

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
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LEAR CORPORATION, et al., : Case No. 09-14326 (ALG)
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Debtors. : Jointly Administered
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**INTERIM ORDER (I) AUTHORIZING THE USE OF
LENDERS' CASH COLLATERAL AND (II) GRANTING ADEQUATE PROTECTION
PURSUANT TO 11 U.S.C. §§ 361 AND 363**

Upon the motion (the "Motion"),¹ dated as of July 7, 2009, of Lear Corporation ("Lear") and certain of its direct and indirect subsidiaries, the above-captioned debtors (each a "Debtor" and collectively, the "Debtors"), (a) seeking this Court's authorization, pursuant to Section 363(c) of Title 11, United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code"), to use the Cash Collateral (as defined below) and, pursuant to Sections 361 and 363 of the Bankruptcy Code, to provide adequate protection to the Lenders (as defined below) with respect to any diminution in the value of the Lenders' interests in the Prepetition Collateral (as defined below), including for the use of the Cash Collateral, the use, sale, lease, depreciation, or other diminution in value of the Prepetition Collateral other than the Cash Collateral, or the imposition of the automatic stay pursuant to Section 362(a) of the Bankruptcy Code; and (b) seeking a preliminary hearing (the "Preliminary Hearing") on the Motion to consider entry of an interim order pursuant to Bankruptcy Rule 4001(b) (this "Order")

¹ To the extent capitalized terms are not defined herein, they shall have the meaning ascribed to them in the Motion.



authorizing the Debtors to use the Lenders' Cash Collateral; and due and sufficient notice of the Motion and the Preliminary Hearing under the circumstances having been given; and the Preliminary Hearing on the Motion having been held before this Court on July 7, 2009; and upon the entire record made by the Debtors at the Preliminary Hearing, and this Court having found good and sufficient cause appearing therefor,

IT IS HEREBY STIPULATED AND AGREED BY AND AMONG THE DEBTORS, THE ADMINISTRATIVE AGENT AND THE LENDERS THAT:

A. On July 7, 2009 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York thereby commencing the above-captioned bankruptcy cases (collectively, these "Chapter 11 Cases"). The Debtors are continuing to operate their businesses and manage their properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and no statutory committee of unsecured creditors (a "Committee") has yet been established in these Chapter 11 Cases.

B. This Court has jurisdiction over these Chapter 11 Cases and the Motion pursuant to 28 U.S.C. § 157(b) and 1334. Consideration of this Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2).

C. Pursuant to the Amended and Restated Credit and Guarantee Agreement dated as of April 25, 2006 (as amended, supplemented or otherwise modified as of the Petition Date, the "Credit Agreement"), among Lear, Lear Canada, a general partnership organized under the laws of Ontario, Canada and a Debtor herein, certain of Lear's foreign subsidiaries party thereto, the several lenders party thereto (including as holders of secured swap obligations in connection with certain interest rate protection arrangements, collectively, the "Lenders"),

JPMorgan Chase Bank, N.A., as general administrative agent for the Lenders (in such capacity, the “Administrative Agent”), and the other agent banks party thereto, the Lenders made approximately \$2.3 billion of loans and other financial accommodations to or for the benefit of Lear and the other Debtors. In connection with the Credit Agreement, Lear and certain of the other Debtors (collectively, the “Debtor Loan Parties”) entered into certain collateral and ancillary documentation, and certain hedge arrangements with the Lenders (such documentation as of the Petition Date, together with the Credit Agreement, the “Loan Documents”). All such loans, financial accommodations and other amounts owing by Lear and the other Debtor Loan Parties to the Administrative Agent and the Lenders in connection with the Loan Documents are hereinafter referred to the “Prepetition Obligations”.

D. Without prejudice to the rights of any other party (but subject to the limitations thereon described below in decretal paragraph 16), the Debtors acknowledge and agree that, as of the Petition Date, Lear and the other applicable Debtor Loan Parties are truly and justly indebted to the Lenders and the Administrative Agent on account of the Prepetition Obligations as set forth in the Loan Documents, without defense, counterclaim or offset of any kind and are liable to the Lenders in respect of loans made by the Lenders to Lear pursuant to and to the extent set forth in the Credit Agreement and the other applicable Loan Documents in the aggregate principal amount of approximately \$2.177 billion, plus additional amounts in respect of termination payments under certain hedge agreements with Lenders or their affiliates (to the extent such hedge agreements are terminated) that are secured ratably with the other Prepetition Obligations, plus approximately \$73,200,000 on account of Lear’s reimbursement obligations with respect to letters of credit issued pursuant to the Credit Agreement which remained outstanding as of the Petition Date, plus additional amounts in respect to accrued but

unpaid interest and all other fees, costs, and expenses of the Lenders and the Administrative Agent, in each case payable pursuant to the terms of the Loan Documents.

