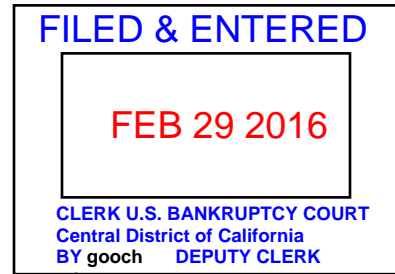


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6 General Insolvency Counsel for Debtors and Debtors-in-Possession
7
8

9 UNITED STATES BANKRUPTCY COURT
10 CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

11 In re:

12 METROPOLITAN AUTOMOTIVE
13 WAREHOUSE, INC., a California
14 corporation,

15 and

16 STAR AUTO PARTS, INC., a California
17 corporation,

18 Debtors and
19 Debtors-in-Possession.

Case No. 6:16-bk-10096 WJ

Jointly Administered with
Case No. 6:16-bk-10105 WJ

CHAPTER 11

FINAL ORDER APPROVING STALKING HORSE BIDDER IN CONNECTION WITH PROPOSED SALE OF SUBSTANTIALLY ALL ASSETS OF THE ESTATE; AND (2) INTERIM ORDER AUTHORIZING THE DEBTORS TO OBTAIN SECURED SUPERPRIORITY POSTPETITION FINANCING AND (3) SCHEDULING FINAL HEARING

Date: February 23, 2016
Time: 3:00 p.m.
Place: Courtroom 304
3420 Twelfth Street
Riverside, California 92501

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23
24 On February 23, 2016, at 3:00 p.m., the Court held a hearing to consider the *Debtors'*
25 *Motion for Order (1) Approving Stalking Horse Bidder in Connection with Proposed Sale of*
26 *Substantially All Assets of the Estate; and (2) Authorizing the Debtors to Obtain Secured*
27 *Superpriority Financing* [Docket no. 229] (“Motion”), and the declarations filed in connection
28 therewith [Dkt. Nos. 235 and 238], filed by Metropolitan Automotive Warehouse, Inc. (“Metro”)

1 and Star Auto Parts, Inc. (“Star”), each a California corporation and jointly-administered debtor
2 and debtor-in-possession in this Chapter 11 case and the related case (collectively, “Debtors”).¹
3 Garrick A. Hollander, Esq., of Winthrop Couchot Professional Corporation appeared on behalf of
4 the Debtors. Jeffrey E. Bjork, Esq. and Christina Craige, Esq. of Sidley Austin LLP appeared on
5 behalf of the Official Committee of Unsecured Creditors (“Committee”). Abram Feuerstein,
6 Esq., appeared on behalf of Peter C. Anderson, United States Trustee for the Central District of
7 California (“U.S. Trustee”). All other appearances were as noted on the Court’s record of the
8 proceeding.

9 The Court has considered the Motion, the documents submitted in support of the Motion,
10 and the record as it pertains to the Motion, including the Declaration of Marc A. Bilbao In
11 Support of the Motion, sworn to on February 17, 2016 [Dkt. No. 235], the Declaration of Richard
12 M. Pachulski in Support of the Motion, sworn to on February 17, 2016 [Dkt. No. 238], the
13 Declaration of Garrick A. Hollander in Support of the Motion, sworn to on February 19, 2016
14 [Dkt. No. 242], and Debtors’ Supplement to Motion [Dkt. No. 233], and the evidence submitted at
15 the interim hearing held before this Court on February 23, 2016 at 3:00 p.m. (“Interim Hearing”)
16 to consider entry of this Interim Order; and in accordance with Bankruptcy Rules 2002, 4001(b),
17 (c), and (d), and 9014 and Rule 4001-2 of the local rules of the Court (“Local Bankruptcy
18 Rules”), due and proper notice of the Motion and the Interim Hearing having been given; and it
19 appearing that approval of the (i) final relief requested in the Motion as to approval of PAM as
20 the stalking horse bidder and (ii) interim relief requested in the Motion as to postpetition
21 financing pending a final hearing on the relief requested in the Motion relating to post-petition
22 financing (“Final Hearing”), is necessary to avoid immediate and irreparable harm to the Debtors
23 and is otherwise fair and reasonable and in the best interests of the Debtors, their creditors and
24 their estates, and essential for the continued operation of the Debtors’ businesses; and all
25 objections, if any, to the entry of this Interim Order having been withdrawn, resolved or overruled
26

27 _____
28 ¹ Capitalized terms used herein are as defined in the Motion or the DIP Credit Agreement, unless otherwise defined herein.

1 by the Court; and after due deliberation and consideration, and for good and sufficient cause
2 appearing therefor:

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

5 A. Petition Date. On January 6, 2016 (“Petition Date”), the Debtors filed voluntary
6 petitions under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for
7 the Central District of California, Riverside Division (“Court”). The Debtors have continued in
8 the management and operation of their businesses and properties as debtors-in-possession
9 pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been
10 appointed in the Cases.

11 B. Jurisdiction and Venue. The Court has jurisdiction over these proceedings,
12 pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding under
13 28 U.S.C. § 157(b)(2). Venue for the Cases and the proceedings on the Motion is proper in this
14 district pursuant to 28 U.S.C. §§ 1408 and 1409.

15 C. Committee Formation. On January 21, 2016, an official committee of unsecured
16 creditors was appointed in the Cases [Dkt. No. 82] (together with any other statutory committee, a
17 “Committee”).

18 D. Notice. Notice of the Interim Hearing and the relief requested in the Motion has
19 been provided by the Debtors to (a) the Office of the United States Trustee for the Central District
20 of California (“U.S. Trustee”), (b) counsel to the Prepetition Lender (as defined herein);
21 (c) counsel to the Committee; (d) all other parties asserting a lien on or a security interest in the
22 assets of the Debtors to the extent reasonably known to the Debtors; (e) the Internal Revenue
23 Service; and (f) those creditors holding the 20 largest unsecured claims against each of the
24 Debtors’ estates (collectively, the “Notice Parties”). Under the circumstances, such notice of the
25 Interim Hearing and the relief requested in the Motion constitutes due, sufficient and appropriate
26 notice and complies with Section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and
27 4001(b) and (c) and the Local Bankruptcy Rules.

