

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

THE WET SEAL, LLC, *et al.*,

Debtors.<sup>1</sup>

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X : Chapter 11  
: : Case No. 17-10229 (CSS)  
: : (Jointly Administered)  
: : Docket Ref. No. 17  
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X

**INTERIM ORDER (I) AUTHORIZING POSTPETITION USE OF  
CASH COLLATERAL, (II) GRANTING ADEQUATE  
PROTECTION, AND (III) MODIFYING THE AUTOMATIC STAY**

Upon the motion (the “Motion”), of The Wet Seal, LLC (“Wet Seal”), Mador Financing, LLC (“Holdings”), and The Wet Seal Gift Card, LLC (“Wet Seal Gift Card” and, together with Wet Seal and Holdings, the “Debtors”), as debtors in possession in the above-captioned chapter 11 cases (the “Cases”), pursuant to sections 105, 361, 362, 363, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 4001-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) seeking entry of an order *inter alia*:

- (a) authorizing the Debtors’ use of “cash collateral,” as such term is defined in section 363 of the Bankruptcy Code (the “Cash Collateral”), of (i) Crystal Financial LLC (the “Senior Agent”) for the lenders (the “Senior Lenders,” and, together with the Senior Agent, the “Senior Secured Parties”) party to the Senior Credit Agreement (as defined below); and (ii) Mador Funding, LLC (the “Subordinated Agent,” and, together with the Senior Agent,

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<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: The Wet Seal, LLC (2741); The Wet Seal Gift Card, LLC (3286); Mador Financing, LLC (1377). The Debtors’ corporate headquarters is located at 7555 Irvine Center Drive, Irvine, California 92618.

the “Prepetition Agents”) for the lenders (the “Subordinated Lenders,” and, together with the Subordinated Agent, the “Subordinated Secured Parties”; and the Senior Secured Parties and the Subordinated Secured Parties collectively, the “Prepetition Secured Parties”) party to the Subordinated Credit Agreement (as defined below), pursuant to section 363(c) of the Bankruptcy Code, on an interim basis and upon the terms and conditions set forth in this order (the “Interim Order”);

- (b) providing adequate protection to the Prepetition Secured Parties for any diminution in value (“Diminution in Value”) of the Prepetition Secured Parties’ interests in the Prepetition Collateral (defined below), including the Cash Collateral, for such interim use pursuant to sections 361 and 363(e) of the Bankruptcy Code;
- (c) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim order and the Final Order (as defined below); and
- (d) scheduling a final hearing (the “Final Hearing”) to consider entry of a final order (the “Final Order”) authorizing on a final basis, *inter alia*, the use of Cash Collateral and the provision of adequate protection of the Prepetition Secured Parties’ interests in the Prepetition Collateral.

Notice of the interim hearing on the Motion (the “Interim Hearing”) having been given in the manner set forth in the Motion; and the Interim Hearing having been held by this Court on February 3, 2017; and upon the record made by the Debtors at the Interim Hearing; and upon the Declaration of Judd P. Tirnauer; and this Court having heard and resolved or overruled all pending objections, if any, to the relief requested in the Motion; and it appearing that the interim relief requested in the Motion is in the best interests of the Debtors, their estates and creditors;

and after due deliberation and consideration and sufficient cause appearing therefor; and for the reasons stated as the Interim Hearing,

**IT IS HEREBY FOUND AND CONCLUDED AS FOLLOWS:**

*A. Petition Date.* On February 2, 2017 (the “Petition Date”), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Court”), commencing these Cases. The Cases are being jointly administered under Case No. 17-10229 (CSS).

*B. Debtors in Possession.* The Debtors are continuing in possession of their property and are operating and managing their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner or official committee of unsecured creditors (a “Committee”) has been appointed in these Cases.

