



**ENTERED**  
TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

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

  
United States Bankruptcy Judge

Signed May 04, 2012

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

In re:	§	
REDDY ICE HOLDINGS, INC. and	§	Case Nos.: 12-32349 and 12-32350
REDDY ICE CORPORATION,	§	
	§	Chapter 11
Debtors.	§	
	§	Joint Administration Pending

**FINAL ORDER (I) AUTHORIZING DEBTORS TO OBTAIN  
POSTPETITION FINANCING PURSUANT TO SECTION 364  
OF THE BANKRUPTCY CODE, (II) AUTHORIZING  
THE USE OF CASH COLLATERAL PURSUANT TO  
SECTIONS 105, 361, 362 AND 363 OF THE BANKRUPTCY  
CODE, (III) GRANTING ADEQUATE PROTECTION  
TO THE PREPETITION SECURED PARTIES PURSUANT  
TO SECTIONS 361, 362, 363 AND 364 OF THE BANKRUPTCY  
CODE, AND (IV) GRANTING LIENS AND SUPERPRIORITY CLAIMS**

This matter is before the Court on the motion filed by Reddy Ice Corporation and Reddy Ice Holdings, Inc., debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (collectively, the "Cases") dated April 12, 2012 (the "Motion") seeking the following relief:

(1) authorizing and approving, pursuant to sections 105, 361, 362, 363 and 364 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 4001 and



9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Reddy Ice Corporation (“Reddy Ice”), as Borrower, to obtain, and together with the other parties signatory thereto to guarantee unconditionally (collectively, the “Guarantors”), on a joint and several basis, postpetition financing in the aggregate principal amount not to exceed \$70,000,000 (the “DIP Facility”) from Macquarie Bank Limited (in its individual capacity, “MBL”), for itself as a Lender, and as administrative agent and collateral agent for the Lenders (in such capacity, the “DIP Agent”), and the other lenders from time to time parties to the DIP Facility Agreement (as defined below) (collectively, in their lender capacity, the “DIP Lenders”);

(2) authorizing, under sections 363 and 364 of the Bankruptcy Code, the Debtors to, among other things, (A) fund ongoing working capital and general corporate purposes of the Debtors, subject to the Approved Budget<sup>1</sup> (B) repay in full the Prepetition Revolver Indebtedness (as defined below), which amounts are stipulated to be secured by the Prepetition Collateral (as defined below), (C) provide the Prepetition Agent, the Prepetition Lenders, the First Lien Agent, the First Lien Noteholders, the Second Lien Agent, and the Second Lien Noteholders with the Adequate Protection as set forth herein for such parties (each as defined below and referred to herein collectively, along with their respective affiliates, parents, subsidiaries, agents, attorneys, advisors, professionals, officers, directors and employees (in their respective capacities as such) as the “Prepetition Secured Parties”), (D) pay certain transaction fees, and other costs and expenses of administration of the Cases, subject to the Approved Budget, and (E) pay certain fees and expenses (including, without limitation, reasonable fees and expenses of counsel and financial advisors) owed to the DIP Agent and the DIP Lenders under the DIP Facility Documents (as defined below) (obligations under the DIP

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the DIP Facility Agreement.

Facility, including, without limitation, principal, accrued interest, unpaid reasonable fees and expenses, and all other obligations and amounts due from time to time under the DIP Facility Documents shall be referred to hereinafter collectively as the “Postpetition Indebtedness”);

(3) authorizing and directing the Debtors to execute and enter into the DIP Facility Documents and to perform such other and further acts as may be necessary or appropriate in connection with the DIP Facility Documents;

(4) providing, pursuant to sections 364(c) and (d) of the Bankruptcy Code, that the Postpetition Indebtedness:

a. have priority over any and all administrative expenses, including, without limitation, the kinds specified in or arising or ordered under sections 105, 326, 327, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1103, 1104, 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other consensual or non-consensual lien, levy or attachment, whether incurred in the Cases or any successor case, which allowed superpriority claims of the DIP Agent and DIP Lenders shall be payable from, and have recourse to, all prepetition and postpetition property of the Debtors as provided herein (the “DIP Facility Superpriority Claims”), subject only to the Carve-Out (as defined below) on the terms and conditions set forth herein and the DIP Facility Documents; and

b. be and be deemed immediately secured by valid, binding, continuing, enforceable, fully perfected and unavoidable first priority, first-out senior security interests and liens (the “New First Priority Liens”) in and on all prepetition and postpetition property of Debtors’ estates that is not subject to valid, perfected and non-avoidable liens, whether as of the Petition Date or thereafter, whether such property is presently owned or after-

acquired, of any kind or nature whatsoever, whether real or personal, tangible, intangible or mixed, and wherever located, and whether now existing or hereafter acquired, whether existing prior to or arising after the Petition Date, including proceeds, products, offspring, rents and profits thereof (the “New First Priority Collateral”), subject only to the Carve-Out on the terms and conditions set forth herein and in the DIP Facility Documents;

c. be and be deemed immediately secured by valid, binding, continuing, enforceable, fully perfected and unavoidable junior security interests and liens (the “Junior Liens”) in and on all prepetition and postpetition property of Debtors’ estates that is subject to the Permitted Prior Liens (as defined below), whether such property is presently owned or after-acquired, of any kind or nature whatsoever, whether real or personal, tangible, intangible or mixed, and wherever located, and whether now existing or hereafter acquired, whether existing prior to or arising after the Petition Date, including proceeds, products, offspring, rents and profits thereof (the “Junior Collateral”), subject only to the Carve-Out (as defined below) and the Permitted Prior Liens on the terms and conditions set forth herein and in the DIP Facility Documents;

d. be and be deemed immediately secured by valid, binding, continuing, enforceable, fully perfected and unavoidable first priority, first-out senior priming security interests and liens (the “Priming Liens” and together with the New First Priority Liens and the Junior Liens, the “DIP Facility Liens”) in and on all prepetition and postpetition property of the Debtors’ estates that is subject to the existing liens, rights and interests that secure the obligations of the Debtors under or in connection with the Prepetition Credit Agreement, the First Lien Indenture, or the Second Lien Indenture, whether such property is presently owned or after-acquired, or any kind or nature whatsoever, whether real or personal, tangible, intangible or

mixed, and wherever located, and whether now existing or hereafter acquired, whether existing prior to or arising after the Petition Date, including proceeds, products, offspring, rents and profits thereof (the “Primed Collateral” and collectively with the New First Priority Collateral and the Junior Collateral, the “Collateral”), subject only to the Permitted Prior Liens and the Carve-Out, on the terms and conditions set forth herein and in the DIP Facility Documents;

(5) authorizing the Debtors, pursuant to sections 361 and 363(c) and (e) of the Bankruptcy Code, to use cash collateral (as defined under section 363 of the Bankruptcy Code, the “Cash Collateral”) and all of the Prepetition Collateral (as defined below) in which the Prepetition Secured Parties may have an interest and the grant of Adequate Protection to the Prepetition Secured Parties, as applicable, on account of their claims and interests under the Prepetition Revolver Documents, the First Lien Indenture, and the Second Lien Indenture, respectively (each as defined below) with respect to, among other things, such use of their Cash Collateral and all diminution in the value of their respective interests in the Prepetition Collateral;

(6) the limitation of the Debtors’ and the estates’ right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code and the Debtors’ waiver of the “equities of the case” exception contained in Section 552(b) of the Bankruptcy Code;

(7) pursuant to Bankruptcy Rule 4001, that an interim hearing (the “Interim Hearing”) on the Motion to be held before this Court to consider entry of an interim Order (the “Interim Order”), which, among other things, (i) approved, on an interim basis, the postpetition secured financing to be made pursuant to the DIP Facility Documents, (ii) authorized the Debtor to obtain the DIP Facility loans on an interim basis in accordance with the DIP Facility Documents and following entry of the Interim Order, in the aggregate principal amount of up to

\$70,000,000, the availability of which during any time period shall be limited to an amount sufficient to pay off the Prepetition Revolver Indebtedness and meet the Borrower's working capital and other needs pending the Final Hearing (as defined below) subject to the terms and conditions of the final documentation of the DIP Facility Documents and the Approved Budget; (iii) authorized the Debtors to pay down the Prepetition Revolver Indebtedness (defined below), which amounts were stipulated to be secured by the Prepetition Collateral, (iv) authorized the Guarantors to guaranty the obligations under the DIP Facility Documents, (v) authorized the Debtors' use of Cash Collateral and (vi) granting the Adequate Protection described in the Interim Order;

(8) scheduling, pursuant to Bankruptcy Rule 4001, a final hearing (the "Final Hearing") before this Court to consider entry of this order which, among other things, (i) approves the DIP Facility, (ii) authorizes the use of Cash Collateral, and (iii) authorizes the grant of Adequate Protection to the Prepetition Secured Parties, all on a final basis (the "Final Order"), as set forth in the Motion and the DIP Facility Documents filed with the Court.