28

1 E. Stalking Horse Protocol. The Debtors have implemented and complied with the
2 Court-approved Stalking Horse Protocol.

3 F. The selection of PAM as the stalking horse bidder and the APA as the stalking
4 horse bid is in the best interests of the Debtors and their estates.

5 G. Prepetition Indebtedness. The Debtors, as borrowers, and Bank of the West, as
6 lender (“Prepetition Lender”), are parties to certain loan facilities, including that certain Loan
7 And Security Agreement, dated as of June 8, 2012 (collectively, and as amended, modified or
8 supplemented from time to time, the “Prepetition Loan Agreements” and, together with all
9 security agreements, UCC financing statements, lease/financing agreements, commercial card
10 agreements, and other documents, instruments and agreements executed in connection with the
11 Prepetition Loan Agreements, the “Prepetition Loan Documents”). Pursuant to the Prepetition
12 Loan Documents, the Prepetition Lender alleges it was granted first priority liens on, and security
13 interests, in substantially all of the Debtors’ assets and property.

14 H. Immediate Need for Postpetition Financing. The Debtors have requested
15 immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Good
16 cause has been shown for entry of this Interim Order. An immediate need exists for the Debtors
17 to obtain funds and liquidity in order to continue operations and to administer and preserve the
18 value of their estates. The ability of the Debtors to finance their operations, to preserve and
19 maintain the value of the Debtors’ assets and to maximize the return for all creditors requires the
20 availability of the DIP Facility. In the absence of the availability of such funds and liquidity in
21 accordance with the terms hereof, the continued operation of the Debtors’ businesses would not
22 be possible, and serious and irreparable harm to the Debtors and their estates and creditors would
23 occur. Thus, the ability of the Debtors to preserve and maintain the value of their assets and
24 maximize the return for creditors requires the availability of working capital from the DIP
25 Facility.

26 I. No Credit Available on More Favorable Terms. The Debtors have been unable to
27 obtain on more favorable terms and conditions than those provided in this Interim Order
28 (a) adequate unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code as an

1 administrative expense, (b) credit for money borrowed with priority over any or all administrative
2 expenses of the kind specified in Sections 503(b) or 507(b) of the Bankruptcy Code, (c) credit for
3 money borrowed secured by a lien on property of the estate that is not otherwise subject to a lien,
4 or (d) credit for money borrowed secured by a junior lien on property of the estate which is
5 subject to a lien. The Debtors are unable to obtain credit for borrowed money without granting
6 the DIP Liens (as defined below) and the DIP Superpriority Claim (as defined below) to (or for
7 the benefit of) Parts Authority Metro LLC (“PAM” or the “DIP Lender”).

8 J. Proceeds of the DIP Facility and DIP Collateral. All proceeds of the DIP Facility
9 (net of any amounts used to pay fees, costs and expenses payable under this Interim Order or the
10 Final Order), all proceeds of the DIP Inventory and all proceeds of other DIP Collateral shall be
11 segregated and deposited in a newly-created, segregated debtor-in-possession account that
12 complies with all applicable U.S. Trustee requirements and guidelines and is held at a financial
13 institution satisfactory to the DIP Lender (“Proceeds Account”), and shall be available for further
14 disbursements in accordance with the terms and conditions of this Interim Order and the DIP
15 Credit Agreement for the types of expenditures described in the DIP Credit Agreement and for no
16 other purpose.

17 K. Extension of Financing. The DIP Lender has indicated a willingness to provide
18 financing to the Debtors in accordance with the DIP Credit Agreement and the other DIP Loan
19 Documents² and subject to (i) the entry of this Interim Order and (ii) findings by this Court that
20 such financing is essential to the Debtors’ estates, that the DIP Lender is a good faith financier,
21 and that the DIP Lender’s claims, superpriority claims, security interests and liens and other
22 protections granted pursuant to this Interim Order (and the Final Order) and the DIP Facility
23 (including the DIP Superpriority Claim and the DIP Liens) will not be affected by any subsequent
24 reversal, modification, vacatur or amendment of, as the case may be, this Interim Order, the Final
25

26 ² For purposes of this Interim Order, the term “DIP Loan Documents” includes this Interim Order,
27 the Final Order, the DIP Credit Agreement, the Intercreditor Agreement, the Security Agreement,
28 and all other agreements, documents and instruments delivered or executed in connection
therewith other than the APA and such other agreements, documents, and instruments that relate
to the sale of the Debtors’ assets pursuant to Section 363 of the Bankruptcy Code.

1 Order or any other order, as provided in Section 364(e) of the Bankruptcy Code.

2 L. Business Judgment and Good Faith Pursuant to Section 364(e).

3 (i) The terms and conditions of the DIP Facility, and the fees paid and to be paid
4 thereunder, are fair, reasonable, and the best available under the circumstances, reflect the
5 Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are
6 supported by reasonably equivalent value and consideration;

7 (ii) the DIP Facility was negotiated in good faith and at arm's length among the
8 Debtors and the DIP Lender; and

9 (iii) the use of the proceeds to be extended under the DIP Facility will be so extended
10 in good faith and for valid business purposes and uses, as a consequence of which the DIP Lender
11 is entitled to the protection and benefits of Section 364(e) of the Bankruptcy Code.

12 M. Relief Essential; Best Interest. The relief requested in the Motion (and provided in
13 this Interim Order) is necessary, essential and appropriate for the continued operation of the
14 Debtors' businesses and the management and preservation of the Debtors' assets and property. It
15 is in the best interest of the Debtors' estates that the Debtors be allowed to enter into the DIP
16 Facility and incur the DIP Obligations.