*C. Jurisdiction and Venue.* This Court has jurisdiction over these proceedings and over the property affected hereby pursuant to 28 U.S.C. § 1334 and 157. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. §§ 157(b)(2). Venue for the Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

*D. Debtors’ Stipulations.* After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties in interest as set forth in paragraph 17 herein, the Debtors admit, stipulate, acknowledge and agree that (collectively, paragraphs D(1) through D(11) below are referred to herein as the “Debtors’ Stipulations”):

- 1. Senior Credit Agreement.* Pursuant to that certain Credit Agreement, dated as of April 15, 2015 (as amended, restated, supplemented or otherwise modified prior to Petition Date, the “Senior Credit Agreement”), the Senior Secured Parties provided certain revolving and term loans to the Debtors and provided other financial accommodations to or for the benefit of the

Debtors (collectively, the “Senior Facility”). The Senior Credit Agreement is subject to (a) that certain Notice of Default and Reservation of Rights, dated as of January 4, 2017 (the “First ROR Letter”), (b) that certain Notice of Default Rate Accrual, dated as of January 30, 2017 (the “Second ROR Letter”), and (c) that certain Notice of Acceleration, dated as of February 1, 2017 (the “Notice of Acceleration,” and together with the Senior Credit Agreement, the First ROR Letter, the Second ROR Letter and all other loan, security and other documents executed in connection therewith, the “Senior Loan Documents”). Pursuant to the Senior Loan Documents, the Debtors are jointly and severally indebted and liable to the Senior Secured Parties for all loans and other obligations described therein and payable thereunder (collectively, and including all “Obligations” as defined in the Senior Credit Agreement, the “Senior Obligations”).

2. *Senior Obligations.* As of the Petition Date, the Debtors were indebted and liable to the Senior Secured Parties without defense, counterclaim or offset of any kind, for all of the Senior Obligations, including without limitation the Loans (as defined in the Senior Credit Agreement) and Overadvances (as defined in the Senior Credit Agreement) made by the Senior Lenders in the aggregate principal amount of not less than \$9,736,833.10 (\$4,130,167.82 of which were Overadvances) plus accrued and unpaid interest at the Default Rate (as defined in the Senior Credit Agreement), indemnification obligations and fees and expenses (including, without limitation, the Early Termination Fee and the reasonable and documented fees and expenses of the Senior Agent’s attorneys, consultants, accountants, experts and financial advisors) and other obligations incurred in connection therewith, in each case in accordance with the terms of the Senior Loan Documents.

3. *Subordinated Credit Agreement.* Pursuant to that certain Credit Agreement, dated as of July 6, 2016 (as amended, restated, supplemented or otherwise modified prior to Petition

Date, the “Subordinated Credit Agreement”, the Subordinated Secured Parties provided certain loans to the Debtors. The Subordinated Credit Agreement is subject to (a) that certain Notice of Default and Reservation of Rights, dated as of January 25, 2017 (the “ROR Letter”), and (b) that certain Notice of Default Rate Accrual, dated as of February 1, 2017 (the “Additional ROR Letter,” and together with the Subordinated Credit Agreement, the ROR Letter, the Additional Letter and all other loan, security and other documents executed in connection therewith, the “Subordinated Loan Documents;” the Senior Loan Documents and the Subordinated Loan Documents are collectively the “Prepetition Loan Documents”). Pursuant to the Subordinated Loan Documents, the Debtors are jointly and severally indebted and liable to the Subordinated Secured Parties for all loans and other obligations described therein and payable thereunder (the “Subordinated Obligations,” and, together with the Senior Obligations, the “Prepetition Obligations”).

4. *Subordinated Obligations.* As of the Petition Date, the Debtors were indebted and liable to the Subordinated Secured Parties without defense, counterclaim or offset of any kind, for all of the Subordinated Obligations, including without limitation the Loans (as defined in the Subordinated Credit Agreement) made by the Subordinated Lenders in the aggregate principal amount of not less than \$15,600,000 plus accrued and unpaid interest at the Default Rate (as defined in the Subordinated Credit Agreement), indemnification obligations and fees and expenses (including, without limitation, the Early Termination Fee (as defined in the Subordinated Credit Agreement, and the reasonable and documented fees and expenses of the Subordinated Agent’s attorneys, consultants, accountants, experts and financial advisors) and other obligations incurred in connection therewith, in each case in accordance with the terms of the Subordinated Loan Documents.

5. *Prepetition Liens and Prepetition Collateral.* As more fully set forth in the Senior Loan Documents and Subordinated Loan Documents, prior to the Petition Date, the Debtors granted security interests in and liens on, among other things, substantially all of the their assets (collectively, the “Prepetition Collateral”) to: (a) the Senior Agent, for itself and the Senior Lenders (the “Prepetition Senior Liens”); and (b) the Subordinated Agent, for itself and the Subordinated Lenders (the “Prepetition Subordinated Liens”, and together with the Prepetition Senior Liens, the “Prepetition Liens”).