Pursuant to Bankruptcy Rules 4001(b) and 4001(c)(1), due and sufficient notice under the circumstances of the Motion and the Interim Hearing, the relief requested therein and the Interim Hearing having been provided by the Debtors; and the Interim Hearing having been held on April 13, 2012; and the Interim order having been entered on April 13, 2012 [Docket No. 58]; and due and sufficient notice under the circumstances of the Final Hearing having been provided by the Debtors as set forth in paragraph M below; upon consideration of all the motions and pleadings filed with this Court, and any objections to the relief requested in the Motion that have not been resolved having been hereby overruled, and upon the record made by the Debtors at the Interim Hearing and the Final Hearing, including the Declaration of Steven J. Janusek in Support

of Chapter 11 Petitions and Various First Day Applications and Motions, and it appearing that the relief requested in the Motion, as modified herein, is in the best interests of the Debtors, their estates and their creditors, and after due deliberation and consideration and good and sufficient cause appearing therefor;

IT IS HEREBY FOUND that:<sup>2</sup>

A. Petition Date. On April 12, 2012 (the “Petition Date”), the Debtors each commenced in this Court a case under chapter 11 of the Bankruptcy Code. The Debtors are continuing to operate their respective businesses and manage their respective properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. Joint Administration. Pursuant to an order of this Court, the Cases have been consolidated for procedural purposes only and are being jointly administered. No request for the appointment of a trustee or examiner has been made in these Cases. An official committee of unsecured creditors (the “Committee”) has been formed in the case of Reddy Ice Corporation, pursuant to section 1103 of the Bankruptcy Code.

C. Jurisdiction. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief granted herein are sections 105, 361, 362, 363 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014 and the local bankruptcy rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Bankruptcy Rules”).

D. Notice. Under the circumstances, the notice given by the Debtors of the

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<sup>2</sup> Findings of fact shall be construed as conclusion of law, and conclusions of law shall be construed as findings of fact, pursuant to Bankruptcy Rule 7052.

Motion, the relief requested therein, and the Final Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 4001(b) and (c) and the Local Bankruptcy Rules, and no further notice of the relief sought at the Final Hearing and the relief granted herein is necessary or required.

E. Debtors' Stipulations. Subject to the rights of any non-Debtor party-in-interest, other than the Prepetition Agent, the Prepetition Lenders, the First Lien Agent, the Second Lien Agent, the Second Lien Noteholders or the First Lien Noteholders to, among other things, challenge the validity, priority, perfection and enforceability of the Prepetition Secured Indebtedness and the Prepetition Liens (as those terms are defined below):

(i) Prepetition Loan Documents.

1. Pursuant to that certain Amended and Restated Credit Agreement dated as of October 22, 2010 (as further amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition Credit Agreement"; and together with all other agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith, the "Prepetition Revolver Documents") by and among Reddy Ice Corporation and Reddy Ice Holdings, Inc., as guarantors, MBL, as administrative agent for the lenders party thereto (in such capacity, the "Prepetition Agent"), and the lenders (each, a "Prepetition Lender" and collectively in their lender capacity, the "Prepetition Lenders") party thereto, the Prepetition Lenders made loans and provided other financial accommodations to or for the benefit of the Debtors;



2. As of the Petition Date, pursuant to the Prepetition Revolver Documents, the Debtors were jointly and severally indebted to the Prepetition Agent and the Prepetition Lenders in the outstanding principal amount of not less than \$50,000,000 with respect to the aggregate principal amount of “Obligations” (as defined in the Prepetition Credit Agreement) outstanding under the Prepetition Credit Agreement, but exclusive of Obligations with respect to interest, fees, indemnities, costs, expenses and other obligations required to be paid or reimbursed by the Debtors.

(ii) First Lien Documents.

1. Pursuant to that certain Indenture, with respect to 11.25% Senior Secured Notes due 2015, dated as of March 15, 2010 (as amended, the “First Lien Indenture” and, together with all other agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith, the “First Lien Note Documents”), among Reddy Ice, Reddy Ice Holdings, Inc. (“Holdings”) and Wells Fargo Bank, National Association, as trustee and collateral agent (the “First Lien Agent”), Reddy Ice and Holdings made certain financial accommodations to the lender parties thereto (the “First Lien Noteholders”).

2. As of the Petition Date, pursuant to the First Lien Note Documents, the Debtors were, jointly and severally, indebted to the First Lien Noteholders in the aggregate principal amount of not less than

\$300,000,000, inclusive of accrued and unpaid interest and prepayment premiums.

(iii) Second Lien Documents

1. Pursuant to that certain Indenture, with respect to 13.25% Senior Secured Second Lien Notes due 2015, dated as of March 25, 2010 (as amended, the “Second Lien Indenture” and, together with all other agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith, the “Second Lien Note Documents”), among Reddy Ice, Holdings and Law Debenture Trust Company of New York, as trustee and collateral agent (the “Second Lien Agent”),<sup>3</sup> Reddy Ice made certain financial accommodations to the lender parties thereto (the “Second Lien Noteholders”).

2. As of the Petition Date, the Debtors were, jointly and severally, indebted to the Second Lien Noteholders in the aggregate principal amount of not less than \$139,000,000, inclusive of accrued and unpaid interest.

For purposes of this Final Order, the term “Prepetition Revolver Indebtedness” shall mean and include, without duplication, any and all amounts owing or outstanding now or in the future under the Prepetition Revolver Documents (including, without limitation, the Obligations), and all interest on, fees and other costs, expenses and charges owing in respect of, such amounts (including, without limitation, any attorneys’, accountants’, financial advisors’ and other fees and expenses that are chargeable or reimbursable under the applicable provisions of the

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<sup>3</sup> Law Debenture Trust Company of New York succeeded Wells Fargo Bank, National Association (the “Predecessor Second Lien Agent”) as Second Lien Agent pursuant to that certain Instrument of Resignation, Appointment and Acceptance, dated as of April 18, 2012 (the “Second Lien Agent Appointment Agreement”).

Prepetition Revolver Documents). The term “First Lien Note Indebtedness” shall mean and include, without duplication, any and all amounts owing or outstanding under the First Lien Note Documents, and all interest on, fees and other costs, expenses and charges owing in respect of, such amounts under the applicable provisions of the First Lien Note Documents. The term “Second Lien Note Indebtedness” shall mean and include, without duplication, any and all amounts owing or outstanding under the Second Lien Note Documents, and all interest on, fees and other costs, expenses and charges owing in respect of, such amounts under the applicable provisions of the Second Lien Note Documents. The term “Prepetition Secured Indebtedness” shall mean and include the Prepetition Revolver Indebtedness, the First Lien Note Indebtedness, and the Second Lien Note Indebtedness, collectively, and the term “Prepetition Secured Financing Documents” shall mean, collectively, the Prepetition Revolver Documents, the First Lien Note Documents, and the Second Lien Note Documents;

(iii) Pursuant to the Prepetition Revolver Documents, the First Lien Note Documents, and the Second Lien Notes Documents, and subject to the Intercreditor Agreements, the Debtors granted to the Prepetition Agent for the benefit of the Prepetition Lenders, to the First Lien Agent for the benefit of the First Lien Noteholders, and to the Second Lien Agent for the benefit of the Second Lien Noteholders, respectively, liens and security interests (the “Prepetition Liens”) on and in certain of the Debtors’ property and assets whether real or personal, tangible or intangible, and wherever located, and whether now or hereafter existing or acquired, and all the proceeds, products, offspring, rents and profits thereof (the “Prepetition Collateral”) to secure the Prepetition Secured Indebtedness and guaranties thereof;

(iv) As of the Petition Date and immediately prior to giving effect to the Interim Order, but subject to the rights of any non-Debtor party-in-interest (other than the

Prepetition Agent, the Prepetition Lenders, the First Lien Agent, the First Lien Noteholders, the Second Lien Agent, and the Second Lien Noteholders) as provided in paragraph 8 of this Final Order:

(a) the Prepetition Secured Financing Documents are legal, valid and binding agreements and obligations of the Debtors, enforceable in accordance with their terms (other than in respect of the stay enforcement arising from section 362 of the Bankruptcy Code);

(b) the Prepetition Liens (i) constitute valid, binding, enforceable and properly perfected first priority, first-out security interests and liens, respectively, that, prior to entry of this Final Order, were subject only to the Permitted Prior Liens and, in the case of the liens securing the Second Lien Obligations, the Prepetition Liens of the Prepetition Agent and the First Lien Agent, and (ii) are not subject to objection, avoidance, reduction, disallowance, recharacterization, recovery, subordination (whether equitable, contractual or otherwise), offset, counterclaim, defense or “claim” (as such term is defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law or regulation by any person or entity;

(c) the aggregate value of collateral securing the liens and claims with respect to the Prepetition Revolver Documents exceeds the amount of the claims owing under such documents;

(d) the Prepetition Secured Indebtedness constitutes the legal, valid and binding obligations of the Debtors as set forth in the Prepetition Revolver Documents, the First Lien Note Documents, and the Second Lien Note Documents, respectively, enforceable in accordance with their respective terms (other than in respect of the stay of enforcement arising

from section 362 of the Bankruptcy Code). The Prepetition Secured Indebtedness, and, subject to the terms of the Intercreditor Agreements (as defined below), any amounts paid at any time to any Prepetition Secured Party on account thereof or with respect thereto, are not subject to (i) any objection, offset, defense, counterclaim or “claim” (as such term is defined in the Bankruptcy Code) of any kind or nature, or (ii) avoidance, reduction, disallowance, recharacterization or subordination (whether equitable, contractual or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law or regulation by any person or entity; and

(e) no claims, objections, challenges, counterclaims, causes of action and/or choses in action, defenses or setoff rights of any Debtor exist against any Prepetition Secured Party and their respective Prepetition Secured Indebtedness and Prepetition Liens under any contract or tort (including, without limitation, lender liability) theories of recovery, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 (including, without limitation, sections 510, 544, 545, 547, 548, 549 or 550) of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, and to the extent any claims, objections, challenges, counterclaims, causes of action and/or choses in action, defense or setoff rights are deemed to have existed as to any of the foregoing, the Debtors waive, discharge and release any right they may have to challenge any of the Prepetition Secured Indebtedness and the Prepetition Liens, and to assert any offsets, defenses, claims, objections, challenges, counterclaims, causes of action and/or choses of action against the Prepetition Secured Parties.