E. Without prejudice to the rights of any other party (but subject to the limitations thereon described below in decretal paragraph 16), the Debtors acknowledge and agree that, pursuant to the Loan Documents, the Prepetition Obligations are secured (subject to the applicable limitation or secured amounts set forth in Section 17.24 of the Credit Agreement) by perfected, valid and enforceable first priority liens and security interests granted by Lear and the other applicable Debtor Loan Parties pursuant to and to the extent set forth in the applicable Loan Documents to the Administrative Agent for the ratable benefit of the Lenders, upon and in certain assets and property of the applicable Debtor Loan Parties, including without limitation, accounts, chattel paper, deposit accounts, documents, equipment, general intangibles, instruments, intellectual property, inventory, investment property, letter-of-credit rights, certain commercial tort claims, pledged capital stock and other pledged interests of certain subsidiaries and other tangible and intangible personal property and the proceeds thereof (including the setoff rights described in the Loan Documents and arising by operation of law, but in each case not including any “Excluded Property” (as defined in the Credit Agreement), collectively the “Prepetition Collateral”). Without prejudice to the rights of any other party (but subject to the limitations thereon described below in decretal paragraph 16), the Debtors acknowledge and agree that the Administrative Agent’s liens and security interests in the Prepetition Collateral have been properly filed or recorded, as applicable, so as to be perfected in accordance with applicable law. Without prejudice to the rights of any other party (but subject to the limitations thereon described below in decretal paragraph 16), the Debtors acknowledge and agree that certain cash on hand of the applicable Debtor Loan Parties and amounts generated by the

collection of accounts receivable, sale of inventory or other dispositions of the Prepetition Collateral constitute Prepetition Collateral as proceeds of the Prepetition Collateral and, therefore, is cash collateral of the Lenders within the meaning of Section 363(a) of the Bankruptcy Code (the “Cash Collateral”). The Administrative Agent does not consent to the use by the Debtors of the Prepetition Collateral, including the Cash Collateral, except on the terms of this Order (or other order that may be entered by the Bankruptcy Court with the Administrative Agent’s consent). In addition, the Lenders are entitled, pursuant to Sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of their interest in the Prepetition Collateral to the extent required under the Bankruptcy Code for the diminution in value, including for the use of the Cash Collateral, the use, sale, lease, depreciation, or other diminution in value of the Prepetition Collateral other than the Cash Collateral, and the imposition of the automatic stay.

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

THE COURT HEREBY FINDS that:

F. Good cause has been shown for the entry of this Order. The Debtors do not have sufficient available sources of working capital and financing to carry on the operation of their businesses without the use of the Cash Collateral. Among other things, entry of this Order will minimize disruption of the Debtors’ businesses and operations and permit them to make payroll and other operating expenses, maintain business relationships with their vendors and retain customer and vendor confidence by demonstrating an ability to maintain normal operations. The use of the Cash Collateral is therefore of the utmost significance and importance to the preservation and maintenance of the going concern value of the Debtors and their estates, and will enhance the prospects for a successful reorganization of the Debtors under Chapter 11

of the Bankruptcy Code. The Cash Collateral is sufficient, however, to fund the Debtors' business and these Chapter 11 Cases on an interim basis, pending entry of a DIP Financing Order (as defined below).

G. The Administrative Agent and the Debtors have negotiated at arms' length and in good faith regarding the Debtors' use of Cash Collateral to fund the administration of the Debtors' estates and continued operation of their businesses. The Administrative Agent and the Lenders have agreed to permit the Debtors to use their Cash Collateral for the period through the Termination Date (as defined below), all subject to the terms and conditions set forth herein, including the protection afforded a party acting in "good faith" pursuant to Section 363(m) of the Bankruptcy Code; provided, however that this Order and the terms, conditions, rights and remedies set forth herein shall, as applicable, be superseded by, made subject to or terminate upon entry of, an order by the Court substantially in the form attached to the Motion as Exhibit B approving the debtor in possession financing facility described in the Motion (a "DIP Financing Order").

