Lender in writing of any material adverse change in the Collateral, the financial condition of the Borrower or the financial viability or performance of the Collateral.

B. Borrower shall supply to Lender: (A) on or before the 15th day of each month during the term of the Loan, with respect to the prior month a receipts and disbursements statement relating to the operation of the Collateral including the use of Loan proceeds; (B) Lender shall supply to Borrower on or before the 15th day of each month during the term of the Loan, with respect to the prior month a schedule reflecting both all available Loan proceeds, not yet disbursed, and all outstanding costs; (C) within three (3) days after Borrower receives a copy of the same, copies of any and all appraisals of any of the Borrower's property and/or equipment; and (D) At Lender's written request all information reasonably necessary for Lender to monitor its Loan to Borrower.

C. So long as any portion of the Loan remains outstanding, the Borrower shall not seek or permit, and shall actively object to the request for entry of, (i) an order dismissing or converting the Bankruptcy Case or appointing a Chapter 11 trustee or (ii) any order which authorizes under any section of the Bankruptcy Code the granting of any lien or security interest in any Collateral in favor of any party other than Lender or the obtaining of any credit or the incurring of any indebtedness that is entitled to superpriority administrative status equal to or superior to that granted to Lender.

**DEFAULT/
REMEDIES:**

A. The Loan Documents shall contain events of default and remedies customarily required by Lender in its absolute discretion in transactions such as the Loan.

B. In addition to other rights and remedies available under the Loan Documents or applicable law, upon occurrence of an event of default:

i) Lender, if it seeks to exercise its rights and remedies under the Loan Documents with respect to the default, shall provide written notice (the "Written Notice") to the Borrower, the Borrower's counsel of record in the Bankruptcy Case, the United States Trustee, all entities scheduled by the Borrower as secured creditors of the Borrower in the Bankruptcy Case, and counsel (if any) for any official committee of unsecured creditors, and shall file an affidavit with the Bankruptcy Court specifying the default. The Written Notice may be any written document providing notice of default, including but not limited to the affidavit filed with the Bankruptcy Court.

ii) Any party entitled to the Written Notice shall have five (5) business days from the receipt of the Written Notice in which to cure the default or file a controverting affidavit with respect to the default.

iii) If the default is not cured within the prescribed five (5) business day period, Lender may file an emergency motion for relief from the automatic stay, and "Borrower consents to the Bankruptcy Court setting an expedited hearing on not more 48 hours notice" to determine whether Lender shall be granted relief from the automatic stay to foreclose on its liens or take any other action available to Lender under the Loan Documents and applicable law. At the hearing the Borrower may only contest the Lender's declaration of the default and may not assert any other or additional defenses.

C. The entire principal balance of the Loan, plus all accrued and unpaid interest (including interest at the Default Rate, from the date of the actual default notwithstanding the date the Written Notice is provided to the Borrower), fees and costs, through the date of payment, shall, automatically become due and payable upon (i) the failure to cure any default as is set forth above, (ii) the confirmation of any plan of reorganization in the Bankruptcy Case unless the plan proposes to treat Lender's claims in the same manner as provided in this Commitment and the Loan Documents, or such other treatment as the Lender, in its sole and absolute discretion, may agree in writing, (iii) conversion of the Bankruptcy Case to a case under Chapter 7, (iv) appointment of a Chapter

11 trustee or examiner with expanded powers unless the Lender consents to such an appointment, (v) dismissal of the Bankruptcy Case, (vi) entry of an order granting relief from stay to any party with regard to any interest in the Collateral, (vii) entry of an order approving the transfer of any of the Collateral, or the actual transfer of any of the Collateral either voluntarily or by operation of law, to a party other than Lender and other than in the ordinary course of business, (viii) any order which authorizes under any section of the Bankruptcy Code the granting of any lien or security interest in any Collateral in favor of any party other than Lender or the obtaining of any credit or the incurring of any indebtedness that is entitled to superpriority administrative status equal to or superior to that granted to Lender, or (ix) the institution of any foreclosure action with respect to any interest in real property of the estate of Borrower.