F. No Claims. As of the Petition Date, the Debtors have not brought, and are not aware of, (i) any claims or causes of action belonging to the Debtors that exist against the Prepetition Secured Parties, or (ii) any facts, circumstances, or other matters which would give

rise to such claims or causes of action.

G. First Lien Intercreditor Agreement. The Prepetition Agent and the First Lien Agent are parties to that certain First Lien Intercreditor Agreement dated as of March 15, 2010, (as amended, restated, supplemented or otherwise modified from time to time, the “First Lien Intercreditor Agreement”) which governs the respective rights, obligations and priorities of the Prepetition Lenders and the First Lien Noteholders with respect to their interests in the Prepetition Collateral. Pursuant to the First Lien Intercreditor Agreement, any proceeds of the Prepetition Collateral are payable to pay off (i) first, all amounts owing to the First Lien Agent and/or the Prepetition Agent pursuant to the applicable Prepetition Secured Financing Documents, and the costs and expenses incurred by the First Lien Agent and/or the Prepetition Agent in connection with the enforcement of rights or exercise of remedies, and the costs and expenses of the Prepetition Agent and/or the First Lien Agent in enforcing their rights under the First Lien Intercreditor Agreement; (ii) second, the Prepetition Revolver Indebtedness, including any postpetition interest thereon, until paid in full; and (iii) third, the First Lien Note Indebtedness.<sup>4</sup>

H. Second Lien Intercreditor Agreement. The Prepetition Agent and the Second Lien Agent are parties to that certain Junior Lien Intercreditor Agreement dated as of March 15, 2010, (as amended, restated, supplemented or otherwise modified from time to time, the “Second Lien Intercreditor Agreement” and together with the First Lien Intercreditor Agreement, the “Intercreditor Agreements”) which governs the respective rights, obligations and priorities of the Prepetition Lenders and the First Lien Noteholders, on the one hand, and the

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<sup>4</sup> The description of the First Lien Intercreditor Agreement is not intended to supersede the terms of the First Lien Intercreditor Agreement. Any conflict between the description of the First Lien Intercreditor Agreement and the actual terms of the First Lien Intercreditor Agreement should be interpreted in favor of the First Lien Intercreditor Agreement.

Second Lien Noteholders, on the other hand, with respect to their interests in the Prepetition Collateral. Pursuant to the Second Lien Intercreditor Agreement, the liens securing the Prepetition Secured Indebtedness have priority and are senior in all respects to any lien securing the obligations pursuant to the Second Lien Indenture. The Second Lien Intercreditor Agreement prohibits the Second Lien Agent from challenging or contesting the validity, perfection, priority or enforceability of the First Lien Agent's and Prepetition Agent's Prepetition Liens, and from opposing or contesting any request made in any court by the First Lien Agent, the First Lien Noteholders, the Prepetition Agent or the Prepetition Lenders relating to the enforcement of the Prepetition Liens. Further, the Second Lien Intercreditor Agreement prohibits the Second Lien Agent from objecting to or otherwise contesting any use of cash collateral or debtor-in-possession financing proposed by the First Lien Agent, the First Lien Noteholders, the Prepetition Agent or the Prepetition Lenders, and from requesting adequate protection.<sup>5</sup>

I. Purpose and Necessity of Financing. The Debtors' businesses have an immediate need for financing under the DIP Facility and use of Cash Collateral in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures and to satisfy other working capital and operational, financial and general corporate needs. The access of the Debtors to sufficient working capital and liquidity through the incurrence of new indebtedness for borrowed money and other financial accommodations and use of Cash Collateral is vital to the preservation and maintenance of the going concern values of the Debtors and to the success of these Cases. Without such credit and

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<sup>5</sup> The description of the Second Lien Intercreditor Agreement is not intended to supersede the terms of the Second Lien Intercreditor Agreement. Any conflict between the description of the Second Lien Intercreditor Agreement and the actual terms of the Second Lien Intercreditor Agreement should be interpreted in favor of the Second Lien Intercreditor Agreement.

use of Cash Collateral, the Debtors would not be able to operate their businesses and the Debtors' estates would be irreparably harmed.

J. Findings Regarding the Financing.

(i) Good cause has been shown for entry of this Final Order.

(ii) The Debtors are unable to obtain sufficient financing from sources other than the DIP Lenders on terms more favorable than under the DIP Facility and all the documents and instruments delivered pursuant thereto or in connection therewith (inclusive of the DIP Facility Agreement (as defined below), the "DIP Facility Documents"). The Debtors have been unable to obtain sufficient unsecured credit solely under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), and 364(c)(3) for the purposes set forth in the DIP Facility Documents without the Debtors providing (a) the DIP Agent, for the benefit of the DIP Lenders, with the DIP Facility Superpriority Claims and the DIP Facility Liens as provided herein and in the documents and instruments delivered pursuant to or in connection with the DIP Facility Agreement and (b) the Prepetition Secured Parties with Adequate Protection of their interests in the Prepetition Collateral on the terms and conditions as set forth herein.

(iii) The Prepetition Secured Parties are willing to provide financing to the Debtors and/or consent to the use of Cash Collateral and other Collateral by the Debtors subject to (i) the entry of this Final Order, (ii) to the extent of financing pursuant to the DIP Facility, the terms and conditions of the DIP Facility Documents, and (iii) findings by the Court that such postpetition financing and use of Cash Collateral is (a) necessary for the Debtors' estates, (b) that the terms of such financing and use of Cash



Collateral were negotiated in good faith and at arm's length, (c) that the terms of such financing and use of Cash Collateral are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration, and (d) that the DIP Facility Liens, DIP Facility Superpriority Claims, and the other protections granted pursuant to this Final Order and the DIP Facility Documents with respect to, and to the extent of, such financing and use of Cash Collateral will not be affected by any subsequent reversal, modification, vacatur, or amendment of this Final Order or any other order, as provided in section 364(e) of the Bankruptcy Code. Without limiting the foregoing, any Advances (as defined below) made to the Debtors under the DIP Facility Documents after entry of this Final Order (including the "roll-up" of the Prepetition Revolver Indebtedness") shall be entitled to the protections provided by section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed, or modified, on appeal or otherwise. The Prepetition Secured Parties have each acted in good faith (as that term is used in section 364(e) of the Bankruptcy Code) in, as applicable, negotiating, consenting to and agreeing to provide the postpetition financing arrangements and/or use of Cash Collateral as contemplated by this Final Order and the other DIP Facility Documents, and the reliance by the Prepetition Secured Parties on the assurances referred to above is in good faith.

(iv) The ability of the Debtors to finance their respective operations and the availability to the Debtors of sufficient working capital and other financial and general corporate liquidity through the incurrence of new indebtedness for borrowed money and other financial accommodations and use of Cash Collateral are in the best

interests of the Debtors and their respective creditors and estates. The financing and use of Cash Collateral authorized hereunder is vital to avoid immediate irreparable harm to the Debtors' businesses, properties and estates and to allow the orderly continuation of the Debtors' businesses.

(v) Based upon the record presented by the Debtors to this Court: (a) the terms of the DIP Facility and use of Cash Collateral are the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and fair consideration; and (b) the DIP Facility and use of Cash Collateral have been negotiated in good faith and at arm's length among the Debtors, the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties, and any loans, credit, credit support, use of Cash Collateral or other financial accommodations set forth in this Final Order shall be deemed to have been extended, issued, made, or consented to, as the case may be, in "good faith" within the meaning of section 364(e) of the Bankruptcy Code.

(vi) The consent of the Prepetition Secured Parties granted herein is expressly limited to: (a) the Debtors' use of Cash Collateral and Prepetition Collateral solely on the terms and conditions set forth in this Final Order; and (b) the postpetition financing being provided by the DIP Agent and DIP Lenders as contemplated by this Final Order and the DIP Facility Documents. Nothing in this Final Order, including, without limitation, any of the provisions herein with respect to adequate protection, shall constitute, or be deemed to constitute, a finding that the interests of any Prepetition Secured Party are or will be adequately protected with respect to any non-consensual use of Cash Collateral or priming of the Prepetition Liens.

K. Payment of Prepetition Revolver Indebtedness. Pursuant to the Interim Order, on or about April 16, 2012, the Debtors paid the Prepetition Agent the amount of \$50,260,082.30 on account of the Obligations outstanding with respect to the Prepetition Revolver Indebtedness. Such payment was a valid, appropriate, and duly authorized payment pursuant to the Interim Order and the DIP Facility Agreement and is approved herein on a final basis.

L. Termination of Real Estate Loan Facility. Pursuant to Section 5.1.10 of the DIP Facility Agreement and the Interim Order, MBL's obligations (if any) pursuant to the Real Estate Loan Facility (as defined in the DIP Facility Agreement) were terminated and are of no further force or effect.