17 NOW, THEREFORE, on the Motion of the Debtors and the record before this
18 Court with respect to the Motion, including the record made during the Interim Hearing, and with
19 the consent of the Debtors, the Prepetition Lender and the DIP Lender, and good and sufficient
20 cause appearing therefor,

21 The Court hereby ORDERS, ADJUDGES and DECREES:

22 1. The Motion is granted on a final basis as to approval of a stalking horse and
23 related relief, and on an interim basis as to authority to enter into post-petition financing and
24 related relief.

25 2. Any objections to the Motion with respect to entry of this Order to the extent not
26 withdrawn, waived or otherwise resolved, and all reservation of rights included therein, are
27 hereby denied and overruled.

28

1 3. PAM is approved as the stalking horse bidder for the Debtors' proposed sale of
2 substantially all assets of the Debtors' estates.

3 4. As the approved Stalking Horse Bidder, PAM is entitled to the stalking horse
4 protections provided for in the Sale Procedures Motion [Metro Docket no. 150; Star Docket no.
5 138], as modified by the Supplement [Metro Docket no. 233].

6 5. DIP Facility.

7 (a) DIP Obligations, etc. The Debtors are expressly and immediately
8 authorized and empowered to enter into the DIP Facility and to incur and to perform the DIP
9 Obligations on a joint and several basis in accordance with and subject to this Interim Order (and,
10 upon its entry, a Final Order) and the other DIP Loan Documents, to execute and/or deliver all
11 DIP Loan Documents and all other instruments, certificates, agreements and documents, and to
12 take all actions which may be reasonably required or otherwise necessary for the performance by
13 the Debtors under the DIP Facility, including the creation and perfection of the DIP Liens
14 described and provided for herein. The Debtors are hereby authorized and directed to pay all
15 principal, interest, fees and expenses, indemnities and other amounts described herein and in the
16 other DIP Loan Documents as such shall accrue and become due hereunder or thereunder,
17 including, without limitation, the fees and expenses of the DIP Lender to the extent set forth in
18 paragraph 21(b) hereof and the other DIP Loan Documents (collectively, all loans, advances,
19 extensions of credit, financial accommodations, fees, expenses and other liabilities and
20 obligations (including indemnities and similar obligations) in respect of DIP Extensions of Credit,
21 the DIP Facility and the DIP Loan Documents, the "DIP Obligations"). The DIP Loan
22 Documents and all DIP Obligations shall represent, constitute and evidence, as the case may be,
23 valid and binding obligations of the Debtors, enforceable against the Debtors, their estates and
24 any successors thereto in accordance with their terms. No obligation, payment, transfer or grant
25 of security under the DIP Loan Documents as approved under this Interim Order shall be stayed,
26 restrained, voided, voidable or recoverable under the Bankruptcy Code or under any applicable
27 non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim;
28 provided, however, that, as provided in the DIP Credit Agreement, any origination fee shall be

1 refunded to the Debtors in the event PAM is confirmed as the successful bidder of substantially
2 all assets of the Debtors' estates. The term of the DIP Facility shall commence on the date of
3 entry of this Interim Order and end on the Termination Date, subject to the terms and conditions
4 set forth herein, the Final Order (once entered) and in the other DIP Loan Documents, including
5 the protections afforded a party acting in good faith under Section 364(e) of the Bankruptcy Code.

6 (b) Authorization to Borrow, etc. In order to continue to operate their
7 businesses, subject to the terms and conditions of this Interim Order and the other DIP Loan
8 Documents, the Debtors are hereby authorized to borrow under the DIP Facility up to an
9 aggregate principal amount of \$7,500,000 only for the purposes set forth in the DIP Loan
10 Documents, (i) \$5,000,000 of which will be funded within three Business Days after entry of the
11 Interim Order to repay and replace the Existing DIP Facility and for use in accordance with
12 Section 3.01 of the DIP Credit Agreement and (ii) \$2,500,000 of which will be funded within one
13 Business Day after the Sale Hearing in the event the DIP Lender is chosen and approved as the
14 Successful Bidder, for use in accordance with Section 3.01 of the DIP Credit Agreement through
15 the proposed closing of the sale on March 19, 2016.

16 (c) Conditions Precedent. The DIP Lender shall have no obligation to make
17 any DIP Extension of Credit or any other financial accommodation hereunder or under the other
18 DIP Loan Documents (and the Debtors shall not make any request therefor) unless all conditions
19 precedent to making DIP Extensions of Credit under the DIP Loan Documents have been satisfied
20 or waived in accordance with the terms of the DIP Loan Documents.

21 (d) DIP Collateral. As used herein, "DIP Collateral" shall mean all inventory,
22 wherever located, procured by either of the Debtors with proceeds of DIP Extensions of Credit
23 (collectively, "DIP Inventory"), the Proceeds Account, all amounts from time to time on deposit
24 in the Proceeds Account, all accounts generated from DIP Inventory and all other products or
25 proceeds thereof; provided, that any proceeds of the Senior Collateral (as defined below)
26 deposited into the Proceeds Account shall remain Senior Collateral and shall not constitute DIP
27 Collateral.

28 (e) DIP Liens. Effective immediately upon the entry of this Interim Order, as

1 set forth more fully in this Interim Order, and subject to the Intercreditor Agreement, the DIP
2 Lender is hereby granted the following security interests and liens, which shall immediately be
3 valid, binding, perfected, continuing, enforceable and non-avoidable (all liens and security
4 interests granted to the DIP Lender pursuant to this Interim Order, any Final Order and the other
5 DIP Loan Documents, the “DIP Liens”):