6. *Validity, Perfection and Priority of the Prepetition Obligations.* As of the Petition Date, (a) the Prepetition Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable and properly perfected; (b) the Prepetition Senior Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens otherwise permitted by the Senior Loan Documents (solely to the extent such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Senior Liens as of the Petition Date, *or and otherwise senior by operation of law*, the “Senior Permitted Prior Liens”); (c) the Prepetition Subordinated Liens were junior and subordinate to the Prepetition Senior Liens and Senior Permitted Prior Liens on the Prepetition Collateral, and otherwise had priority over any and all other liens on the Prepetition Collateral subject only to certain liens otherwise permitted by the Subordinated Loan Documents (solely to the extent such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Subordinated Liens as of the Petition Date, *or and otherwise senior by operation of law*, the “Subordinated Senior Permitted Prior Liens,” and together with the Senior Permitted Prior Liens, the “Permitted Prior Liens”); (d) the Prepetition Obligations constitute legal, valid, binding and non-avoidable obligations of the Debtors; (e) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Obligations

exist, and no portion of the Prepetition Liens or Prepetition Obligations is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (whether equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (f) the Debtors and their estates have no claims, objections, challenges, causes of actions, and/or choses in action, including without limitation, avoidance claims under chapter 5 of the Bankruptcy Code, against any of the Prepetition Agents, Prepetition Lenders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to their respective loans to the Debtors.

7. *Priority of the Prepetition Liens; Intercreditor Agreement.* Pursuant to that certain Intercreditor and Subordination Agreement, dated as of July 6, 2016, by and among the Senior Agent and the Subordinated Agent and acknowledged by each of the Debtors (as amended, restated or otherwise modified from time to time, the “Intercreditor Agreement”), the Prepetition Senior Liens have lien and payment priority over and are senior in all respects to the Prepetition Subordinated Liens.

8. *Cash Collateral.* All cash, cash equivalents and cash proceeds of the Prepetition Collateral, including without limitation cash held in any of the Debtors’ securities, banking, checking or other deposit accounts with financial institutions (in each case, other than Excluded Accounts as defined in the Senior Credit Agreement), are Cash Collateral of the Prepetition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code. The Debtors continue to collect cash, income, products, proceeds and profits generated from the Prepetition Collateral and acquire inventory and other personal property, all of which constitute Prepetition

Collateral under the Senior Loan Documents and the Subordinated Loan Documents and are, accordingly, subject to the Prepetition Agents' valid and perfected security interests.

9. *Prepetition Events of Default.* As of the Petition Date various defaults and events of default had occurred and were continuing under the terms of the Prepetition Loan Documents, including, without limitation, the requirement under (a) clause (b) of Section 2.05 of the Senior Credit Agreement to maintain "Overall Excess Availability" in an amount equal to or greater than \$0, (b) clause (c) of Section 2.08 of the Senior Credit Agreement to pay interest due and owing on January 3, 2017, in connection with which the Senior Agent delivered that certain Notice of Default and Reservation of Rights, dated as of January 4, 2017, and (c) Section 7.13 of the Senior Credit Agreement to maintain a "Consolidated Fixed Charge Coverage Ratio," following the occurrence of a "Covenant Trigger Event," of at least 1:00 to 1:00 for the "Reference Period" ended November 30, 2016.

10. *BRG Agreement.* Pursuant to that certain agreement by and among Berkeley Research Group, LLC ("BRG") and the Debtors (as amended, restated or otherwise modified from time to time, the "BRG Agreement"), the Debtors retained BRG in connection with the Debtors' restructuring.

11. *Consulting Agreement.* Pursuant to that certain Consulting Agreement, dated as of January 20, 2017 and amended on February 1, 2017, by and among Hilco Merchant Resources, LLC, Gordon Brothers Retail Partners, LLC (the "Consultant") and Wet Seal and acknowledged by the Senior Agent (as amended, restated or otherwise modified from time to time, the "Consulting Agreement"), the Debtors retained the Consultant in connection with the sale of the Merchandise and FF&E (each as defined in the Consulting Agreement). The continued existence and validity of the Consulting Agreement and the uninterrupted continuation of the sales

contemplated by such Consulting Agreement is a condition to the use of the Cash Collateral of the Senior Agent.