CONDITIONS:

Lender's obligations to close the Loan shall be expressly subject to the following conditions precedent:

A. On or before **May 25, 2011**, the Borrower shall have filed with the Bankruptcy Court a motion, in form and substance acceptable to Lender in its discretion, requesting (i) approval of the Loan as described herein and (ii) authority to grant the Lender the lien priorities described herein with respect to the Collateral (the "Motion"). A copy of this Commitment shall be attached to the Motion as filed and served on all parties in interest required to be so served. The Motion shall have been served on all creditors of the Borrower, all lien holders of record with respect to the Borrower, if applicable, all parties with whom the Borrower has an executory contract with respect to or any of the Collateral.

B. The Bankruptcy Court shall have entered the Final Order approving this Loan under the terms set forth in this Commitment, finding that the Borrower is the owner of the Collateral and the documentation for the same, which Final Order shall have a copy of this Commitment attached thereto and incorporated in its entirety by reference, and shall be in form and substance acceptable to Lender in its sole discretion, unless such Final Order shall have been appealed, modified, stayed, vacated, or reversed.

C. On or before **ten (10) days following the filing of the Motion with the Bankruptcy Court for approval of the Loan**, or as soon thereafter as the Bankruptcy Court will consider the matter after Borrower has asked for expedited consideration, Borrower shall have (i) obtained an order of the Bankruptcy Court approving the Loan, in form and content

consistent, in Lender's sole and absolute discretion, with the terms of this Commitment, and (ii) the Borrower shall have executed a definitive loan agreement, notes, security agreements, and other documentation and customary certificates, consistent with the terms set forth herein and otherwise in form satisfactory to Lender and its counsel, unless any such conditions are waived in Lender's sole and absolute discretion. The Final Order of the Bankruptcy Court approving such documents shall not have been appealed, stayed, modified or amended, and shall be in form and substance acceptable to Lender, and shall be made effective immediately without any stay of the effect of such Final Order so as to permit, in Lender's sole discretion, immediate funding within the provisions and protections of 11 U.S.C. §364.

All of the foregoing loan agreements, notes, escrow agreements, security agreements, other documentation and customary certificates, and this Commitment, shall be referred to herein, collectively, as the "Loan Documents." Each of the Loan Documents shall be in form and substance satisfactory to the Lender and Lender's counsel in their sole discretion.

D. The Borrower shall have complied with all of the terms of this Commitment, the Final Order, and the Loan Documents and there shall exist no event of default or set of circumstances which given the expiration of time or the giving of notice would give rise to an event of default under the Loan Documents.

E. All parties claiming liens in the Collateral and all creditors of the Borrower, with respect to the business, if applicable, all parties with whom the Borrower has an executory contract with respect to the Collateral and all entities who have filed a Notice to Owner with reference to the Collateral shall have received notice of the Motion and the hearing thereon, and (a) all such parties shall have consented to, or shall not have objected to, the Loan and entry of the Final Order of the Bankruptcy Court approving the Loan, or (b) any objections of parties in interest shall have been specifically overruled in their entirety in the Final Order of the Bankruptcy Court approving the Loan.

F. The Maximum Loan Amount shall not exceed fifty-percent (50.00%) of the orderly liquidation value of the collateral as determined by the lender in its sole and absolute discretion.

G. This Commitment is subject to and conditioned upon the accuracy

of all information, representations, exhibits and other materials submitted with or in support of the Loan request and there must be no adverse change in the condition, business or prospects of the material of the Borrower prior to the disbursements of funds or during the term of the Loan.

H. Borrower shall demonstrate the capability based upon its business plan, in the sole and absolute discretion of the Lender, of repaying the Loan on the Maturity Date.

I. Notwithstanding any of the forgoing conditions, upon (a) entry of the Final Order on an interim bases, and (b) receipt of the \$15,000 Application Fee and \$5,000 Legal Fee, Lender shall fund \$500,000. Lender shall not be required to fund any additional advances to Borrower until Lender has had the opportunity to properly assess the value of the Collateral. If in the Lenders sole discretion it's determined that the orderly liquidation value of the collateral doesn't meet the Lenders requirements the funding of additional advances relating to the Maximum Loan Amount will not be required by the Lender.