6 (I) pursuant to Section 364(c)(3) of the Bankruptcy Code, valid,
7 enforceable, perfected and non-avoidable liens on and security interests in all
8 assets and property of the Debtors, now owned or hereafter acquired, wherever
9 located, whether real or personal, tangible or intangible (other than the DIP
10 Collateral) that (i) was subject to a valid, enforceable, perfected and non-avoidable
11 lien as of the Petition Date or (ii) is subject to a replacement lien or any other
12 adequate protection lien granted to the Prepetition Lender after the Petition Date
13 pursuant to an order of this Court (collectively, the “Senior Collateral”), which
14 shall be immediately junior only to any liens and security interests of (x) the
15 Prepetition Lender (as set forth in the Intercreditor Agreement) and (y) any third
16 party, i.e., not the Prepetition Lender, that had a pre-existing lien on the Petition
17 Date (a “Third Party Lienholder”), but solely to the extent that such liens and
18 security interests of the Prepetition Lender and Third Party Lienholders were, in
19 each case, valid, enforceable, perfected and non-avoidable as of the Petition Date
20 (“Senior Liens”); provided that, for the avoidance of doubt, Senior Collateral shall
21 exclude avoidance actions and any insurance policy in which the Prepetition
22 Lender took or perfected a security interest within ninety days prior to the Petition
23 Date; and

24 (II) pursuant to Section 364(d) of the Bankruptcy Code, valid,
25 enforceable, perfected and non-avoidable liens on and security interests in all DIP
26 Collateral, which liens and security interests shall be senior to and prime all Senior
27 Liens, any liens and security interests that are junior thereto, and any adequate
28 protection or other postpetition liens granted under any order entered or stipulation

1 filed in these Cases, or otherwise, in effect on or after the date of this Interim
2 Order.

3 (f) Other Provisions Relating to the DIP Liens. The DIP Liens shall secure all
4 of the DIP Obligations. The DIP Liens shall not, without the consent of the DIP Lender, be made
5 subject to, or *pari passu* with, any other lien or security interest by any court order heretofore or
6 hereafter entered in the Cases, and shall be valid and enforceable against any trustee appointed in
7 the Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy
8 Code or in any other proceedings related to any of the foregoing (such cases or proceedings,
9 “Successor Cases”), and/or upon the dismissal of any of the Cases. The DIP Liens shall not be
10 subject to Sections 510, 549, 550 or 551 of the Bankruptcy Code or the “equities of the case”
11 exception of Section 552 of the Bankruptcy Code or, upon entry of the Final Order, Section
12 506(c) of the Bankruptcy Code.

13 (g) Superpriority Administrative Claim Status. The DIP Obligations shall,
14 pursuant to Section 364(c)(1) of the Bankruptcy Code, at all times constitute an allowed
15 superpriority claim (“DIP Superpriority Claim”) of the DIP Lender, and be payable from and
16 have recourse to all DIP Collateral and all Prepetition Collateral, subject to the Intercreditor
17 Agreement. No costs or expenses of administration, including, without limitation, professional
18 fees allowed and payable under Sections 328, 330 and 331 of the Bankruptcy Code, or otherwise,
19 that have been or may be incurred in these proceedings or in any Successor Cases, and no priority
20 claims are, or will be, senior to, prior to or *pari passu* with the DIP Liens, the DIP Superpriority
21 Claim or any of the DIP Obligations.

22 7. Authorization and Approval to Use Proceeds of DIP Facility. Subject to the terms
23 and conditions of this Interim Order and the other DIP Loan Documents, the Debtors are
24 authorized to request and use proceeds of the DIP Extensions of Credit. Notwithstanding
25 anything herein to the contrary, subject only to the Debtors’ rights under paragraph 18(b) hereof,
26 the Debtors’ right to request or use proceeds of DIP Extensions of Credit shall terminate on the
27 Termination Date. Nothing in this Interim Order shall authorize the disposition of any assets of
28 the Debtors or their estates or other proceeds resulting therefrom outside the ordinary course of

1 business, except as permitted herein (subject to any required Court approval).

2 8. Proceeds Account. All proceeds of the DIP Facility (net of any amounts used to
3 pay fees, costs and expenses payable under this Interim Order or the Final Order), all proceeds of
4 the DIP Inventory and all proceeds of other DIP Collateral shall be deposited in the Proceeds
5 Account and shall be available for further disbursements in accordance with the terms and
6 conditions of this Interim Order and the DIP Credit Agreement for the types of expenditures
7 described in the DIP Credit Agreement and for no other purpose.

8 9. Credit Bid Protection. Subject in all respects to the provisions of the Intercreditor
9 Agreement, the DIP Lender shall have the right to credit bid the amount of any outstanding DIP
10 Obligations in connection with any sale of all or substantially all of the Debtors' assets and
11 property, including, without limitation, any sale occurring pursuant to section 363 of the
12 Bankruptcy Code or included as part of any plan of reorganization subject to confirmation under
13 section 1129(b)(2)(A)(iii) of the Bankruptcy Code or included as part of any plan of compromise
14 or arrangement recognized by the Court; provided, that the DIP Lender may only credit bid with
15 respect to collateral in which it has a senior lien.

16 10. Financial Reporting, etc. The Debtors shall provide the DIP Lender with all of the
17 financial reporting as required under and in all instances consistent with the DIP Loan
18 Documents.

19 11. DIP Lien Perfection. This Interim Order shall be sufficient and conclusive
20 evidence of the validity, perfection and priority of the DIP Liens without the necessity of filing or
21 recording any financing statement, deed of trust, mortgage, or other instrument or document
22 which may otherwise be required under the law of any jurisdiction or the taking of any other
23 action to validate or perfect the DIP Liens or to entitle the DIP Liens to the priorities granted
24 herein. Notwithstanding the foregoing, the DIP Lender may, in its sole discretion, file such
25 financing statements, deeds of trust, mortgages, security agreements, notices of liens and other
26 similar documents, and is hereby granted relief from the automatic stay of Section 362 of the
27 Bankruptcy Code in order to do so, and all such financing statements, deeds of trust, mortgages,
28 security agreements, notices and other agreements or documents shall be deemed to have been

1 filed or recorded at the time and on the date of the commencement of the Cases. The Debtors
2 shall execute and deliver to the DIP Lender all such financing statements, mortgages, security
3 agreements, notices and other documents as the DIP Lender may reasonably request to evidence,
4 confirm, validate or perfect, or to insure the contemplated priority of, the DIP Liens. The DIP
5 Lender, in its sole discretion, may file a photocopy of this Interim Order as a financing statement
6 with any recording officer designated to file financing statements or with any registry of deeds or
7 similar office in any jurisdiction in which the Debtors have real or personal property and, in such
8 event, the subject filing or recording officer shall be authorized to file or record such copy of this
9 Interim Order.