H. The Debtors represent that notice of the Preliminary Hearing and the relief requested in the Motion has been given to (i) the Office of the United States Trustee for the Southern District of New York, (ii) the entities listed on the Consolidated List of Creditors Holding the 50 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d), (iii) counsel to the Administrative Agent, (iv) counsel to the Debtors' proposed postpetition secured lenders, (v) each trustee for each of the Debtors' notes, (vi) counsel to the ad hoc committee of the Debtors' unsecured noteholders, (vii) the Internal Revenue Service, and (viii) the Securities and Exchange Commission. Based on such representation, such notice of the Preliminary

Hearing was given in accordance with Sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b), and the local rules of this District.

I. Based on the record presented to the Court at the Preliminary Hearing, the terms of the Debtors' use of the Lenders' Cash Collateral appear to be fair and reasonable, and to reflect the Debtors' and their respective directors' exercise of prudent business judgment consistent with their fiduciary duties.

J. The Debtors have requested immediate entry of this Order pursuant to Bankruptcy Rule 4001(b)(2). The permission granted herein to use the Lenders' Cash Collateral is necessary to avoid immediate and irreparable harm to the Debtors. This Court concludes that entry of this Order is in the best interest of the Debtors' estate and creditors.

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

IT IS HEREBY ORDERED that:

1. The Motion is granted on an interim basis. The Debtors are hereby authorized to use the Cash Collateral during the period from the Petition Date through and including the Termination Date for working capital and general corporate purposes and costs and expenses related to these Chapter 11 Cases in accordance with the terms and conditions of this Order; provided that all uses of cash by the Debtors for the costs and expenses of administering these Cases shall be deemed to be first from cash that is not Cash Collateral and thereafter from Cash Collateral.

2. Except as otherwise provided herein, the Debtors shall maintain their pre-Petition Date cash management and accounts receivable collection system to the extent authorized by and subject to the terms of any order of this Court governing the Debtors' cash

management system. This Order does not address the disposition of any Prepetition Collateral outside the ordinary course of business or the Debtors' use of the Cash Collateral resulting therefrom.

3. (a) As adequate protection for, and to the extent of, any diminution in the value of the Lenders' interest in the Prepetition Collateral resulting from (x) the use of the Cash Collateral pursuant to Section 363(c) of the Bankruptcy Code, (y) the use, sale, lease, depreciation, or other diminution in value of the Prepetition Collateral (other than the Cash Collateral) pursuant to Section 363(c) of the Bankruptcy Code and (z) the imposition of the automatic stay pursuant to Section 362(a) of the Bankruptcy Code (the amount of any such diminution being referred to hereinafter as the "Adequate Protection Obligations"):

(i) the Administrative Agent and the Lenders are hereby granted (effective as of the Petition Date and without the necessity of the execution by the Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements or otherwise), valid and perfected, security interests in, and liens (the "Adequate Protection Liens") on all of the right, title and interest of the U.S. Debtors (the "Domestic Debtors") in, to and under all present and after-acquired property of the Domestic Debtors of any nature whatsoever including, without limitation, all cash contained in any account of the Domestic Debtors, and the proceeds of all causes of action, other than (a) causes of action (and proceeds thereof) arising under Sections 544, 545, 547, 548, 550 and 553 (collectively, the "Avoidance Actions") of the Bankruptcy Code and (b) 35% of the outstanding voting shares of each new or existing foreign subsidiary (collectively, with the proceeds and products of any and all of the foregoing, the "Postpetition Collateral"). Subject to the Carve Out (as defined below), said Adequate Protection Liens shall be (x) a first priority perfected lien upon all of the Postpetition Collateral that is not otherwise encumbered by a validly perfected, enforceable, non-avoidable security interest or lien on the Petition Date or a valid lien in existence on the Petition Date that is perfected subsequent to such date as permitted by Section 546(b) of the Bankruptcy Code, (y) a first priority, senior, priming and perfected lien upon (a) that portion of the Postpetition Collateral that is comprised of the Prepetition Collateral and (b) Postpetition Collateral subject to a lien that is junior to the liens securing the Prepetition Obligations and (z) a second priority, junior perfected lien upon all Postpetition Collateral (other than the portion described in the preceding clause (y)), which is subject to a validly perfected lien as of the Petition Date or a valid lien in existence on the Petition

Date that is perfected subsequent to such date as permitted by Section 546(b) of the Bankruptcy Code;