12. *Retention Agreement.* Pursuant to that certain letter agreement regarding Intellectual Property of The Wet Seal, dated as of January 26, 2017, by and among Hilco IP Services LLC (d/b/a Hilco Streambank) and Wet Seal (as amended, restated or otherwise modified from time to time, the “Retention Agreement”), the Debtors retained Hilco Streambank in connection with the sale of all or substantially all of the remaining assets of the Debtors, including without limitation, intellectual property, by no later than March 11, 2017 (the “Closing Date”).

E. *Adequate Protection.* The adequate protection provided to the Prepetition Secured Parties, as set forth in this Interim Order, for any Diminution in Value of the Prepetition Secured Parties’ interests in the Prepetition Collateral from and after the Petition Date resulting from the subordination to the Carve Out, the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code, the use, sale, or lease of the Prepetition Collateral (including any Cash Collateral) under section 363 of the Bankruptcy Code, is consistent with, and authorized by, the Bankruptcy Code and is offered by the Debtors to protect such parties’ interests in the Prepetition Collateral in accordance with sections 361, 362 and 363 of the Bankruptcy Code. The adequate protection provided herein and other benefits and privileges contained herein are necessary in order to protect the Prepetition Secured Parties from any Diminution in Value of their respective interests in the value of their Prepetition Collateral.

F. *Sections 506(c) and 552(b).* In light of the Prepetition Secured Parties’ agreement to subordinate their liens and superpriority claims to the Carve Out and to permit the use of their Cash Collateral for payments made in accordance with the Budget (as defined below) and the

terms of this Interim Order, each of the Prepetition Secured Parties are entitled, subject to entry of a Final Order, to the Debtors' waiver (on behalf of themselves and their estates) of (a) any "equities of the case" claims under section 552(b) of the Bankruptcy Code and (b) any surcharge of the Prepetition Collateral or the Collateral pursuant to the provisions of section 506(c) of the Bankruptcy Code.

*G. Necessity of Relief Requested.* The Debtors require the immediate use of Cash Collateral, the absence of which would cause immediate and irreparable harm to the Debtors, their estates, their creditors and parties in interest. In the absence of the use of Cash Collateral, the continued operation of the Debtors' businesses would not be possible and serious and irreparable harm to the Debtors, their estates and their creditors would occur. As evidenced by the continued existence of the Overadvances, the Debtors do not have sufficient available sources of working capital and financing to operate their businesses or to maintain their property without the use of Cash Collateral. The relief requested in the Motion, including without limitation, the use of Cash Collateral on an interim basis pursuant to the Budget for the Specified Period (as defined below), is therefore necessary, essential, and appropriate for the continued operation of the Debtors' businesses and the management and preservation of their property.

*H. Good Faith.* The Prepetition Secured Parties and the Debtors have negotiated at arms' length and in good faith regarding the Debtors' use of Cash Collateral to fund the continued operation of the Debtors' businesses during the Specified Period (defined below). The Prepetition Secured Parties have agreed to permit the Debtors to use their Cash Collateral for the Specified Period, subject to the terms and conditions set forth herein, which terms and conditions are fair and reasonable and have been stipulated to by the Debtors in the exercise of their sound

business judgment. Entry of this Interim Order is in the best interests of the Debtors, their estates, and their creditors.

*I. Notice.* The Interim Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and Local Rule 4001-2(b). Pursuant to and in accordance with Bankruptcy Rules 2002, 4001(b) and (d), and 9006, as required by sections 361 and 363 of the Bankruptcy Code, and Local Rule 4001-2, notice of the requested relief sought at the Interim Hearing was provided to the Debtors to: (i) the U.S. Trustee for the District of Delaware (the “U.S. Trustee”); (ii) the Senior Agent; (iii) counsel to the Senior Agent; (iv) the Subordinated Agent; (v) counsel to the Subordinated Agent; (vi) counsel to the prepetition shareholders; and (vii) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis). Under the circumstances, the notice given by the Debtors of the Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rules 4001(b) and (d), and no further notice of the relief sought at the Interim Hearing is necessary or required.