10 12. Section 506(c) Claims. Subject to the entry of the Final Order, as a further
11 condition of the DIP Facility, any obligation of the DIP Lender to make DIP Extensions of Credit,
12 the Debtors (and any successors thereto or any representatives thereof, including any trustees
13 appointed in the Cases or any Successor Case) shall be deemed to have waived any rights,
14 benefits or causes of action under 506(c) of the Bankruptcy Code as they may relate to or be
15 asserted against the DIP Lender, the DIP Liens or the DIP Collateral; provided that, upon entry of
16 this Interim Order, the Debtors and their successors in interest shall be deemed to have waived
17 any such rights with respect to the DIP Collateral. Nothing contained in this Interim Order, in the
18 Final Order or in the other DIP Loan Documents shall be deemed a consent by the DIP Lender to
19 any charge, lien, assessment or claim against, or in respect of, the DIP Collateral under 506(c) of
20 the Bankruptcy Code or otherwise.

21 13. Collateral Rights; Limitations in Respect of Subsequent Court Orders. Without
22 limiting any other provisions of this Interim Order, unless the DIP Lender has provided its prior
23 written consent, there shall not be entered in these Cases, or in any Successor Case, any order
24 which authorizes the obtaining of credit or the incurring of indebtedness that is secured by a
25 security, mortgage, or collateral interest or other lien on all or any portion of the DIP Collateral or
26 the Senior Collateral and/or entitled to priority administrative status which is superior to or *pari*
27 *passu* with those granted pursuant to this Interim Order to or for the benefit of the DIP Lender.

28 14. Proceeds of Subsequent Financing. Without limiting the provisions and protections

1 of paragraph 13 hereof, if at any time prior to the indefeasible repayment and satisfaction in full
2 in cash of all DIP Obligations, and the termination of the DIP Lender's obligations to make DIP
3 Extensions of Credit, including subsequent to the confirmation of any Chapter 11 plan or plans
4 ("Plan") with respect to the Debtors, the Debtors' estates, any trustee, any examiner with enlarged
5 powers or any responsible officer subsequently appointed, shall obtain credit or incur debt in
6 violation of this Interim Order or the other DIP Loan Documents, then all of the cash proceeds
7 derived from such credit or debt and all cash proceeds of DIP Collateral shall immediately be
8 turned over to the DIP Lender for application in accordance with paragraph 19 hereof and the DIP
9 Loan Documents, as applicable.

10 15. Cash Management. The Debtors' cash management system shall at all times
11 comply with the terms of the DIP Loan Documents or Orders of the Court. The DIP Lender shall
12 be deemed to have "control" over the Proceeds Account and its security interest in the Proceeds
13 Account and the funds therein shall be perfected for all purposes of perfection under the Uniform
14 Commercial Code. Until the occurrence of an Event of Default, all amounts collected in the
15 Proceeds Account may be used in accordance with this Interim Order and the other DIP Loan
16 Documents; after the occurrence and during the continuance of an Event of Default, subject only
17 to the Debtors' rights under paragraph 18(b) hereof, all such amounts shall be applied in
18 accordance with paragraph 19 hereof.

19 16. Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or
20 otherwise dispose of any portion of the DIP Collateral or the Prepetition Collateral, except as
21 permitted by the DIP Loan Documents, or as approved by the Court.

22 17. Survival of Certain Provisions. In the event of the entry of any order converting
23 any of these Cases into a Successor Case, the DIP Liens and the DIP Superpriority Claim, as well
24 as the Prepetition Liens and Prepetition Lender's Superpriority Claim shall continue in these
25 proceedings and in any Successor Case, and such DIP Liens, DIP Superpriority Claim, Prepetition
26 Liens and Prepetition Lender's Superpriority Claim shall maintain their respective priorities as
27 provided by this Interim Order.
28

1 18. Events of Default; Rights and Remedies Upon Event of Default.

2 (a) Any automatic stay otherwise applicable to the DIP Lender is hereby
3 modified so that, upon and after the occurrence of the Termination Date, the DIP Lender shall,
4 subject to subparagraph (b) of this paragraph 18 and the Intercreditor Agreement, be immediately
5 entitled to exercise all of its rights and remedies in respect of the DIP Collateral and the
6 Prepetition Collateral, in accordance with this Interim Order and the other DIP Loan Documents.
7 The term “Termination Date” shall mean: (a) prior to entry of the Final Order, the earliest to
8 occur of (i) the Commitment Termination Date (as defined in the DIP Credit Agreement) and
9 (ii) this Interim Order ceasing to be in full force and effect for any reason, and (b) subsequent to
10 entry of the Final Order, the earlier to occur of (i) the Commitment Termination Date and (ii) the
11 Final Order ceasing to be in full force and effect for any reason.

12 (b) Notwithstanding the foregoing subparagraph (a) of this paragraph 18,
13 immediately following the giving of notice by the DIP Lender to the Debtors, counsel to the
14 Debtors, counsel for any Committee appointed in the Cases, counsel to the Prepetition Lender and
15 the U.S. Trustee of the occurrence of an Event of Default: (i) all Commitments of the DIP Lender
16 to provide any DIP Extensions of Credit shall immediately be suspended; (ii) the Debtors shall
17 have no right to request or use any proceeds of any DIP Extensions of Credit (including, for the
18 avoidance of doubt, any funds in the Proceeds Account) other than towards the satisfaction of the
19 DIP Obligations, as provided in the applicable DIP Loan Documents; (iii) the Debtors shall
20 deliver and cause the delivery of the proceeds of the DIP Extensions of Credits to the DIP Lender
21 as provided herein and in the DIP Loan Documents; and (iv) the DIP Lender shall be permitted to
22 apply such proceeds in accordance with the terms of this Interim Order, the DIP Loan Documents
23 and the Intercreditor Agreement. The Debtors and any Committee shall be entitled to seek an
24 emergency hearing before this Court within three business days after the giving of written notice
25 by the DIP Lender of the occurrence of an Event of Default; provided that the only issues that
26 may be raised at such hearing shall be whether an Event of Default has in fact occurred and is
27 continuing, and such entities hereby waive their right to seek any relief, whether under
28 Section 105 of the Bankruptcy Code or otherwise, that would in any way impair, limit, restrict or