M. Notice. Telephonic, electronic, facsimile or overnight mail notice of the Final Hearing and the proposed entry of this Final Order has been provided to (a) the entities listed on the Debtors' list of largest unsecured creditors filed pursuant to Bankruptcy Rule 1007(d); (b) the Office of the United States Trustee for the Northern District of Texas (the "U.S. Trustee"), (c) counsel to the DIP Agent and the Prepetition Agent, (d) the First Lien Agent, (e) the Second Lien Agent, (f) all known parties asserting a lien against the Collateral, (g) counsel to Centerbridge Partners, (h) counsel to the ad hoc committee of noteholders, (i) U.S. Bank National Association, as trustee for the Debtors' unsecured senior discount notes, (j) counsel for the Committee and (k) any other party that is required to receive notice under the Bankruptcy Rules (collectively, the "Notice Parties"). Under all the exigent circumstances, the notice of the Motion and the relief requested thereby and this Final Order constitutes due and sufficient notice therefor and complies with Bankruptcy Rule 4001 and the Local Bankruptcy Rules, and no further notice of the relief sought at the Final Hearing and the relief granted herein is necessary

or required.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Disposition. The Motion is granted on a final basis as set forth in this Final Order. Any objections to the Motion that have not previously been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled on their merits. This Final Order shall be valid, binding on all parties-in-interest, final, and fully effective immediately upon its entry, and there shall be no stay of execution or effectiveness of this Final Order, notwithstanding Bankruptcy Rule 6004(h).

2. Authorization to Borrow Under the DIP Facility.

(a) The Debtors are expressly authorized and directed to execute and deliver, and, on such execution and delivery, are authorized and directed to perform under the DIP Facility Documents, including the DIP Facility Agreement (as defined below), which is hereby approved and incorporated herein by reference.

(b) Upon execution and delivery of that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement by and among the Debtors, the DIP Agent, and the DIP Lenders, in substantially the form annexed to the Motion as Exhibit A (as amended, restated or otherwise modified from time to time in accordance with the terms thereof, the “DIP Facility Agreement”), and provided that the Debtors are not in default under the terms of this Final Order or the DIP Facility Agreement, Reddy Ice is authorized to borrow, and the Guarantors are authorized to guaranty, borrowings in an amount not to exceed \$70,000,000 in an aggregate principal amount of Advances inclusive of interest and fees, charges and expenses payable under the DIP Facility Documents pursuant to the terms and conditions of the DIP Facility Agreement, and to use amounts borrowed under the DIP Facility to fund the Debtors’

working capital and other general corporate needs, subject to the Approved Budget, in accordance with the terms of the DIP Facility Agreement and this Final Order.

(c) Upon their execution and delivery, the DIP Facility Documents shall constitute legal, valid, and binding obligations of the Debtors, enforceable against the Debtors in accordance with the terms of the DIP Facility Documents and the terms hereof. The Debtors shall, subject to the terms of the DIP Facility Documents, including the Approved Budget, be entitled to borrow all amounts available under the DIP Facility Agreement to fund the Debtors' working capital and other general corporate needs and pay such other amounts required or allowed to be paid pursuant to the DIP Facility Documents, this Final Order and any other orders of this Court, including, but not limited to, any amounts then outstanding with respect to the Prepetition Revolver Indebtedness (if any).

3. DIP Facility Superpriority Claims. For the Postpetition Indebtedness and any other of the Debtors' obligations arising under the DIP Facility Documents, the DIP Lenders and DIP Agent are each granted, pursuant to section 364(c)(1) of the Bankruptcy Code, subject only to the Carve-Out as provided for herein, the allowed DIP Facility Superpriority Claims, which claims shall have priority over any and all administrative expenses, including, without limitation, the kind specified in sections 105, 326, 327, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1103, 1104, 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other consensual or non-consensual lien, levy or attachment, whether incurred in the Cases or any successor case and which claims shall be payable from and have recourse to, in addition to the Collateral, any unencumbered prepetition or postpetition property of the Debtors and all proceeds thereof whether now existing or hereafter acquired; provided, however, that the DIP Facility

Superpriority Claims shall not be payable from proceeds of any of the Debtors' claims or causes of action under sections 502(d), 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code other than such claims or causes of action against Macquarie Bank Limited or any of its subsidiaries (the "Avoidance Actions"). The DIP Facility Superpriority Claims shall be deemed legal, valid, binding, and enforceable claims, not subject to subordination, impairment or avoidance other than as provided herein, for all purposes in the Cases and any successor case.

4. New First Priority Liens. As security for the repayment of the Postpetition Indebtedness arising under the DIP Facility Documents, pursuant to sections 364(c)(2) of the Bankruptcy Code, the DIP Agent, on behalf of itself and the DIP Lenders, is granted (without the necessity of the execution by the Debtors or the filing, recordation, or execution and delivery of mortgages, security agreements, control agreements, financing statements, or otherwise) the New First Priority Liens; provided that the grant of liens in this paragraph 4 shall not extend to any of the Debtors' Avoidance Actions and property received thereby whether by judgment, settlement or otherwise, or the proceeds thereof. The New First Priority Liens are valid, binding, enforceable and fully perfected, and are subject only to the Carve-Out. All possessory collateral held by the Prepetition Agent shall be subject to the DIP Facility Liens and deemed to be possessory collateral held by the DIP Agent and otherwise disbursed in accordance with the terms of this Final Order.

5. Junior Liens. As security for the repayment of the Postpetition Indebtedness arising under the DIP Facility Documents, pursuant to sections 364(c)(3) of the Bankruptcy Code, the DIP Agent, on behalf of itself and the DIP Lenders, is granted (without the necessity of the execution by the Debtors or the filing, recordation, or execution and delivery of

mortgages, security agreements, control agreements, financing statements, or otherwise) the Junior Liens, but excluding Avoidance Actions and the proceeds thereof. The Junior Liens are valid, binding, enforceable and fully perfected, and are subject only to the Carve-Out and the Permitted Prior Liens. All possessory collateral held by the Prepetition Agent shall be subject to the DIP Facility Liens and deemed to be possessory collateral held by the DIP Agent and otherwise disbursed in accordance with the terms of this Final Order. As used herein, the term “Permitted Prior Liens” means only such liens and security interests that are (a) valid, enforceable, non-avoidable liens and security interests that are perfected prior to the Petition Date (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code), (b) not subject to avoidance, reduction, disallowance or subordination pursuant to the Bankruptcy Code or applicable non bankruptcy law and (c) senior in priority to the Prepetition Liens under applicable law and after giving effect to any applicable subordination or intercreditor agreements, *provided that* the term “Permitted Prior Liens” does not include existing liens, right or interests that secure the obligations of the Debtors under or in connection with the Prepetition Credit Agreement, the First Lien Note Indenture, and the Second Lien Indenture, which liens, rights and interests shall be primed by the Priming Liens (as defined below) granted to the DIP Agent.

6. Priming Liens. As security for the repayment of the Postpetition Indebtedness arising under the DIP Facility Documents, pursuant to section 364(d) of the Bankruptcy Code, the DIP Agent, on behalf of itself and the DIP Lenders, is granted (without the necessity of the execution by the Debtors or the filing, recordation, or execution and delivery of mortgages, security agreements, control agreements, financing statements, or otherwise) the Priming Liens, but excluding the Avoidance Actions and proceeds thereof. The Priming Liens

are valid, binding, enforceable and fully perfected, prime and are senior in all respects to the Prepetition Liens and the Replacement Liens (as defined below) pursuant to section 364(d) of the Bankruptcy Code, and are subject only to the Carve-Out and the Permitted Prior Liens (provided that, upon payoff of the Prepetition Revolver Indebtedness, the Priming Liens will no longer prime the Prepetition Liens to the extent of the Prepetition Revolver Indebtedness). All possessory collateral held by the Prepetition Agent is subject to the DIP Facility Liens and deemed to be possessory collateral held by the DIP Agent and otherwise disbursed in accordance with the terms of this Final Order.

7. Carve-Out.

(a) As used in this Final Order, the term “Carve-Out” shall mean, collectively: (i) the unpaid fees payable to the U.S. Trustee and Clerk of the Bankruptcy Court pursuant to section 1930 of title 28 of the United States Code (the “U.S. Trustee and Clerk Fees”); (ii) to the extent allowed by the Bankruptcy Court at any time, whether by interim order, procedural order or otherwise (whether such allowance occurs before or after the Carve-Out Trigger Date, as defined below), all unpaid fees, disbursements, costs and expenses (collectively, the “Professional Fees”) actually incurred at any time before the business day immediately following the Carve-Out Trigger Date (as defined below) (including amounts actually incurred but not invoiced or approved prior to such day) by (x) the Debtors’ professionals retained pursuant to section 327, 328 or 330 of the Bankruptcy Code (but only such fees and expenses incurred in connection with such retention) and (y) any professional of the Committee (the Committee’s professionals together with the Debtors’ professionals, the “Professional Persons”) (but only such fees and expenses incurred in connection with such retention) and expenses of the Committee’s members; and (iii) the Professional Fees of Professional Persons actually incurred



on and after the business day immediately following the Carve-Out Trigger Date, to the extent allowed by the Bankruptcy Court at any time, whether by interim order, procedural order or otherwise, in an aggregate amount not to exceed \$500,000. As used herein, “Carve-Out Trigger Date” shall mean the date on which the DIP Agent provides written notice to the Debtors and lead counsel to the Debtors, with a copy of such notice to lead counsel for the Committee, the U.S. Trustee, and counsel to the First Lien Agent and Second Lien Agent, that the Carve-Out is invoked, which notice may be delivered only following the occurrence and during the continuation of an Event of Default under the DIP Facility and the acceleration of all of the obligations under the DIP Facility.