(ii) subject to the Carve Out and the terms of a DIP Financing Order, a claim against the Domestic Debtors that constitutes expenses of administration under Sections 503(b)(1), 507(a) and 507(b) of the Bankruptcy Code (the “507(b) Claims”) with priority in payment over any and all administrative expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code including, without limitation, Sections 105, 326, 328, 330, 331 and 726 of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtors, and any successor trustee or any creditor, in these Chapter 11 Cases or, to the extent permitted by applicable law, any subsequent proceedings under the Bankruptcy Code provided that the 507(b) Claims shall not be paid with the proceeds of Avoidance Actions. Subject to the Carve Out and the terms of a DIP Financing Order, no cost or expense of administration under Sections 105, 503(b) or 507(b) or otherwise, including those resulting from the conversion of these Chapter 11 Cases pursuant to Section 1112 of the Bankruptcy Code, shall be senior to, or *pari passu* with, the 507(b) Claims of the Lenders arising out of the Adequate Protection Obligations; and

(iii) the Domestic Debtors are authorized and directed, promptly following entry of this order, to pay as further adequate protection an amount equal to all accrued and unpaid fees and disbursements owing to the Administrative Agent and the Issuing Lender under the Loan Documents and incurred prior to the Petition Date but unpaid as of the Petition Date provided that no such fees shall be paid prior to the entry of a DIP Financing Order provided, further any such fees paid to the Issuing Lender shall not include any fees payable under section 9.5(e)(ii) of the Credit Agreement.

(b) As further adequate protection hereunder, the Debtors shall provide the following reporting to the Administrative Agent (the “Reporting Requirements”): no later than Tuesday of every calendar week, commencing July 14, 2009, a rolling 13-week cash flow projection of Lear and its subsidiaries in the form of the initial 13-week cash flow projection that has been mutually agreed upon by the Administrative Agent and the Debtors (each, a “Cash Flow Forecast”). The Administrative Agent shall have reasonable access, upon notice during normal business hours, to the Debtors’ business records and premises and to the Prepetition Collateral and the Postpetition Collateral to enable the Administrative Agent to (i) review, appraise, and evaluate the physical condition of the Prepetition Collateral or Postpetition

Collateral, (ii) inspect and review the financial records and all other records of the Debtors concerning the operation of the Debtors' business, and (iii) evaluate the Debtors' overall financial condition and all other records relating to the operations of the Debtors. The Debtors shall fully cooperate with the Administrative Agent regarding such reviews, evaluations, and inspections, and shall make members of their senior management and professionals reasonably available to the Administrative Agent and its professionals and consultants to conduct such reviews, evaluations and inspections, in each case subject to applicable confidentiality and privilege limitations. At its discretion, the Administrative Agent may request, and the Debtors agree to provide, periodic telephonic updates to the Administrative Agent and the Lenders concerning the operations, business affairs and financial condition of the Debtors, in each case subject to applicable confidentiality and privilege limitations.

(c) As additional adequate protection, the Domestic Debtors are authorized and directed, within 20 days of the submission of invoices therefor, to pay or reimburse all reasonable fees, costs and charges incurred by the Lenders and the Administrative Agent (including, without limitation, the administration fees payable to the Administrative Agent under the Credit Agreement and the reasonable fees and out-of-pocket disbursements of counsel and any financial advisors or other third-party consultants to the Administrative Agent), in each case, in connection with matters relating to the Credit Agreement, the Prepetition Obligations, the monitoring of these Chapter 11 Cases or the enforcement and protection of the rights and interests of the Administrative Agent and the Lenders in these Chapter 11 Cases. None of the fees, costs and expenses payable pursuant to this paragraph shall be subject to separate approval by this Court (but the Court shall resolve any dispute as to the reasonableness of any such fees, costs and expenses), and no recipient of any such payment shall be required to file any interim or

final fee application with respect thereto; provided that, copies of any such invoices, redacted as necessary to preserve the attorney-client privilege, shall be provided to counsel to the Committee and to the Office of the United States Trustee; provided, further, that no such fees shall be paid prior to the entry of a DIP Financing Order. Nothing contained herein shall be deemed to be a waiver by any party in interest of the right to object to the reasonableness of any fees, costs and charges incurred by the Lenders or the Administrative Agent.

(d) Under the circumstances and based upon the Lenders' consent or non-objection, the adequate protection provided herein is reasonable and sufficient to protect the interests of the Lenders. Notwithstanding any other provision hereof, the grant of adequate protection to the Administrative Agent and the Lenders pursuant hereto is without prejudice to the right of the Administrative Agent to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection and without prejudice to the right of the Debtors or any other party in interest to contest any such modification.