1 delay the rights and remedies of the DIP Lender under the DIP Loan Documents. If the Debtors
2 or any Committee do not contest the occurrence of the Event of Default within such three
3 business day period, or if the Debtors or any Committee do timely contest the occurrence of an
4 Event of Default and the Court after notice and a hearing declines to stay the enforcement thereof,
5 the Termination Date shall be deemed to have occurred for all purposes and the automatic stay, as
6 to the DIP Lender, shall automatically terminate in all respects. Nothing herein shall preclude the
7 DIP Lender from seeking an order from the Court upon written notice (electronically (including
8 via facsimile) in a manner that generates a receipt for delivery, or via overnight mail) to the U.S.
9 Trustee, counsel to the Debtors, counsel to the Committee and counsel to the Prepetition Lender
10 authorizing the DIP Lender to exercise any enforcement rights or remedies with respect to the
11 DIP Collateral on less than three business days' notice, or the Debtors' right to contest such relief.

12 (c) Upon the occurrence of the Termination Date (but subject, only in the case
13 of the occurrence of the Termination Date resulting from an Event of Default, to the provisions of
14 paragraph 18(b) hereof), the DIP Lender is authorized to exercise all remedies and proceed under
15 the applicable DIP Loan Documents and the Intercreditor Agreement. All proceeds realized in
16 connection with the exercise of the rights and remedies of the applicable DIP Lender shall be
17 turned over and applied in accordance with paragraph 19 hereof and the Intercreditor Agreement.

18 (d) The automatic stay imposed under Section 362(a) of the Bankruptcy Code
19 is hereby modified pursuant to the terms of the DIP Loan Documents as necessary to (i) permit
20 the Debtors to incur all DIP Obligations and all liabilities and obligations hereunder and under the
21 other DIP Loan Documents, as the case may be, and (ii) authorize the DIP Lender to retain and
22 apply payments, and otherwise enforce its respective rights and remedies hereunder subject to the
23 provisions of paragraph 18(b) hereof.

24 (e) Nothing included herein shall prejudice, impair, or otherwise affect the DIP
25 Lender's rights to seek any other or supplemental relief in respect of the Debtors nor the DIP
26 Lender's rights to suspend or terminate the making of DIP Extensions of Credit if permitted under
27 the terms of the applicable DIP Loan Documents.

28 (f) Notwithstanding anything in this Interim Order, except as otherwise

1 provided in the Intercreditor Agreement, the Prepetition Lender shall not be permitted to exercise
2 any rights or remedies with respect to the DIP Collateral unless and until the DIP Obligations are
3 indefeasibly paid and satisfied in full in cash.

4 (g) Notwithstanding anything in this Interim Order, except as otherwise
5 provided in the Intercreditor Agreement, the DIP Lender shall not be permitted to exercise any
6 rights or remedies with respect to the Senior Collateral unless and until the obligations under the
7 Prepetition Loan Documents are indefeasibly paid and satisfied in full in cash.

8 19. Applications of Proceeds of Collateral, Payments and Collections. Subject to the
9 Debtors' rights under paragraph 18(b) hereof, upon and after the occurrence of the Termination
10 Date, all proceeds of DIP Collateral, whenever received, shall be paid and applied to permanently
11 and indefeasibly repay and reduce the DIP Obligations then due and owing in accordance with the
12 DIP Loan Documents, until indefeasibly paid and satisfied in full in cash. For avoidance of
13 doubt, nothing in this Interim Order shall be construed to limit the voluntary and mandatory
14 repayment provisions set forth in the DIP Loan Documents.

15 20. Proofs of Claim, etc. The DIP Lender shall not be required to file proofs of claim
16 or notices of administrative expense claims in any of the Cases or any Successor Case for any
17 claim allowed herein. Notwithstanding any order entered by the Court in relation to the
18 establishment of a bar date in any of the Cases or any Successor Case to the contrary, the DIP
19 Lender is hereby authorized and entitled, in its sole and absolute discretion, but not required, to
20 file (and amend and/or supplement, as each sees fit) a proof of claim or a notice of administrative
21 expense claim in any of the Cases or any Successor Case for any claim allowed herein; for
22 avoidance of doubt, any such proof of claim or notice of administrative expense claim may (but is
23 not required to be) filed as one consolidated proof of claim against all of the Debtors, rather than
24 as separate proofs of claim or notice of administrative expense claim against each Debtor. Any
25 order entered by the Court in relation to the establishment of a bar date for any claim (including
26 without limitation administrative claims) in any of the Cases or any Successor Case shall not
27 apply to the DIP Lender.

28

1 21. Other Rights and Obligations.

2 (a) Good Faith Under Section 364(e) of the Bankruptcy Code; No
3 Modification or Stay of this Interim Order. Based on the findings set forth in this Interim Order
4 and in accordance with Section 364(e) of the Bankruptcy Code, which is applicable to the DIP
5 Facility as approved by this Interim Order, in the event any or all of the provisions of this Interim
6 Order are hereafter modified, amended or vacated by a subsequent order of this Court or any
7 other court, the DIP Lender is entitled to the protections provided in Section 364(e) of the
8 Bankruptcy Code, and no such appeal, modification, amendment or vacation shall affect the
9 validity and enforceability of any advances made hereunder or the liens or priority authorized or
10 created hereby. Notwithstanding any such modification, amendment or vacation, any claim
11 granted to the DIP Lender hereunder arising prior to the effective date of such modification,
12 amendment or vacation of any DIP Liens or of the DIP Superpriority Claim granted to or for the
13 benefit of the DIP Lender shall be governed in all respects by the original provisions of this
14 Interim Order, and the DIP Lender shall be entitled to all of the rights, remedies, privileges and
15 benefits, including the DIP Liens and the DIP Superpriority Claim granted herein, with respect to
16 any such claim. Because the DIP Extensions of Credit are made in reliance on this Interim Order,
17 the DIP Obligations incurred by the Debtors or owed the DIP Lender prior to the effective date of
18 any stay, modification or vacation of this Interim Order shall not, as a result of any subsequent
19 order in the Cases or in any Successor Case, be disallowed or subordinated, lose their lien priority
20 or superpriority administrative expense claim status, or be deprived of the benefit of the status of
21 the liens and claims granted to the DIP Lender under this Interim Order.