(b) Subject to the terms and conditions of the DIP Facility Documents and this Final Order, prior to the business day following the Carve-Out Trigger Date, the Debtors shall be permitted to pay all allowed Professional Fees actually incurred (including on an interim basis) as the same may be due and payable, and such payments shall not reduce or be deemed to reduce the amount of the Carve-Out specified in clause (a)(iii) above.

(c) Notwithstanding anything herein or in any other order by this Court to the contrary, no Prepetition Collateral, Collateral, Cash Collateral, amounts borrowed under the DIP Facility Documents, proceeds of any of the foregoing, or any portion of the Carve-Out shall include, apply to, or be available for, any fees or expenses incurred by any party, including the Debtors or the Committee (if appointed), in connection with (i) the prosecution of any claims, causes of action, adversary proceedings, or other litigation against the DIP Agent, any DIP Lender, or any Prepetition Secured Party, including, without limitation, challenging the amount, validity, extent, perfection, priority, characterization, or enforceability of, or asserting any defense, counterclaim, or offset to, the Postpetition Indebtedness, the DIP Facility

Superpriority Claims, or the DIP Facility Liens, (ii) asserting (A) any claims or causes of action against the DIP Agent, any DIP Lender, or any Prepetition Secured Party, including, without limitation, claims or actions to hinder or delay the assertion or enforcement of the DIP Facility Liens or Replacement Liens, or realization on the Collateral, in accordance with the DIP Facility Documents or this Final Order by the DIP Agent, any DIP Lender, or any Prepetition Secured Party, but specifically excluding objections to a plan of reorganization, or (B) any claims or causes of action under sections 502(d), 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code against any DIP Agent, any DIP Lender, or any Prepetition Secured Party, or (iii) the prosecution of any claims, causes of action, adversary proceedings, or other litigation against any Prepetition Secured Party, including, without limitation, challenging the amount, validity, extent, perfection, priority, or enforceability of, or asserting any defense, counterclaim, or offset to, the Prepetition Secured Indebtedness, any Prepetition Secured Financing Document, or the Adequate Protection granted herein; provided, however, that the Committee shall be authorized to use up to an aggregate amount of \$50,000 to investigate the liens, claims and interests of the Prepetition Secured Parties. Notwithstanding the foregoing, nothing herein shall be deemed to (a) limit the ability of the Committee's professionals to be paid from unencumbered assets for services rendered in the investigation or prosecution of claims against the Prepetition Secured Parties; (b) preclude the Court from awarding fees and expenses to the Committee professionals pursuant to section 330 of the Bankruptcy Code for such services rendered; nor (c) relieve the Debtors or any plan proponent(s) from paying all allowed administrative expenses in connection with confirmation of any plan.

(d) Notwithstanding anything herein to the contrary, the foregoing shall not be construed as consent to the allowance of any Professional Fees and shall not affect

the right of the Debtors, the DIP Agent, the DIP Lenders, the Prepetition Secured Parties, the Committee, the U.S. Trustee, or other parties-in-interest to object to the allowance and payment of any Professional Fees. Payment of any portion of the Carve-Out shall not, and shall not be deemed to, (x) reduce any Debtor's obligations owed to the DIP Agent or any DIP Lender or any Prepetition Secured Party or (y) except as expressly provided herein, subordinate, modify, alter or otherwise affect any of the liens and security interests of such parties on and in the Collateral or Prepetition Collateral (or their respective claims against the Debtors). Notwithstanding anything to the contrary herein, in the DIP Facility Agreement, in the Prepetition Credit Agreement, in the First Lien Note Documents, or in the Second Lien Note Documents, the Carve-Out shall be senior to all liens securing, and prior to the payment of, the obligations owed to the DIP Agent, the DIP Lenders, any Prepetition Secured Party or other party-in-interest, whether arising as a result of the obligations under the DIP Facility obligations, adequate protection obligations or any pre-petition obligations.

8. Investigation Rights. Each stipulation, admission and agreement contained in this Final Order, including, without limitation, in paragraph E of this Final Order, shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors), and the Prepetition Secured Parties in all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Lender Claims (defined below). Each stipulation and admission contained in this Final Order, including, without limitation, in paragraph E of this Final Order, shall be binding upon all other parties-in-interest, including, without limitation, the Committee, under all circumstances and for all purposes, except solely to the extent as provided in this Final Order. Notwithstanding anything herein to the contrary, until May 16, 2012 (the

“Investigation Termination Date”), the Committee shall be entitled to investigate the validity, amount, perfection, priority, and enforceability of the Prepetition Liens and Prepetition Secured Indebtedness, or to assert any other claims or causes of action held by the Debtors’ estates against any Prepetition Secured Party (collectively, the “Lender Claims”), and is hereby granted standing to pursue such claims or causes of action. If the Committee determines that there may be a challenge to any Prepetition Secured Party’s prepetition liens, claims or security interests (each, a “Challenge”), the Committee may, on or before the Investigation Termination Date, file an objection or otherwise initiate an appropriate action setting forth the basis of such Challenge. This Order confers automatic standing on the Committee to file a Challenge or otherwise prosecute any Lender Claims without the need to obtain a further Court order. If the Committee does not timely file a Challenge on or before the Investigation Termination Date (or such other later date as extended in accordance with paragraph 10 below), disputing any agreement, acknowledgement, release and/or stipulation contained herein, including in paragraph E of this Final Order resulting in a final order in favor of the plaintiff sustaining such Challenge (with which such final order the Prepetition Secured Parties shall comply) in any such timely filed adversary proceeding or contested matter, then (a) the agreements, acknowledgements, releases and stipulations contained herein, including in paragraph E of this Final Order, which have not been expressly disputed in connection with a Challenge shall be irrevocably binding on all other parties, the estates, the Committee and all parties-in-interest (including, without limitation, any receiver, administrator, or trustee appointed in any of the Cases or any successor case in any jurisdiction) without further action by any party or this Court, and (b) the Committee and any other party-in-interest (including without limitation, any receiver, administrator, or trustee appointed in any of the Cases or any successor case or in any jurisdiction) shall thereafter be

forever barred from bringing any Challenge with respect to the Prepetition Secured Parties or any agreement, acknowledgements, releases and stipulations contained herein, including in paragraph E of this Final Order.

9. If a Challenge is timely filed on or before the Investigation Termination Date, any and all other potential claims and actions against the Prepetition Secured Parties not expressly asserted in such Challenge shall be deemed, immediately and without further notice, motion or application to, order of, or hearing before, this Court, to have been forever relinquished, discharged, released and waived. Nothing in this Final Order precludes any Prepetition Secured Party from seeking allowance of all or any portion of the Prepetition Secured Indebtedness prior to the occurrence of the Investigation Termination Date.

10. The Investigation Termination Date may not be extended unless (a) the DIP Agent (on behalf of the DIP Lenders), the Prepetition Agent (on behalf of the Prepetition Lenders), the First Lien Agent (on behalf of the First Lien Noteholders), and the Second Lien Agent (on behalf of the Second Lien Noteholders) and the Debtors each consent in writing to an extension or (b) the Committee files a motion seeking an extension and the Court enters an order granting such an extension before the expiration of the Investigation Termination Date. Only the Committee shall be entitled to bring a Challenge on behalf of the Debtors' estates against any Prepetition Secured Party, and no other party-in-interest shall be entitled to investigate the validity, amount, perfection, priority, or enforceability of the Prepetition Liens and Prepetition Secured Indebtedness, or to assert any other claims or causes of action held by the Debtors' estates against the Prepetition Secured Parties.

11. Section 506(c) and 552(b) Waivers. With the exception of the Carve-Out and except as otherwise permitted by the DIP Facility Documents or this Final Order, neither the

Collateral nor the DIP Agent, any DIP Lender, the Prepetition Secured Parties, nor any of their claims, shall be subject to any costs or expenses of administration that have been, or may be incurred at any time, pursuant to sections 105, 506(c) or 552(b) of the Bankruptcy Code, or otherwise, by the Debtors or any other party-in-interest. No action, inaction, or acquiescence by the DIP Agent, any DIP Lender, or any Prepetition Secured Party shall be deemed to constitute consent for any “surcharge” of the Collateral, and the “equities of the case” exception contained in section 552(b) of the Bankruptcy Code is deemed waived with respect to the Collateral. None of the DIP Agent, any DIP Lender, or the Prepetition Secured Parties shall be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral or Prepetition Collateral.

12. Deemed Use of Cash Collateral. To the extent that Debtors have unrestricted cash on hand as of the Petition Date (the “Petition Date Cash”), the Debtors are immediately authorized, pursuant to sections 105, 361, and 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001 and 9014, to use such Petition Date Cash, and all cash collected by the Debtors in the ordinary course of their operations, for the operation of their businesses and payment of expenses in accordance with the Approved Budget and are deemed to have used Petition Date Cash and cash generated from operations prior to any Advances received under the DIP Facility; provided, however, that the Debtors shall first apply Advances from the DIP Facility, cash collected in the ordinary course of business and/or Petition Date Cash to pay off the Obligations outstanding with respect to the Prepetition Revolver Indebtedness (if any). The Debtors may request revolving credit advances under the DIP Facility (“Advances”) (a) until such point that the Obligations outstanding with respect to the Prepetition Revolver Indebtedness have been paid, and thereafter, (b) in accordance with the terms of this Final Order, the DIP

Facility Documents and the Approved Budget, to fund working capital and other general corporate needs.