4. As used in this Order, "Carve Out" means shall mean the sum of (A) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code, (B) the costs of administrative expenses not to exceed \$50,000 in the aggregate that are permitted to be incurred by any Chapter 7 trustee pursuant to any order of this Court following any conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code; and (C) at any time after the first Business Day following delivery of a written notice delivered by the Administrative Agent to the Debtors, the United States Trustee, counsel for the Debtors and counsel for any statutory committee appointed in the Chapter 11 Cases stating that an Event of Default (as

defined below) has occurred and is continuing and that the Carve Out Cap (as defined below) is invoked, which notice may only be delivered following the occurrence and during the continuance of an Event of Default (a “Carve Out Trigger Notice”), to the extent allowed at any time, whether before or after delivery of a Carve Out Trigger Notice, whether by interim order, procedural order or otherwise, all unpaid fees, costs and expenses (collectively, the “Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to Section 327, 328 or 363 of the Bankruptcy Code and any official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to Section 1103 of the Bankruptcy Code (collectively, the “Professional Persons”), the payment of all Professional Fees incurred by the Professional Persons at any time after the first Business Day following delivery of a Carve Out Trigger Notice in an aggregate amount not exceeding \$15,000,000 (the “Carve Out Cap”) (plus all unpaid Professional Fees allowed at any time by the Bankruptcy Court, whether before or after delivery of a Carve Out Trigger Notice, whether by interim order, procedural order or otherwise, that were incurred by the Professional Persons on or prior to the first Business Day following the delivery of the Carve Out Trigger Notice), provided that (x) the Carve Out shall not be available to pay any such Professional Fees incurred in connection with the initiation or prosecution of any Avoidance Actions or the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation, in all cases to the extent against the Administrative Agent or the Lenders and (y) the Carve Out shall not be reduced by the payment of Professional Fees incurred prior to the first Business Day following delivery of a Carve Out Trigger Notice without regard to when such amounts are allowed by the Bankruptcy Court. Upon delivery of a Carve Out Trigger Notice or the commencement of a liquidation, the Debtors are directed to deposit an amount equal to the unpaid Professional Fees, including the Carve Out Cap, prior to making any

distributions to creditors in a segregated account solely for payment of Professional Fees that are within the Carve Out. Nothing herein shall be construed as a waiver of the right of the Administrative Agent or any Lender to object to the allowance of any Professional Fees and Disbursements.

5. Notwithstanding the foregoing, in no event shall the Cash Collateral or the Carve Out be used for the payment or reimbursement of any fees, expenses, costs, or disbursements of any of the professionals incurred in connection with the assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or contested matter, the purpose of which is to seek any order, judgment, determination, or similar relief (a) challenging the Prepetition Obligations, invalidating, setting aside, avoiding, or subordinating in whole or in part the Administrative Agent's liens and security interests granted pursuant to the Loan Documents or this Order, or asserting any other claims or causes of action against the Administrative Agent or the Lenders (but the Cash Collateral or the Carve Out may be used for the investigation in connection therewith, subject to a limitation of \$250,000), or (b) preventing, hindering or delaying, whether directly or indirectly, the Administrative Agent's enforcement or realization upon any Prepetition Collateral or Postpetition Collateral in accordance with the terms of this Order.

6. Except as expressly set forth in this Order, the Adequate Protection Liens shall not be (i) subject to any lien that is avoided and preserved for the benefit of the Debtors' estates under Section 551 of the Bankruptcy Code or (ii) subordinated to or made pari passu with any other lien under Sections 363 and 364 of the Bankruptcy Code. Subject to the Carve Out and the terms of a DIP Financing Order, the Adequate Protection Liens shall be prior and senior to all liens and encumbrances of all other secured creditors in and to such Postpetition Collateral

granted, or arising, after the Petition Date (including, without limitation, liens and security interests, if any, granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors). The Adequate Protection Liens granted pursuant to this Order shall constitute valid, enforceable and duly perfected security interests and liens, and the Administrative Agent and the Lenders shall not be required to file or serve financing statements, notices of lien or similar instruments which otherwise may be required under federal or state law in any jurisdiction, or take any action, including taking possession, to validate and perfect such security interests and liens; and the failure by the Debtors to execute any documentation relating to the Adequate Protection Liens shall in no way affect the validity, enforceability, perfection or priority of such Adequate Protection Liens. If, however, the Administrative Agent, in its sole discretion, shall determine to file any such financing statements, notices of lien or similar instruments, or to otherwise confirm perfection of such Adequate Protection Liens, the Debtors are directed to cooperate with and assist in such process, the stay imposed by Section 362(a) of the Bankruptcy Code is hereby lifted to allow the filing and recording of a certified copy of this Order or any such financing statements, notices of lien or similar instruments, and all such documents shall be deemed to have been filed or recorded at the time of and on the date of this Order.