22 (b) Expenses. To the fullest extent provided in the DIP Loan Documents, the
23 Debtors will pay to the DIP Lender on a joint and several basis, whether or not the transactions
24 contemplated hereby are fully consummated, (a) prior to the occurrence of an Event of Default,
25 all the actual and reasonable costs and expenses of preparation of the DIP Loan Documents and
26 any consents, amendments, waivers or other modification thereto (including, without limitation,
27 (i) the reasonable fees, expenses and disbursements of counsel to the DIP Lender (including
28 allocated costs of internal counsel) in connection with the negotiation, preparation, execution and

1 administration of the DIP Loan Documents and any consents, amendments, waivers or other
2 modifications thereto and any other documents or matters requested by the Debtors; (ii) the actual
3 costs and reasonable expenses of creating and perfecting the DIP Liens pursuant to the DIP Loan
4 Documents; and (iii) the reasonable expenses of the DIP Lender in connection with the due
5 diligence analysis with respect to, and the preparation of, the DIP Loan Documents and the
6 transactions contemplated thereby other than the potential sale of the Debtors' assets to PAM) in
7 an aggregate amount not to exceed \$150,000; and (b) after the occurrence of an Event of Default,
8 all costs and expenses, including reasonable attorneys' fees (including allocated costs of internal
9 counsel) and costs of settlement, incurred by the DIP Lender in enforcing any DIP Obligations of,
10 or in collecting any payments due from, any Debtor under the DIP Loan Documents by reason of
11 such Event of Default (including in connection with the sale of, collection from, or other
12 realization upon any of the DIP Collateral) or in connection with any refinancing or restructuring
13 of the credit arrangements provided under the DIP Credit Agreement in the nature of a "work-
14 out" or any other insolvency or bankruptcy proceedings; provided that notwithstanding anything
15 to the contrary herein or in the DIP Loan Documents, reimbursement under this section shall not
16 be available to the extent that such expenses are determined by a final, non-appealable judgment
17 of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or
18 willful misconduct of the DIP Lender. Notwithstanding any other provisions of this Interim
19 Order, the DIP Lender, and its advisors and professionals, shall not be required to comply with
20 the U.S. Trustee fee guidelines, but shall provide reasonably detailed statements (redacted if
21 necessary for privileged or confidential information) to the Office of the U.S. Trustee and counsel
22 for any Committee, the Prepetition Lender and the Debtors. Thereafter, within ten days of
23 presentment of such statements, if no written objections to the fees and expenses charged in any
24 such invoice (or portion thereof) is made, the Debtors shall pay in cash all such fees and expenses
25 of the DIP Lender and its advisors and professionals. Any objection to the payment of such fees
26 or expenses may be made (i) on the basis of "reasonableness," (ii) on the basis that such fees or
27 expenses are not of the type specified in this paragraph 21(b) or the DIP Loan Documents or (iii)
28 on the basis that such fees or expenses incurred by the DIP Lender prior to an Event of Default

1 exceed the cap set forth in this paragraph 21(b), and shall specify in writing the amount of the
2 contested fees and expenses and the detailed basis for such objection. To the extent an objection
3 only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid. If
4 any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved
5 between the Debtors, any Committee or the U.S. Trustee and the issuer of the invoice, either party
6 may submit such dispute to the Court for a determination. This Court shall resolve any such
7 dispute. For the avoidance of doubt, and without limiting any of the forgoing or any other
8 provision of this Interim Order, the fees specified in Section 2.01 of the DIP Credit Agreement
9 are, upon entry of this Interim Order and irrespective of any subsequent order approving or
10 denying the DIP Facility or any other financing pursuant to Section 364 of the Bankruptcy Code,
11 fully entitled to all protections of Section 364(e) of the Bankruptcy Code and are deemed fully
12 earned, indefeasibly paid, non-refundable, irrevocable, and non-avoidable as of the date of this
13 Interim Order.

14 (c) Binding Effect. The provisions of this Interim Order shall be binding upon
15 and inure to the benefit of the DIP Lender, the Debtors, the Prepetition Lender, all Third Party
16 Lienholders, each other party in interest in the Cases, and their respective successors and assigns
17 (including any trustee or other fiduciary hereinafter appointed as a legal representative of the
18 Debtors or with respect to the property of the estates of the Debtors) whether in the Cases, in any
19 Successor Case, or upon dismissal of any such Chapter 11 or Chapter 7 case.

20 (d) No Waiver. The failure of the DIP Lender to seek relief or otherwise
21 exercise its rights and remedies under this Interim Order, the other DIP Loan Documents or
22 otherwise, as applicable, shall not constitute a waiver of the DIP Lender's rights hereunder,
23 thereunder, or otherwise. Notwithstanding anything herein, the entry of this Interim Order is
24 without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise
25 impair any of the rights, claims, privileges, objections, defenses or remedies of the DIP Lender
26 under the Bankruptcy Code or under non-bankruptcy law against any other person or entity in any
27 court, including without limitation, the rights of the DIP Lender (i) to request conversion of any
28 of the Cases to cases under Chapter 7, dismissal of any of the Cases, or the appointment of a

1 trustee in any of the Cases, or (ii) to propose, subject to the provisions of Section 1121 of the
2 Bankruptcy Code, a Plan, or (iii) to exercise any of its rights, claims or privileges (whether legal,
3 equitable or otherwise).