13. Validity and Effect of Intercreditor Agreement. Each of the Prepetition Agent, the Prepetition Lenders, the First Lien Agent and the First Lien Noteholders shall be bound by, and their respective rights and remedies pursuant to the Prepetition Secured Indebtedness and the Postpetition Indebtedness, shall be subject to the terms, provisions and restrictions of the First Lien Intercreditor Agreement. Nothing in this Final Order is meant to or shall be deemed to alter, prejudice, or otherwise modify the rights contained in the First Lien Intercreditor Agreement as between the parties thereto. In addition, each of the Prepetition Agent, the Prepetition Lenders, First Lien Agent and First Lien Noteholders, on the one hand, and the Second Lien Agent and Second Lien Noteholders on the other hand, shall be bound by, and their respective rights and remedies pursuant to the Second Lien Indebtedness shall be subject, to the terms, provisions and restrictions of the Second Lien Intercreditor Agreement. Nothing in this Final Order is meant to or shall be deemed to alter, prejudice, or otherwise modify the rights contained in the Second Lien Intercreditor Agreement as between the parties thereto.

14. Use of Cash Collateral. The Debtors are authorized to use all Cash Collateral of the Prepetition Secured Parties, but solely for the purposes set forth in this Final Order and in accordance with the most recent Approved Budget, including, but not limited to, making Adequate Protection Payments (as defined below) provided for in this Final Order, *nunc pro tunc* from the Petition Date. The Debtors' right to use Cash Collateral, and the Prepetition Secured Parties' consent to the use of Cash Collateral, shall terminate immediately upon termination of the DIP Facility, provided that the Debtors shall continue to pay and satisfy the

payments contemplated by the Carve-Out, with any such payment to be subject to such further and other orders of the Court regarding the compensation of professionals.

15. Adequate Protection of Prepetition Secured Parties. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of their interests in their respective Prepetition Collateral, including the Cash Collateral, for and equal in amount to the aggregate diminution in the value of the Prepetition Secured Parties' security interests in the Prepetition Collateral (which diminution in value shall be calculated in accordance with section 506(a) of the Bankruptcy Code) as a result of, among other things, the Debtors' sale, lease or use of the Cash Collateral and any other of the Prepetition Collateral, the priming of the Prepetition Secured Parties' security interests and liens in the Prepetition Collateral by the DIP Agent and the DIP Lenders pursuant to the DIP Facility Documents and this Final Order, and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code or otherwise. As adequate protection, subject to the Investigation Rights set forth in paragraph 8 of this Final Order, the Prepetition Secured Parties shall receive the following (collectively the "Adequate Protection"):

(a) Pay Down. The proceeds of the DIP Facility, all Petition Date Cash, and all cash collected by the debtors in the ordinary course of their operations or from the sale of any assets of the Debtors shall be paid to the Prepetition Agent to pay down the Prepetition Revolver Indebtedness (to the extent not already paid).

(b) Adequate Protection Liens. As security for and to the extent there is a diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (whether the reason for such diminution is as a result of, arises from, or is attributable to, any or all of the imposition of the automatic stay (including, without limitation, any



diminution in value of such interests in the Prepetition Collateral prior to any Prepetition Secured Party seeking vacation of the automatic stay or the Court granting such relief), the priming of the Prepetition Liens, the use of Cash Collateral or the physical deterioration, consumption, use, sale, lease, disposition, shrinkage, or decline in market value of the Prepetition Collateral), (i) the Prepetition Agent, on behalf of the Prepetition Lenders, (ii) the First Lien Agent, on behalf of the First Lien Noteholders, and (iii) the Second Lien Agent, on behalf of the Second Lien Noteholders, respectively, are granted replacement liens (the "Replacement Liens") in the Collateral (excluding the Avoidance Actions and proceeds thereof), which Replacement Liens are valid, binding, enforceable and fully perfected as of the Petition Date without the necessity of the execution, filing or recording by the Debtors or any Prepetition Secured Party of mortgages, security agreements, pledge agreements, financing statements, or other agreements, and which shall be subordinate only to the Carve-Out, the DIP Liens and the Permitted Prior Liens and shall be equivalent to a lien granted under section 364(c) of the Bankruptcy Code, and which Replacement Liens shall cover assets, interest, and proceeds of the Debtors that are or would be collateral under the Prepetition Secured Financing Documents if not for section 552(a) of the Bankruptcy Code, and all cash and cash equivalents. The Replacement Liens shall rank in the same relative priority and rights as do the respective security interests and liens under the Prepetition Secured Financing Documents as of the Petition Date and pursuant to the Intercreditor Agreements.

(c) Prepetition Secured Party Administrative Claim. As further adequate protection of the interests of the Prepetition Secured Parties against any diminution in value of such interests in the Prepetition Collateral (whether the reason for such diminution is as a result of, arises from, or is attributable to, any or all of the imposition of the automatic stay

(including, without limitation, any diminution in value of such interests in the Prepetition Collateral prior to any Prepetition Secured Party seeking vacation of the automatic stay or the Court granting such relief), the priming of the Prepetition Liens, the use of Cash Collateral or the physical deterioration, consumption, use, sale, lease, disposition, shrinkage, or decline in market value of the Prepetition Collateral), (i) the Prepetition Agent, on behalf of the Prepetition Lenders, (ii) the First Lien Agent, on behalf of the First Lien Noteholders, and (iii) the Second Lien Agent, on behalf of the Second Lien Noteholders, respectively, are granted in each of the Cases an allowed administrative claim (the “Administrative Claim”) under Bankruptcy Code section 507(b) with respect to all Adequate Protection obligations. Such Administrative Claim shall have priority over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to section 105, 326, 327, 328, 330, 331, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1103, 1104, 1113 and 1114; provided, however, the Administrative Claim shall be junior and subordinate only to the DIP Facility Superpriority Claim, the Carve-Out and any Permitted Prior Liens. The Administrative Claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof except for Avoidance Actions.

(d) Access. The Prepetition Secured Parties shall be afforded (i) any financial information or periodic reporting that is provided to, or required to be provided to, the DIP Agent or the DIP Lenders (or their advisors) pursuant to the DIP Facility Documents, and (ii) reasonable access to the Collateral and the Debtors’ business premises, during normal operating hours, for purposes of verifying the Debtors’ compliance with the terms of this Final

Order as it pertains to the Prepetition Secured Parties and as otherwise permitted under the Prepetition Secured Financing Documents.

(e) Allowance of Claims. The claims arising from or in connection with the Prepetition Secured Indebtedness are deemed “allowed claims” within the meaning of section 502 of the Bankruptcy Code.

(f) Right to Credit Bid. Subject in all respects to the terms of the Intercreditor Agreements, (i) the Prepetition Agent (on behalf of the Prepetition Lenders) (ii) the First Lien Agent, on behalf of the First Lien Noteholders, and (iii) the Second Lien Agent, on behalf of the Second Lien Noteholders, respectively, shall have the right to “credit bid” the allowed amount of the Prepetition Lenders,’ the First Lien Noteholders,’ or the Second Lien Noteholders’ claims, respectively, during any sale of all or substantially all of the Prepetition Collateral, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any reorganization plan subject to confirmation under section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code, subject to the right of any party in interest to challenge such credit bid right for cause under section 363(k) of the Bankruptcy Code.

(g) The automatic stay is modified as to the Prepetition Secured Parties to allow implementation of the provisions of this paragraph 15, without further notice or order of the Court.

(h) Reservation of Rights of Prepetition Secured Parties. Under the circumstances and given that Adequate Protection is consistent with the Bankruptcy Code, the Court finds that the Adequate Protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties. However, subject to the terms of the Intercreditor Agreements, any Prepetition Secured Party may request further or different adequate protection,

and the Debtors or any other party may contest any such request; provided that such further or different adequate protection shall at all times be subordinate and junior to the claims and liens of the DIP Agent and the DIP Lenders granted under this Final Order and the DIP Facility Documents. Except as expressly provided herein, nothing contained in this Final Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to any Prepetition Secured Party, the DIP Agent or any DIP Lender.

16. Adequate Protection Payments. As additional adequate protection, the Debtors shall promptly pay (a) to the Prepetition Agent from Cash Collateral or Advances under the DIP Facility amounts accrued and as they may come due in connection with the Prepetition Revolver Indebtedness, including, without limitation, payment of interest charged on the Prepetition Revolver Indebtedness, fees, expenses, charges, and commissions, until the Prepetition Revolver Indebtedness is paid in full and (b) to the First Lien Agent, all interest payments with respect to the First Lien Indebtedness as and when they may come due in connection with the First Lien Loan Documents (such payments in (a) and (b) together referred to herein as the “Adequate Protection Payments”).