J. Lender, in its discretion, may waive any one or more of the above-described conditions, but no such waiver shall be effective against Lender unless in writing and signed by an authorized representative of Lender.

FEES & COSTS:

A. At the funding of the initial advance of the Loan, from the proceeds of such advance, Borrower shall pay to Lender a commitment fee calculated as two percent (2.00%) of the Maximum Loan Amount (the "Commitment Fee"), payable on a pro-rata bases due and earned at the time any advance is funded. Following entry of the Final Order. Borrower shall pay (a) all of Lender's reasonable costs and expenses related to the Loan or to the Bankruptcy Case (including Lender's reasonable travel and lodging expenses) and out-of-pocket expenses, and the fees and expenses of Lender's counsel, all accrued as of such closing (which shall automatically become part of the Loan), (b) all recording costs (including intangible taxes) for filing the recordable Loan Documents, and (c) the cost related to noting liens on certificates of title, with all of such costs under (a)-(c) being collectively referred to as the "Closing Costs".

B. In addition, the Borrower shall pay to Lender the reasonable fees and expenses (including reasonable travel expenses, if any) of Lender's counsel, arising subsequent to closing in connection with this transaction

and the representation of Lender in the Bankruptcy Case, which such reasonable fees and expenses shall be deemed a part of the Loan secured by the Collateral. The reasonable legal fees of Lender's counsel shall be calculated on a time-spent basis, based upon the standard hourly rates of Lender's counsel generally charged to clients of that firm for similar matters and shall be paid from proceeds of the Loan.

C. Borrower agrees that the Loan shall be without cost to Lender. Borrower assumes liability for and will pay all costs and expenses required to satisfy the conditions hereof and the making of the Loan as provided hereunder (including the costs of appraisals). Such costs and expenses shall be paid as provided hereunder, or upon demand if the Loan does not close by final order or if this Commitment is terminated.

D. Lender's out-of-pocket costs associated with the post-approval administration and monitoring of the Loan and the Debtor's compliance with the terms of the Loan Documents shall be assessed to the Borrower according to the section herein entitled Monitoring Fee.

**ACCEPTANCE OF
COMMITMENT:**

Upon acceptance and execution of this Commitment by Borrower, Borrower shall cause to be paid to Lender from funds other than those of Borrower a loan application fee in the amount of \$15,000 (the "Application Fee"). The Application Fee shall include and be applied toward payment of Lender's out-of-pocket due diligence and inspection costs, including, but not limited to, any expenses incurred by Lender, and Lender's travel, lodging and other out-of-pocket expenses, (if any) incurred through to the date of approval of the Loan by the Bankruptcy Court. The Application Fee shall be earned upon receipt. Lender's out-of-pocket costs associated with the post-approval administration and monitoring of the Loan and the Borrower's compliance with the terms of the Loan Documents shall be due and payable as described under the Section entitled "Monitoring Fee."

If this Commitment is not terminated by Lender under subparagraph A. of the section hereof entitled CONDITIONS, and upon entry of the Final Order approving the Loan, subject to the terms of this Commitment, a stand-by commitment loan fee in the amount of two percent (2.00%) of the Maximum Loan Amount ("Stand-by Fee") shall be earned by the Lender as follows:

The Stand-by Fee shall be deemed earned by the Lender if, after entry of the Final Order approving the Loan, any of the following events occur: (i) the Borrower elects to not enter into the Loan under this Commitment

for any reason, (ii) the Bankruptcy Court authorizes the Borrower to obtain financing from an existing creditor or other third party lender in lieu of Lender and the financing is provided by such existing creditor or other third party lender, or (iii) the Borrower fails to satisfy any of the material Conditions contained in this Commitment (each of the foregoing being defined as a "Triggering Event"). Upon the occurrence of a Triggering Event, the Lender shall have an allowed administrative expense claim in the Bankruptcy Case for the amount of the Stand-by-Fee, and the Lender and the Borrower shall be relieved of any further obligation under this Commitment; provided, however, that in the event the Borrower obtains financing from another lender, creditor or third party, the Stand-by-Fee shall be paid in full, in cash, at the closing of such loan(s). If the Loan is not made by Lender as a result of Lender's election to not enter into the Loan, then the Stand-by Fee shall not be recorded as an administrative expense claim in the Bankruptcy Case and the Lender shall receive no other compensation for its services (other than the Application Fee and the Legal Fee Deposit), and the Lender shall then have no further obligation to the Borrower under this Commitment.

**LEGAL FEE
DEPOSIT:**

Upon acceptance and execution of this Commitment by Borrower, Borrower shall cause to be paid to Lender's counsel a \$5,000 legal fee deposit (the "Legal Fee Deposit") to be paid to Lender's attorney simultaneously with Borrower's execution of this Commitment. The Legal Fee Deposit, which shall not be construed as a cap, and will be available to Lender's attorney to be used to defray costs and attorneys' fees associated with closing the Loan. To the extent that the Legal Fee Deposit is insufficient, any remaining amount due shall be disbursed to Lender or its counsel as a Closing Cost, at the closing of the Loan.

This letter will become a commitment once signed by all and subject only to Bankruptcy Court approval permitting borrower to pay the \$15,000 Application Fee and \$5,000 Legal Fee Deposit. This offer by Lender will expire, **May 26, 2011 @ 5:00 PM, Eastern Daylight Savings Time, time being of the essence**. Lender shall have no obligation with respect to the Loan unless and until this commitment letter is fully executed and received by Lender together with the Application Fee and Legal Fee Deposit, and if the Commitment is not terminated under subparagraph A. of the section hereof entitled CONDITIONS. Said \$15,000 Application Fee and \$5,000 Legal Fee Deposit shall be paid in accordance with the wire instructions under Exhibit C.

CLOSING: The closing of the Loan shall take place as soon as practical after satisfaction of the conditions contained herein, including without limitation, entry of the Final Order. Each successive disbursement on the Loan shall take place upon satisfaction of the conditions contained herein.

USURY: This Commitment is subject to the express condition that at no time shall the Borrower be obligated or required to pay interest at a rate which could subject Lender or its assignees to either civil or criminal liability as a result of being in excess of the maximum rate which the Borrower is permitted by law to contract or agree to pay. If by the terms of this Commitment or the note evidencing the Loan, the Borrower is at any time required or obligated to pay interest at a rate in excess of such maximum rate, the rate of interest hereunder and/or under the note shall be deemed to be immediately reduced to such maximum rate and interest payable shall be computed at such maximum rate and the portion of all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of principal balance or, if the Loan has not closed shall be void, and if Lender deems it a hardship to close the Loan under usury statutes, all fees paid to Lender shall be refunded and this Commitment shall be null and void.

It is also hereby understood and agreed upon by and between the Borrower and Lender that the Lender does not intend, under any circumstances, to charge, collect, assess or receive interest, at an effective rate, in excess of the maximum rate allowable under applicable state and federal law. If the effective interest rate does exceed the maximum rate allowable by applicable state or federal law, the Borrower and Lender intend to and hereby agree to reduce the effective interest rate to the maximum rate allowable by applicable state or federal law.

It is further understood and agreed upon by and between the Borrower and Lender that the Lender does not intend, under any circumstances, to charge, collect, assess or receive interest, at the Default Rate's effective rate, in excess of the maximum rate allowable under applicable state and federal law. If the Default Rate's effective interest rate exceeds the maximum rate allowable by applicable state or federal law, the Borrower and Lender intend to and hereby agree to reduce the Default Rate's effective interest rate to the maximum rate allowable by applicable state or federal law.

CONFIDENTIALITY: This Commitment is confidential. Until such time as the Commitment has been executed by both the Borrower and the Lender, the Borrower shall

not disclose the terms of this Commitment to any third party other than its officers, directors, professionals and advisors, unless otherwise required by Bankruptcy Court order following a hearing on notice to the Lender. This provision shall survive the termination of this Commitment.