4 (e) No Third Party Rights. Except as explicitly provided for herein, this
5 Interim Order does not create any rights for the benefit of any third party, creditor, equity holder
6 or any direct, indirect, third party or incidental beneficiary.

7 (f) No Marshaling. The DIP Lender shall not be subject to the equitable
8 doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or
9 the Prepetition Collateral, as applicable.

10 (g) Section 552(b). Subject to the entry of the Final Order, the DIP Lender
11 shall be entitled to all of the rights and benefits of Section 552(b) of the Bankruptcy Code and the
12 “equities of the case” exception under Section 552(b) of the Bankruptcy Code shall not apply to
13 the DIP Lender with respect to proceeds, product, offspring or profits of any of the Senior
14 Collateral or the DIP Collateral.

15 (h) Amendment. The Debtors and the DIP Lender may amend, modify,
16 supplement or waive any provision of the DIP Loan Documents without further notice to or
17 approval of the Court, unless such amendment, modification, supplement or waiver (w) increases
18 the interest rate (other than as a result of the imposition of the default rate) or fees charged in
19 connection with the DIP Facility, (x) increases the commitments of the DIP Lender to make DIP
20 Extensions of Credit under the DIP Loan Documents, (y) provides for additional Events of
21 Default, or (z) changes the Termination Date. Except as otherwise provided herein, no waiver,
22 modification, or amendment of any of the provisions hereof shall be effective unless set forth in
23 writing, signed by, or on behalf of, the Debtors and the DIP Lender and approved by the Court
24 after notice to parties in interest.

25 (i) Priority of Terms. To the extent of any conflict between or among (a) the
26 express terms or provisions of any of the DIP Loan Documents, the Motion, any other order of
27 this Court, the *Stipulation Between Secured Creditors and Debtor-in-Possession Metropolitan*
28 *Automotive Warehouse, Inc. Re: Interim Use of Cash Collateral*, or any other agreements, on the

1 one hand, and (b) the terms and provisions of this Interim Order, on the other hand, unless such
2 term or provision herein is phrased in terms of “as defined in” or “as set forth in” the DIP Credit
3 Agreement, the terms and provisions of this Interim Order shall govern.

4 (j) Survival of Interim Order. The provisions of this Interim Order and any
5 actions taken pursuant hereto shall survive entry of any order which may be entered (i)
6 confirming any Plan in any of the Cases, (ii) converting any of the Cases to a case under Chapter
7 7 of the Bankruptcy Code, (iii) to the extent authorized by applicable law, dismissing any of the
8 Cases, (iv) withdrawing of the reference of any of the Cases from this Court or (v) providing for
9 abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms
10 and provisions of this Interim Order, including the DIP Liens and DIP Superpriority Claim
11 granted pursuant to this Interim Order shall continue in full force and effect notwithstanding the
12 entry of such order, and such DIP Liens and DIP Superpriority Claim shall maintain their priority
13 as provided by this Interim Order and the other DIP Loan Documents (as the case may be),
14 including the Intercreditor Agreement, until all of the DIP Obligations have been indefeasibly
15 paid and satisfied in full in cash and discharged.

16 (k) Enforceability. This Interim Order shall constitute findings of fact and
17 conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully
18 enforceable immediately upon execution hereof.

19 (l) No Waivers or Modification of Interim Order. The Debtors irrevocably
20 waive any right to seek any modification or extension of this Interim Order without the prior
21 written consent of the DIP Lender, and no such consent shall be implied by any other action,
22 inaction or acquiescence of the DIP Lender. This Interim Order may not be modified to alter
23 relative lien priority of the DIP Liens and the Senior Liens.

24 (m) Waiver of any Applicable Stay. Any applicable stay (including, without
25 limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Interim
26 Order.

27 (n) Committee Rights Reserved. Nothing in this Interim Order shall impair or
28 otherwise affect the rights of the Committee to investigate and/or contest the validity,

1 enforceability, perfection and/or avoidability as of the Petition Date of any liens of the Prepetition
2 Lender and any Third Party Lienholder on Senior Collateral.


3 22. Final Hearing.

4 (a) The Final Hearing to consider entry of the Final Order and final approval
5 of the DIP Facility is scheduled for March 10, 2016, at 11:00 a.m. (PST) at the United States
6 Bankruptcy Court for the Central District of California, Riverside Division. If no objections to
7 the relief sought in the Final Hearing are filed and served in accordance with this Interim Order,
8 no Final Hearing may be held, and a separate Final Order may be presented by the Debtors and
9 entered by this Court.

10 (b) On or before March 1, 2016 the Debtors shall serve, by United States mail,
11 first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing
12 (“Final Hearing Notice”), together with copies of this Interim Order and the Motion, on the
13 Notice Parties and to everyone that have requested notice of matters in this case, all committees
14 and counsel for all committees. The Final Hearing Notice shall state that any party in interest
15 objecting to the entry of the proposed Final Order shall file written objections with the Clerk of
16 the Court no later than March 9, 2016 at 12:00 p.m. (PST), which objections shall be served so
17 that the same are received on or before such date by: (a) counsel for the Debtors, Winthrop
18 Couchot Professional Corporation, facsimile: (949) 720-4111, Attn: Garrick A. Hollander;
19 (b) counsel for the DIP Lender, ASK LLP, Attn: Joseph Steinfeld, 2600 Eagan Woods Drive,
20 Suite 400, St. Paul, MN 55121; (c) counsel for the Unsecured Creditors Committee, Sidley
21 Austin LLP, Attn: Jeff Bjork and Christina Craige, 555 W. 5th St., Suite 4000, Los Angeles, CA
22 90013; and (d) the U.S. Trustee.

23 (c) Retention of Jurisdiction. The Court has and will retain jurisdiction to
24 enforce this Interim Order according to its terms.

25
26 Date: February 29, 2016

27 
28 Wayne Johnson
United States Bankruptcy Judge