7. The automatic stay under Section 362 of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit (a) the Debtors and the Administrative Agent to take all actions necessary to implement this Order, (b) all actions and transfers contemplated herein, and (c) consistent with the terms of this Order, following the Termination Date, to permit the Administrative Agent to pursue its rights and remedies as to the Prepetition

Collateral and Postpetition Collateral in accordance with the Loan Documents and applicable law.

8. The Debtors' right to use the Cash Collateral pursuant to this Order shall terminate (the date of any such termination, the "Termination Date") on the earliest to occur of (x) entry by this Court of a DIP Financing Order (which shall provide for the continued use of the Cash Collateral on the terms set forth therein), (y) sixty days after the Petition Date, with such date extendable by thirty additional days with the Administrative Agent's consent, such consent not be unreasonably withheld, or (z) five-business days following written notice to the Debtors after the occurrence and continuance of any of the following events ("Events of Default") beyond any applicable grace period:

- a. Failure of the Debtors to make any payment to the Administrative Agent or the Lenders as and when required by this Order or other failure to comply in any material respect with the terms of this Order and such failure shall continue unremedied for more than two business days after notice thereof;
- b. Failure of the Debtors to comply with the Reporting Requirements and such failure shall continue unremedied for more than three business days after notice thereof;
- c. Failure of the Debtors to comply with any other covenant or agreement specified in this Order (other than those described in clauses (a) and (b) above) and such failure shall continue unremedied for more than five business days after notice thereof;
- d. Any of these Chapter 11 Cases shall be dismissed or converted to a Chapter 7 Case; the Ontario Superior Court, Commercial List, shall fail to enter within five business days after the Petition Date an order in the cases of Canadian Debtors under section 18.6 of the Companies' Creditors Arrangement Act recognizing the commencement of these Chapter 11 Cases; or a Chapter 11 Trustee with plenary powers, a responsible officer, or an examiner with enlarged powers relating to the operation of the businesses of the Debtors (powers beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code) shall be appointed in any of these Chapter 11 Cases; provided that the appointment by the Court of a trustee or other fiduciary of any of the Debtors' estates for the limited purpose of investigating, commencing or prosecuting Avoidance Actions on behalf of such Debtor's estate shall not constitute a default under this subparagraph;

- e. An order shall be entered reversing, amending, supplementing, staying for a period in excess of three days, vacating or otherwise modifying this Order without the consent of the Administrative Agent;
- f. A pleading shall be filed by any of the Debtors seeking, or otherwise consenting to, any of the matters set forth in paragraphs (d) or (e) hereof;
- g. One or more judgments or decrees required to be satisfied as an administrative expense claim shall be entered after the Petition Date against any Debtor Loan Party involving in the aggregate a liability (excluding any amounts paid or covered by insurance as to which the relevant insurance company has not denied coverage) of \$10,000,000 or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof;
- h. Except in connection with entry of a DIP Financing Order, without the prior written consent of the Administrative Agent, the Debtors at any time during these Chapter 11 Cases grant (or seek authority from the Court to grant) liens in the Prepetition Collateral, the Postpetition Collateral or any portion thereof to any other parties pursuant to Section 364 of the Bankruptcy Code, which liens are senior or on a parity with the liens of the Administrative Agent or the Lenders, unless the terms and conditions of any order granting such liens expressly provide that any unpaid Adequate Protection Obligations are paid to the Lenders concurrently with the entry of any such order; and
- i. Except on the terms of this Order (other than in connection with a DIP Financing Order), the Debtors at any time: (i) use the Cash Collateral; (ii) use the Postpetition Collateral; or (iii) apply to any court for an order authorizing the use of the Cash Collateral or Postpetition Collateral.

The Debtors shall promptly provide notice to the Administrative Agent (with a copy to counsel for the Committee and the United States Trustee) of the occurrence of any Event of Default.