17. Reimbursement of Fees and Expenses. The Debtors shall promptly reimburse (i) the DIP Agent and the DIP Lenders in accordance with the DIP Facility Documents for reasonable fees and expenses (including, without limitation, the reasonable fees and expenses of each such entities’ legal and financial advisors) incurred in connection with the Cases or under the DIP Facility Documents, (ii) the Prepetition Agent and the Prepetition Lenders in accordance with the terms of the Prepetition Revolver Documents for reasonable fees and expenses (including, without limitation, the reasonable fees and expenses of each such entities’ legal and

financial advisors) in connection with the Cases or under the Prepetition Revolver Documents;

(iii) the ad hoc committee of First Lien Noteholders and Second Lien Noteholders that was formed before the Petition Date (the “Ad Hoc Committee”) for reasonable fees and expenses of Wachtell, Lipton, Rosen & Katz (“Wachtell”), Okin Adams & Kilmer LLP (“Okin”) and Houlihan Lokey in connection with the Cases or under the First Lien Indenture and Second Lien Indenture; (iv) Centerbridge Partners, L.P. for reasonable fees and expenses of Kirkland & Ellis LLP (“Kirkland”) in connection with the Cases or under the First Lien Indenture or Second Lien Indenture; (v) the reasonable fees and expenses of counsel and advisors for each other member of the Ad Hoc Committee in connection with the Cases or under the First Lien Indenture or Second Lien Indenture (as applicable); (vi) the reasonable fees and expenses of the First Lien Agent (including, without limitation, the reasonable fees and expenses of counsel and other advisors to the First Lien Agent) in connection with the Cases; and (vii) the reasonable fees and expenses of the Second Lien Agent (including, without limitation, the reasonable fees and expenses of counsel and other advisors to the Second Lien Agent) in connection with the Cases, in each case in accordance with the Approved Budget, whether incurred prepetition or postpetition, within five (5) business days after such professional has delivered an invoice to the Debtor (with a copy simultaneously delivered to the Committee) substantially in the form delivered in the ordinary course of business describing such fees and expenses; provided that invoices delivered on or before the closing of the DIP Facility by (x) the Ad Hoc Committee for reasonable fees and expenses of Wachtell and Okin and (y) Centerbridge Partners, L.P. for reasonable fees and expenses of Kirkland shall be paid at the closing of the DIP Facility; provided further that (other than local counsel) there shall be no more than one law firm acting as primary counsel for each of (a) the DIP Agent, the DIP Lenders, the Prepetition Agent and the

Prepetition Lenders; (b) the Ad Hoc Committee; (c) Centerbridge and (d) each of the other members of the Ad Hoc Committee; provided, further, however, that any such invoice may be redacted to protect privileged, confidential, or proprietary information or any information constituting attorney work product, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or for any benefits of the attorney work product doctrine. None of such fees and expenses shall be subject to Court approval or required to be maintained in accordance with the United States Trustee Guidelines and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court; provided, however, that such invoices shall be provided to the U.S. Trustee and the Committee, and the U.S. Trustee and the Committee shall have no more than 5 business days to review such invoices for reasonableness and file any motion or objection or take any other action to seek disgorgement of any amounts paid pursuant to such invoices. To the extent the Debtors fail to reimburse any of the parties entitled to reimbursement in this paragraph for any such fees and expenses that are not subject to objection as provided herein, the applicable professionals shall be permitted to apply any amounts held in escrow or retainer (whether obtained prior to, on, or after, the Petition Date) against such unpaid fees and expenses without the need to file any application with the Court.

18. Restrictions on the Debtors. Other than the Carve-Out, the Permitted Prior Liens and the Priming Liens, no claim or lien having a priority superior or *pari passu* with those granted by this Final Order to the DIP Agent, DIP Lenders, or Prepetition Secured Parties shall be granted by any Debtor while any obligations under the DIP Facility (or refinancing thereof) or any Prepetition Secured Indebtedness remains outstanding without the written consent of the DIP Agent, the Prepetition Agent, the First Lien Agent, and the Second Lien Agent (as applicable).

Except as expressly permitted by the DIP Facility Documents and this Final Order, the Debtors will not, at any time during the Cases while any obligations under the DIP Facility and/or the Prepetition Secured Financing Documents remain outstanding, grant senior or *pari passu* mortgages, security interests, or liens in the Collateral, the Prepetition Collateral, or any portion thereof pursuant to section 364(d) of the Bankruptcy Code or otherwise.

19. Additional Perfection Measures. None of the DIP Agent, any DIP Lender, or any Prepetition Secured Party shall be required to file financing statements, mortgages, deeds of trust, security deeds, notices of lien, or similar instruments in any jurisdiction, or take any other action, to attach or perfect the security interests and liens granted under the DIP Facility Documents and this Final Order (including, without limitation, taking possession of or obtaining control over any of the Collateral, or taking any action to have security interests or liens noted on certificates of title or similar documents). Notwithstanding the foregoing, the DIP Agent, any DIP Lender or any Prepetition Secured Party, may, in its discretion, file this Final Order or such financing statements, mortgages, deeds of trust, notices of lien, or similar instruments, or otherwise confirm perfection of such liens, security interests, and mortgages, without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, and all such documents shall be deemed to have been filed or recorded or other action taken on the Petition Date, with the priorities set forth herein; provided, that the failure of the DIP Agent, any DIP Lender or any Prepetition Secured Party to file any such financing statement, mortgage, deed of trust, notice of lien or other instrument, or to otherwise confirm perfection of such liens, security interests or mortgages or make any other such request shall not affect either the perfection or priority of the DIP Facility Liens or the Replacement Liens.

20. Rights with Respect to Certain Prepetition Agreements. The DIP Agent

and the DIP Lenders shall have all the rights and benefits with respect to each deposit account subject to a control agreement, any securities or other accounts subject to a control agreement, each other agreement with a third party (including, but not limited to, any agreement with a landlord, warehouseman, customs broker, or freight forwarder), and each other notification or agreement received or furnished in connection with the Prepetition Revolver Agreement, and all depository banks, blocked account banks, landlords, securities intermediary, warehousemen, customs brokers, freight forwarders and other third parties shall continue to comply, for the benefit of the DIP Lenders, with the terms and conditions of each such agreement or notification, in each such case whether or not, and as if, an additional agreement or notification has been executed or furnished in connection with the DIP Facility.

21. Access to Collateral – No Landlord’s Liens. Subject to applicable state law, notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the DIP Agent, for the benefit of the DIP Lenders, contained in this Final Order or the DIP Facility Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Facility Documents and paragraph 22 below, upon written notice to the landlord of any leased premises that an Event of Default has occurred and is continuing under the DIP Facility Documents, the DIP Agent may, subject to any separate agreement by and between such landlord and the DIP Agent (the “Separate Agreement”), enter upon any leased premises of the Debtors for the purpose of exercising any remedy with respect to Collateral located thereon and, subject to the Separate Agreement, shall be entitled to all of the Debtors’ rights and privileges as lessee under such lease without interference from such landlord; provided, that, subject to the Separate Agreement, the DIP Agent shall only pay rent of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such



occupancy by the DIP Agent, calculated on a per diem basis. Nothing herein shall require the DIP Agent to assume any lease as a condition to the rights afforded to the DIP Agent in this paragraph.

22. Automatic Stay. Any automatic stay otherwise applicable to the DIP Agent and the DIP Lenders is hereby modified so that after the occurrence and during the continuation of any Event of Default (subject to any applicable grace periods) under the DIP Facility Documents, and delivery by the DIP Agent of written notice of its intent to exercise remedies (a “Remedies Notice”) in each case given to the Debtors and their counsel, counsel to the First Lien Agent, counsel to the Committee and the United States Trustee, the DIP Agent shall be entitled to exercise its rights and remedies in accordance with the DIP Facility Agreement without further order of this Court beginning three (3) business days following delivery of the Remedies Notice (the “Remedies Notice Period”) unless otherwise provided by order of this Court; provided, however, immediately upon the commencement of the Remedies Notice Period and thereafter until the Remedies Expiration Date (as defined below): (i) the DIP Lenders may charge default rates of interest; (ii) the Debtors shall have no right to use any Collateral except (a) to make disbursements of payroll and other expenses in accordance with the Approved Budget and (b) for payment of the Carve-Out, the Adequate Protection Payments, the Prepetition Revolver Indebtedness and the Postpetition Indebtedness; and (iii) any obligation otherwise imposed on the DIP Lenders to provide any loan or advance to the Debtors pursuant to the DIP Facility Agreement shall be suspended. During the Remedies Notice Period, the Debtors, the Committee and/or the U.S. Trustee shall be entitled to an emergency hearing before this Court (an “Event of Default Hearing”); provided, however, that the only issue to be determined at such hearing shall be whether an Event of Default under the DIP Facility

Documents has occurred and is continuing, and if an Event of Default under the DIP Facility Documents is determined to have occurred and be continuing, the automatic stay will not be re-imposed or continue with respect to the DIP Agent or DIP Lenders without their consent. After the expiration of the Remedies Notice Period, without further order from this Court, the automatic stay provisions of section 362 of the Bankruptcy Code shall be deemed vacated and the DIP Agent and the DIP Lenders may exercise all rights and remedies provided for in the DIP Facility Documents; provided, however, to the extent an Event of Default Hearing is occurring, then the Remedies Notice Period shall be extended pending a determination by the Court as to whether an Event of Default has occurred. Notwithstanding the occurrence of an Event of Default under the DIP Facility Documents or termination of the commitments under the DIP Facility Agreement or anything herein to the contrary, all of the rights, remedies, benefits, and protections provided to the DIP Agent and DIP Lenders under the DIP Facility Documents and this Final Order shall survive the date of termination of the DIP Facility. This Court shall retain exclusive jurisdiction to hear and resolve any disputes and enter any orders required by the provisions of this paragraph and relating to the application, re-imposition or continuance of the automatic stay with respect to the DIP Agent and DIP Lenders. For the avoidance of doubt, the Remedies Notice Period shall expire no later than the earliest date of cure or waiver of the applicable Event of Default or payment in full in cash of the Postpetition Indebtedness (such date, the “Remedies Expiration Date”).