**SURVIVAL OF
COMMITMENT:**

A copy of this Commitment shall be attached to, and incorporated into, each and every order entered by the Bankruptcy Court with regard to the Loan. To the extent not inconsistent with the other Loan Documents, this Commitment and all of the terms and conditions contained herein shall survive the closing of the Loan and shall remain binding on the Borrower and Lender as part of the Loan Documents, provided, however, that if there should exist any disagreement between the terms of this Commitment and the terms of any of the other Loan Documents, the terms of the Loan Documents shall control.

**EXECUTION AND
RELIANCE ON
COUNSEL:**

This Commitment may be executed in counterparts which, taken together, shall constitute one original. This Commitment is for the benefit of the Borrower only and may not be assigned except upon the prior written consent of Lender, which consent may be withheld for any reason or for no reason. No party other than the Borrower or a consented to assignee may rely upon the terms and conditions of this Commitment. This Commitment is executed by an individual strictly in his capacity as a representative of the Lender. By acceptance of this Commitment, Borrower agrees that no representative, member, partner, shareholder, employee or agent of the Lender shall be personally liable for the payment of any claim or performance of any obligations hereunder. This Commitment will be governed by and construed in accordance with the laws of the State of Florida and of the United States, without regard to the principles of conflicts of laws thereof. **The Borrower had the benefit of advice of counsel in connection with the execution of this Commitment and the Loan contemplated hereby. This document has been negotiated at arm's length and in good faith between the Lender and the Borrower.**

NON WAIVER:

No failure or delay on the part of Lender to exercise any rights under the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise by Lender of any right under the Loan Documents preclude any further exercise thereof, or the exercise of any other right. Each and every right or remedy granted under the Loan Documents or under any document delivered thereunder or in connection therewith or

allowed to Lender in law or equity shall be deemed cumulative and may be exercised from time to time.

OTHER:

Borrower has represented to the Lender that it intends to use a portion of the proceeds of the Loan for the operation of the business, prior to the Borrower submitting a plan of reorganization ("Plan") for its emergence from bankruptcy. Lender has relied upon this representation in extending this Commitment. The Final Order authorizing the Loan shall expressly provide that the Bankruptcy Court shall retain the fullest jurisdiction over both this Loan and the Borrower until such time as the Loan is irrevocably repaid to the Lender, in full, in cash. The Plan shall not modify, alter or impair the liens and claims of the Lender. The Final Order shall also contain such waivers as Lender shall require entitling the Lender to immediately foreclose and otherwise enforce rights against the Borrower and the Collateral should the Borrower, either voluntarily or involuntarily, be subject of a subsequent case or proceeding under title 11 of the United States Code, or otherwise default under the Loan or Loan Documents.

As referenced in this Commitment, funding of the Loan is dependent upon, among other things, satisfactory negotiation of loan documentation between the Borrower and the Lender. The foregoing letter simply sets forth general terms and conditions upon which the Lender would be willing to make the Loan described herein. **This Commitment is not, in and of itself, a document that guarantees funding by the Lender to the Borrower in the amounts set forth herein. Only final loan documentation and satisfaction of the conditions including but not limited to the final order will obligate the Lender to fund the Loan.** Any material deterioration of the financial condition of the Borrower or the condition of the Collateral between the execution of this Commitment and the closing of the Loan will relieve the Lender of any obligation on the part of the Lender to fund the Loan.

If you find this Commitment to your satisfaction, please execute a copy of this document in the space provided herein below and return the same to the undersigned. Please have the manager of the Borrower execute this Commitment to the Lender, upon the terms and conditions contained in this Commitment.

[Signature Page to Follow]

We appreciate this opportunity to respond to your financing requirements. If you have questions regarding this letter, please call the NLG Office at (239) 514-4484.