9. Following notice by the Administrative Agent of an Event of Default and prior to a Termination Date, the Debtors or any other party of interest, including the Committee, shall be entitled to seek an emergency hearing to be held within such five (5) business day period regarding, among other things, the continued use of Cash Collateral. Unless the Court enters an order authorizing the Debtors to continue their use of Cash Collateral at such hearing, the Termination Date shall occur. Upon Termination Date, (i) the Adequate Protection Obligations shall become immediately due and payable, (ii) the Administrative Agent and each Lender may

setoff amounts in any account of the Debtors maintained with the Administrative Agent or each Lender, respectively and (iii) the Administrative Agent and the Lenders may exercise the rights and remedies available under the Loan Documents, this Order or applicable law, including, without limitation, foreclosing upon and selling all or a portion of the Prepetition Collateral or Postpetition Collateral in order to collect the Adequate Protection Obligations. The automatic stay under Section 362 of the Bankruptcy Code is hereby deemed modified and vacated to the extent necessary to permit such actions. The actions described in clauses (ii) and (iii) above may be taken without further order of or application to the Court as the Administrative Agent or the Lenders shall, in their discretion, elect. The Administrative Agent and the Lenders shall be entitled to apply the payments or proceeds of the Prepetition Collateral in accordance with the provisions of the Loan Documents, and in no event shall the Administrative Agent or any of the Lenders be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition Collateral, Postpetition Collateral or otherwise.

Notwithstanding the occurrence of the Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Administrative Agent and the Lenders under this Order shall survive the Termination Date except to the extent the Termination Date arises under clause (x) of the definition thereof. Notwithstanding the foregoing, the Administrative Agent and the Lenders shall not exercise the rights and remedies described in this paragraph 9 should the Termination Date occur by reason of entry of a DIP Financing Order by this Court.

10. Subject to entry of a DIP Financing Order, the provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (a) confirming any plan of reorganization in these Chapter 11 Cases; (b) converting any of these Chapter 11 Cases to a Chapter 7 case; or (c) dismissing any of these Chapter 11 Cases. Subject

to entry of a DIP Financing Order, if an order dismissing these Chapter 11 Cases under Section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with Sections 105 and 349 of the Bankruptcy Code) that (a) the Adequate Protection Liens granted pursuant to this Order to the Administrative Agent and the Lenders shall continue in full force and effect, shall remain binding on all parties in interest notwithstanding such dismissal until the obligations secured thereby shall have been paid and satisfied in full and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the limited purposes of enforcing such Adequate Protection Liens.

11. Subject to entry of a DIP Financing Order, if any or all of the provisions of this Order are hereafter modified (which shall not occur without the prior written agreement of the Administrative Agent), vacated, or stayed, such modification, vacation or stay shall not affect (a) the validity of any obligation, indebtedness or liability incurred by the Debtors to the Administrative Agent or the Lenders before the effective date of such modification, vacation, or stay or (b) the validity or enforceability of the Adequate Protection Liens, or any priority or other protection authorized, created, or confirmed by this Order. Notwithstanding any such modification, vacation, or stay, any indebtedness, obligations, or liabilities incurred by the Debtors to the Administrative Agent or the Lenders before the effective date of such modification, vacation, or stay shall be governed in all respects by the original provisions of this Order, and the Administrative Agent and the Lenders shall be entitled to all the rights, remedies, privileges, and benefits granted herein with respect to all such indebtedness, obligations, or liabilities.

12. No approval, agreement or consent requested of the Administrative Agent by the Debtors pursuant to the terms of this Order or otherwise shall be inferred from any action,

inaction, or acquiescence of the Agent or the Lenders other than from a writing signed by the Administrative Agent. Nothing herein shall in any way affect the rights of the Administrative Agent or the Lenders as to any non-Debtor entity.

13. Entry of this Order shall be without prejudice to any and all rights, remedies, claims and causes of action which the Administrative Agent or the Lenders may have against the Debtors or third parties, and without prejudice to the right of the Administrative Agent and the Lenders to seek relief from the automatic stay in effect pursuant to Bankruptcy Code Section 362, or any other relief in these Chapter 11 Cases, and the right of the Debtors or third parties to oppose any such relief. The provisions of this Order shall be binding upon and inure to the benefit of the Administrative Agent, the Lenders, the Debtors, and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in these Chapter 11 Cases as a legal representative of the Debtors or the Debtors' estates.

14. Pursuant to Sections 105, 361 and 363 of the Bankruptcy Code, the Administrative Agent and the Lenders are hereby found to be entities that have acted in "good faith" in connection with the negotiation and entry of this Order, and each is entitled to the protection provided to such entities under Section 363(m) of the Bankruptcy Code.