23. Transfer of Collateral to the Second Lien Agent. None of Reddy Ice, Holdings, the Predecessor Second Lien Agent or the Second Lien Agent need take any action to transfer any of the Prepetition Collateral from the Predecessor Second Lien Agent to the Second Lien Agent. The Second Lien Agent shall be deemed to be secured to the same extent as the

Predecessor Second Lien Agent was secured immediately prior to the Effective Date of the Second Lien Agent Appointment Agreement.

24. Binding Effect. The provisions of this Final Order shall be binding upon and inure to the benefit of the DIP Agent, DIP Lenders, Prepetition Secured Parties, the Debtors, the Committee, and their respective successors and assigns, including any trustee hereafter appointed for the estate of any of the Debtors, whether in these Cases or any successor case, including the conversion of any of the Cases to a case under chapter 7 of the Bankruptcy Code. Such binding effect is an integral part of this Final Order.

25. Survival. The provisions of this Final Order and any actions taken pursuant hereto shall survive the entry of any order (a) confirming any plan under chapter 11 of the Bankruptcy Code in any of the Cases (and, to the extent not satisfied in full in cash, the Postpetition Indebtedness shall not be discharged by the entry of any such order, or pursuant to section 1141(d)(4) of the Bankruptcy Code, each of the Debtors having hereby waived such discharge), (b) approving any sale under section 363 of the Bankruptcy Code, (c) converting any of the Cases to a chapter 7 case unless permitted under the DIP Facility Documents, or (d) to the maximum extent permitted by law, dismissing any of the Cases unless permitted under the DIP Facility Documents, and notwithstanding the entry of any such order, the terms and provisions of this Final Order shall continue in full force and effect, and the DIP Facility Superpriority Claims, DIP Facility Liens and Adequate Protection granted pursuant to this Final Order and/or the DIP Facility Documents shall continue in full force and effect and shall maintain their priority as provided by this Final Order and the DIP Facility Documents to the maximum extent permitted by law until all of the Postpetition Indebtedness is indefeasibly paid in full in cash or otherwise addressed pursuant to a confirmed plan.

26. After-Acquired Property. Except as otherwise provided in this Final Order, pursuant to section 552(a) of the Bankruptcy Code, all property acquired by the Debtors after the Petition Date, including, without limitation, all Collateral pledged or otherwise granted to the DIP Agent, on behalf of the DIP Lenders, pursuant to the DIP Facility Documents and this Final Order, is not and shall not be subject to any lien of any person or entity resulting from any security agreement entered into by the Debtors prior to the Petition Date, except to the extent that such property constitutes proceeds of property of the Debtors that is subject to a valid, enforceable, perfected, and unavoidable lien as of the Petition Date (or perfected after the Petition Date pursuant to section 546(b) of the Bankruptcy Code) which is not subject to subordination under section 510(c) of the Bankruptcy Code or other provision or principles of applicable law.

27. Access to the Debtors. In accordance with the provisions of access in the DIP Facility Documents, the Debtors shall permit representatives, agents, and employees of the DIP Agent and the DIP Lenders to have reasonable access to the Debtors' premises and records during normal business hours (without unreasonable interference with the proper operation of the Debtors' businesses) and shall cooperate, consult with, and provide to such representatives, agents, and/or employees all such information as is reasonably requested.

28. Authorization to Act. Each of the Debtors is authorized to do and perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution of security agreements, mortgages and financing statements), and to pay interest, fees and all other amounts as provided under this Final Order and the DIP Facility, which may be reasonably required or necessary for the Debtors' full and timely performance under the DIP Facility and this Final Order, including, without limitation:

- (a) the execution of the DIP Facility Documents;
- (b) the modification or amendment of the DIP Facility Agreement or any other DIP Facility Documents without further order of this Court, in each case, in such form as the Debtors, the DIP Agent, and the DIP Lenders may agree in accordance with the terms of the DIP Facility or with the consent of the Committee to the extent the modification involves any line item in the Approved Budget with respect to Professional Fees for the Committee's Professional Persons; provided, however, that notice of any material modification or amendment shall be provided to counsel for the Committee and the U.S. Trustee, each of which will have five (5) business days from the date of delivery of such notice within which to object in writing; provided further, that if an objection is timely delivered, such modification or amendment shall be permitted only pursuant to an order of the Court;
- (c) making the Adequate Protection Payments provided for in this Final Order;
- (d) making the non-refundable payments to the DIP Agent or the DIP Lenders, as the case may be, of the fees referred to in the DIP Facility Agreement, and reasonable costs and expenses as may be due from time to time as provided in this Final Order, including, without limitation, reasonable attorneys' and other professional fees and disbursements as provided in the DIP Facility Documents; and
- (e) the performance of all other acts required under or in connection with the DIP Facility Documents.

29. Insurance Policies. The DIP Agent, on behalf of the DIP Lenders, shall be, and shall be deemed to be, without any further action or notice, named as additional insured and loss payee on each insurance policy maintained by the Debtors which in any way relates to

the Collateral and each liability insurance policy maintained by the Debtors (other than D&O insurance and any “tail” policy). After all Obligations outstanding under the Prepetition Revolver Documents have been paid, any insurance proceeds or other receipts from any source that relate to the Collateral shall be immediately delivered to the Debtors and subject to the DIP Facility Liens and the terms of the DIP Facility Documents.

30. Subsequent Reversal. If any or all of the provisions of this Final Order or the DIP Facility Documents are hereafter reversed, modified, vacated, amended, or stayed by subsequent order of this Court or any other court: (a) such reversal, modification, vacatur, amendment, or stay shall not affect (i) the validity of any obligation of any Debtor to the DIP Agent, the DIP Lenders, or the Prepetition Secured Parties pursuant to this Final Order that is or was incurred prior to such party receiving written notice of the effective date of such modification, vacatur, amendment, or stay (the “Effective Date”), or (ii) the validity, enforceability or priority of the DIP Facility Superpriority Claims, DIP Facility Liens, Adequate Protection or other grant authorized or created by this Final Order and the DIP Facility Documents that is or was incurred prior to such party receiving written notice of the Effective Date; (b) the Postpetition Indebtedness and Adequate Protection pursuant to this Final Order and the DIP Facility Documents arising prior to the Effective Date shall be governed in all respects by the provisions of this Final Order and the DIP Facility Documents in effect immediately prior to the Effective Date; and (c) the use of Cash Collateral and the validity of any financing provided or security interest granted pursuant to this Final Order and the DIP Facility Documents is and shall be protected by section 364(e) of the Bankruptcy Code.

31. Effect of Dismissal of Cases. If the Cases are dismissed, converted or substantively consolidated, then neither the entry of such order nor the dismissal, conversion or

substantive consolidation of these Cases shall affect the rights of the DIP Agent and DIP Lenders under their respective documents or this Final Order, or the Prepetition Secured Parties under this Final Order, and all of the respective rights and remedies thereunder of the DIP Agent and DIP Lenders or the Prepetition Secured Parties shall remain in full force and effect as if the Cases had not been dismissed, converted, or substantively consolidated. If an order dismissing any of the Cases is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the DIP Facility Liens and DIP Facility Superpriority Claims granted to and conferred upon the DIP Agent and DIP Lenders and the protections afforded to the DIP Agent and the DIP Lenders pursuant to this Final Order and the DIP Facility Documents shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all Postpetition Indebtedness shall have been paid and satisfied in full in cash (and that such DIP Facility Liens, DIP Facility Superpriority Claims and other protections shall, notwithstanding such dismissal, remain binding on all interested parties), (ii) the Adequate Protection granted to and conferred upon the Prepetition Secured Parties and any other protections afforded to the Prepetition Secured Parties pursuant to this Final Order and the DIP Facility Documents shall continue in full force and effect as provided in this Final Order until all Postpetition Indebtedness shall have been paid and satisfied in full in cash (and that such Adequate Protection and any other protections shall, notwithstanding such dismissal, remain binding on all interested parties), (iii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purpose of enforcing the DIP Facility Liens, Prepetition Liens, DIP Facility Superpriority Claims and Adequate Protection, and (iv) any hearing on a motion to dismiss any of the Cases shall require at least twenty-one (21) days' prior notice to the DIP Agent, unless otherwise ordered by the Court for good cause shown.

32. Findings of Fact and Conclusions of Law. This Final Order constitutes findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon the entry thereof.

33. Reporting. The Debtors shall provide to the Committee simultaneously with transmission to the DIP Agent any reporting, rolling forecasts, or amended budgets required to be provided by the Debtors to the DIP Agent under this Order or the DIP Facility Documents.

34. Controlling Effect of Final Order. To the extent any provision of this Final Order conflicts with any provision of the Motion, any documents executed or delivered prior to the Petition Date, any DIP Facility Documents, or any orders or other documents filed in or effectuated as part of these chapter 11 cases, the provisions of this Final Order shall control.

Adequate Notice. The notice given by the Debtors of the Final Hearing was given in accordance with Bankruptcy Rule 4001(c)(3). Within three (3) business days after the Court's entry of this Final Order, the Debtors shall mail copies of this Final Order to the Notice Parties.

**###End of Order###**