Very truly yours,

Naples Lending Group, LLC,
a Florida limited liability company

By: ITG Investor Group II, Inc., *it's*
Managing Member

By: Dan Carter, *it's President and CEO*

AGREED AND ACCEPTED

Evans Oil Company LLC, and RML, LLC,
each a Florida limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A

Budget(TBD)

EXHIBIT B

COLLATERAL DESCRIPTION

Collateral: The Collateral for the Loan shall include the following:

- (a) The personal property of Evans Oil Company, LLC, and RML, LLC more particularly described on Exhibit B-1 and B-2 attached hereto (the "Collateral"), together with all of the owner's right, title, interest.
- (b) Any and all improvements of any kind or nature associated with collateral
- (c) All Parts, fixtures, materials, supplies, equipment, systems, and apparatus, now or hereafter attached to, installed in, or used in connection with (temporarily or permanently) any of the automotive collateral or its improvements, including motors, engines, transmissions, etc.
- (d) Any and all other rights of the owner (i) to utilize and/or operate th in the commercial and/or industrial sector, as the case may be; (ii) in any financing arrangements relating to the financing of or the purchase of all or any portion of the automotive collateral by future purchasers; and (iii) in all other contracts which in any way relate to the use, enjoyment, occupancy, operation, maintenance, repair, management or ownership of the automotive collateral.

EXHIBIT B-1 Unencumbered Vehicles

EXHIBIT B-1 to DIP Financing Order				Page 1 of 2		
UNENCUMBERED VEHICLES						
					<u>Trailers</u>	
	1	2002	LBT		205	4J8T042222T001503
	1	2005	POLAR		206	1PMA2442555004164
	1	2003	POLAR		209	1PMA2442735003627
	1	2005	POLAR		211	1PMA2442865004645
	1	2005	LBT		212	4J8T042275T003803
	1	2005	POLAR		214	1PMA2442455004365
	1	2002	HEIL		215	5HTAM442627H65959
	1	2005	POLAR		216	1PMA2442365004634
	1	2006	POLAR		217	1PMA2442065005045
	1	2003	POLAR		218	1PMA2442335003592
	1	2005	POLAR		219	1PMA2442955004541
	1	2004	LBT		220	4J8T0422X4T008301

EXHIBIT B-1 to DIP Financing Order				Page 2 of 2		
					<u>Tankwagons</u>	
	1	2006	PETERBILT	357	104	1NPALT0X27N661982
	1	2006	PETERBILT	335	105	2NPLHD7X16M644496
	1	2006	PETERBILT	357	121	1NPALT0X36N643375
					<u>Box Trucks</u>	
	1	2005	PETERBILT	335	407	2NPLHD7X45M891056
					<u>Pick-up trucks</u>	
	1	2007	Ford	Explorer	502	1FMEU74E07UB51587
	1	2009	Ford	F-150	503	1FTPW14V99FA57767
	1	2009	Ford	F-150	504	1FTPW14VX9FA76537

EXHIBIT B-2 to DIP Financing Order - Pre-petition Collateral						
ENCUMBERED VEHICLES						
(GL Acct)	Lender	Year	Make	Model	Truck	Vin #
2295	GE	2007	PETERBILT	357	109	1NPALT0X27N667040
2299	GE	2007	PETERBILT	357	102	1NPALT0X47N667041
2406	GE	2007	PETERBILT	357	122	1NPALT0X67N667042
2407	GE	2007	PETERBILT	357	123	1NPALT0X87N667043
2410	GE	2007	PETERBILT	385	305	1XPGDU9X17N692307
2412	GE	2007	PETERBILT	385	321	1XPGDU9XX7N692306
2433-1	GE	2008	PETERBILT	335	406	2NPLHM6X98M746889
2433-2	GE	2007	PETERBILT	335	404	2NPLHM6X58M746890
2437	GE	2008	PETERBILT	365	108	1NPSL00X98D742911
2438	GE	2008	PETERBILT	365	111	1NPSL00X08D742912
2439	GE	2008	PETERBILT	365	106	1NPSL00X48D742914
2441	GE	2008	POLAR	TANKER TRAILER	207	1PMA2442585007652