15. Notwithstanding any provision in other "first day" orders entered by this Court authorizing the Debtors to make payments in respect of prepetition obligations, the provisions in this Order conditioning the payment of such amounts or limiting the amount of such payments are controlling.

16. As a result of the Debtors' review of the Loan Documents and the facts related thereto, the Debtors have made certain agreements and acknowledgments as set forth in paragraphs D and E above and shall have no right to file a complaint pursuant to Bankruptcy

Rule 7001 or otherwise, or any other pleading asserting a claim or cause of action arising out of or related to the Loan Documents or any transactions or course of conduct related thereto. The acknowledgments and agreements contained in paragraphs D and E hereof shall be binding upon the Debtors in all circumstances, and shall be binding upon all other parties in interest, including without limitation, a Committee, unless (a) a party in interest (including a Committee) has been granted standing to file and has properly filed an adversary proceeding or contested matter (subject to the limitations set forth in paragraph 5 hereof) challenging the validity, enforceability or priority of the Prepetition Obligations or the Administrative Agent's liens on the Prepetition Collateral in respect thereof, or otherwise asserting any claims or causes of action against the Administrative Agent or the Lenders on behalf of the Debtors' estates, no later than the date that is sixty (60) days after the date of the appointment of counsel to a Committee, and (b) this Court rules in favor of the plaintiff in any such timely and properly filed adversary proceeding or contested matter. If no such adversary proceeding or contested matter is commenced as of such date, the Prepetition Obligations shall constitute allowed claims, not subject to defense, counterclaim, offset of any kind, or subordination and otherwise unavoidable, for all purposes in these Chapter 11 Cases or any subsequent Chapter 7 cases, the Administrative Agent's liens on the Prepetition Collateral shall be deemed legal, valid, binding, perfected, not subject to defense, counterclaim, offset of any kind, subordination and otherwise unavoidable, and the Administrative Agent, the Lenders, the Prepetition Obligations and the Administrative Agent's liens on the Prepetition Collateral shall not be subject to any other or further challenge by any party in interest seeking to exercise the rights of the Debtors' estates, including without limitation, any successor thereto. If any such adversary proceeding or contested matter is timely commenced as of such date, the acknowledgements and agreements contained in paragraphs D

and E shall nonetheless remain binding and preclusive (as provided in this paragraph) except to the extent that such acknowledgements and agreements were expressly challenged in such adversary proceeding or contested matter.

17. The automatic stay is hereby modified to authorize Citibank, N.A. ("Citibank") to set off any cash deposits it is specifically holding as collateral for that certain Irrevocable Standby Letter of Credit No. 63663991, dated Jan 30, 2009 and issued by Citibank at the request of the Debtors (the "Citibank LC"), against any amounts paid by Citibank to the beneficiaries of the Citibank LC upon postpetition draw of the Citibank LC, subject to the terms of the Citibank LC; provided, however, that Citibank agrees to return to the Debtors' estates, within three business days of such setoff, the excess of any cash deposits it is holding as collateral for the Citibank LC over the amount of collateral the Debtors are required to provide with respect to the Citibank LC.

18. The findings of fact and conclusions of law contained herein constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to these proceedings by Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law it shall be so deemed and vice versa.

19. The Debtors shall, on or before July 10, 2009, mail copies of a notice of the entry of this Order, together with a copy of this Order and a copy of the Motion, to the parties having been given notice of the Preliminary Hearing, to any party which has filed prior to such date a request for notices with this Court and to counsel for a Committee. The notice of entry of this Order shall state that any party in interest objecting to the entry of a DIP Financing Order and/or the use of the Lenders' Cash Collateral pursuant thereto shall file written objections with the United States Bankruptcy Court Clerk for the Southern District of New York no later than

4:00 p.m. on July 23, 2009 and objections shall be served so that the same are received on or before such date by: (a) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attention: James H.M. Sprayregen, Esq. and Leonard Klingbaum, Esq. and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654, Attention: Marc Kieselstein, Esq. and Ryan Blaine Bennett, Esq., Attorneys for the Debtors, (b) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, Attention: Kenneth S. Ziman, Esq. and Elisha D. Graff, Esq., Attorneys for the Administrative Agent and (c) the Office of the United States Trustee, and a hearing to consider the relief requested in the Motion on a final basis shall be held on July 30, 2009 at 10:00 a.m.

Dated: New York, New York
July 7, 2009

/s/ Martin Glenn
United States Bankruptcy Judge