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

**IT IS HEREBY ORDERED** that:

1. Motion Granted. The Motion is granted, subject to the terms and conditions set forth in this Interim Order. The Debtors shall not use Cash Collateral except as expressly authorized and permitted herein or by subsequent order of the Court.

2. Objections Overruled. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or resolved at the Interim Hearing, and (except as set forth herein) all reservations of rights included therein, are hereby denied and overruled.

3. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, and in accordance with the Budget (as defined below), the Debtors are authorized to use Cash Collateral for the period (the “Specified Period”) from the Petition Date through the date which is the earliest to occur of: (a) the Termination Declaration Date, provided that until the Remedies Notice Period (as defined below) has elapsed, the Debtors may use Cash Collateral to pay critical expenses, (b) 11:59 p.m. (Eastern time) on March 10, 2017, or (c) the Closing Date (as defined above). Except as otherwise expressly provided herein, Cash Collateral may be used during the Specified Period solely up to the amounts set forth in the Budget solely with respect to the purposes, type and category of Disbursements described by the line items listed in the Budget subject to the following variances, measured weekly as of the close of business on Saturday of each week: (x) each line item under the header “Operating Disbursements” shall not be more than one hundred and five percent (105%) of the applicable amount set forth in the Budget for such line item for any cumulative two week period; (y) each type of actual “Operating Disbursements” shall not be more than one hundred and five percent (105%) of the applicable amount set forth in the Budget for the applicable line item of Operating Disbursements on a cumulative basis commencing as of the Petition Date; and (z) actual “Professional Fees” shall not be more than the amount set forth in the Budget for Professional Fees for the corresponding parties (items (x) through (z), collectively, the “Budget Covenants”)<sup>2</sup>, and with respect to each Budget Covenant, at the times, and solely for the purposes identified in the cash collateral budget approved by the Prepetition Agents, each in their sole discretion (the “Budget”), a copy of which is attached hereto as Exhibit A. All Cash Collateral use must be strictly in accordance with the terms of the Budget, subject to the variances set forth in this

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<sup>2</sup> For all purposes herein, Freight and Utility Deposits shall be included in the calculation of Operating Disbursements.

paragraph 3. The authorization for the Debtors to use Cash Collateral shall terminate at the expiration of the Specified Period. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their estates outside the ordinary course of business, or the Debtors' use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in the Consulting Agreement or except with the prior written consent of the Senior Secured Parties, and in accordance with the Budget.

4. Budget Maintenance. The Budget and any modification to, or extension, amendment or update of, the Budget shall be in form and substance acceptable to and approved in writing by the Senior Agent in its sole discretion. The Budget may be amended or modified in writing from time to time only with the written consent of the Senior Agent in its sole discretion; provided that any material changes agreed to by the Senior Agent and the Debtors shall be subject to approval by this Court.

5. Adequate Protection Liens.

(a) Senior Adequate Protection Liens. As adequate protection against any Diminution in Value in their respective interests in the Prepetition Collateral, pursuant to sections 361 and 363(e) of the Bankruptcy Code, the Debtors are authorized to grant to the Senior Agent, for the benefit of the Senior Secured Parties, additional and replacement continuing valid, binding, enforceable, non-avoidable, and automatically perfected postpetition security interests in and liens (the "Senior Adequate Protection Liens") on any and all presently owned and hereafter acquired personal property, real property and all other assets of the Debtors, together with any proceeds thereof (collectively, the "Collateral"). The Collateral shall not include the Debtors' real property leases but shall include all proceeds of such leases.

(b) *Subordinated Adequate Protection Liens.* As adequate protection against any Diminution in Value in their respective interests in the Prepetition Collateral, pursuant to sections 361 and 363(e) of the Bankruptcy Code, the Debtors are authorized to grant to the Subordinated Agent, for the benefit of the Subordinated Secured Parties, additional and replacement continuing valid, binding, enforceable, non-avoidable, and automatically perfected postpetition security interests in and liens on the Collateral (the “Subordinated Adequate Protection Liens” and, together with the Senior Adequate Protection Liens, the “Adequate Protection Liens”).

(c) *Priority of Adequate Protection Liens*

(i) The Senior Adequate Protection Liens shall be junior only to: (A) the Carve Out; (B) the Senior Permitted Prior Liens; and (C) the Prepetition Senior Liens.

The Senior Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.

(ii) The Subordinated Adequate Protection Liens shall be junior only to: (A) the Carve Out; (B) the Prepetition Senior Liens; (C) the Permitted Prior Liens; (D) the Senior Adequate Protection Liens; and (E) the Prepetition Subordinated Liens. The Subordinated Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.

(iii) The Adequate Protection Liens shall be enforceable against the Debtors, their estates and any successors thereto, including without limitation, any trustee or other estates representative appointed or elected in the Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, “Successor

Cases"). Except as provided herein, the Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest by any court order heretofore or hereafter entered in the Cases or any Successor Cases. The Adequate Protection Liens shall be valid and enforceable against any trustee appointed in any of the Cases or any Successor Cases, or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 506(c) (subject to entry of a Final Order), 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of any estate pursuant to section 551 of the Bankruptcy Code shall be made *pari passu* with or senior to the Adequate Protection Liens.

6. Adequate Protection Superpriority Claim.

(a) *Adequate Protection Superpriority Claim.* As further adequate protection against any Diminution in Value of the interests of the Senior Secured Parties in the Prepetition Collateral, the Senior Secured Parties shall have an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the "Senior Secured Parties Adequate Protection Superpriority Claim"). As further adequate protection against any Diminution in Value of the interests of the Subordinated Secured Parties in the Prepetition Collateral, the Subordinated Secured Parties shall have an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the "Subordinated Secured Parties Adequate Protection Superpriority Claim;" collectively, with the Senior Secured Parties Adequate Protection Superpriority Claim, the "Adequate Protection Superpriority Claim").

(b) *Priority of Adequate Protection Superpriority Claim.* The Adequate Protection Superpriority Claim shall be junior only to the Carve Out. Except for the Carve Out, the Adequate Protection Superpriority 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 sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (subject to entry of a Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code. The Subordinated Secured Parties Adequate Protection Superpriority Claim shall be junior to the Senior Secured Parties Adequate Protection Superpriority Claim.

7. Adequate Protection Payments and Protections. As further adequate protection, the Debtors shall make the following adequate protection payments to the Senior Agent, on behalf of itself and the Senior Lenders: (a) weekly payments of interest at the Default Rate (as provided in the Senior Loan Documents) (the “Interest Adequate Protection Payments”); (b) a payment of the Senior Obligations in the amount of \$250,000 by no later than three business days after the entry of the Interim Order; (c) a payment of the Senior Obligations in the amount of \$1,800,000 by no later than February 10, 2017; (d) a payment of the Senior Obligations in the amount of \$3,000,000 by no later than February 17, 2017; (e) a payment of the Senior Obligations in the amount of \$1,450,000 by no later than February 24, 2017; (f) a payment of the Senior Obligations in the amount of \$50,000 by no later than March 3, 2017; (g) at the end of the earlier of the Specified Period or March 10, 2017, all fees and other amounts due under the Senior Loan Documents (including all unpaid principal, interest, default interest and all reasonable fees, costs and expenses of the Senior Agent, including, without limitation, the fees and expenses of legal and other professionals retained by the Senior Agent); and (h) one hundred percent (100%) of the “Net Cash Proceeds” (as defined in the Senior Credit Agreement) from any asset disposition, provided, however that Net Cash Proceeds of Inventory and Receivables (as defined in the Senior Credit Agreement) may be used to fund the “Total Disbursements”

solely as set forth in the Budget, and shall otherwise be applied to repay the Senior Obligations (items (a) through (h), collectively, the “Senior Adequate Protection Payments”). The Senior Adequate Protection Payments to the Senior Agent are subject to the rights in paragraph 17 of this Interim Order. The Senior Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines for professional fees, but shall provide invoices (redacted for privilege) to the U.S. Trustee, counsel for the Debtors, and counsel to any Committee (if and when appointed) and the Debtors shall pay such invoices within ten (10) calendar days of receipt. To the extent that the U.S. Trustee or a Committee has an objection to the reasonableness of the fees and expenses of any such professional, such objection may only be raised within ten (10) calendar days of receipt of the invoice. In the event that within that ten (10) calendar day period the U.S. Trustee or a Committee raises an objection to a particular invoice, (x) the Debtors shall promptly pay only the fees and expenses not subject to an objection, and (y) to the extent any objection is not resolved or withdrawn, the Debtors shall pay the disputed amounts only upon the entry of an order of the Court resolving such dispute and ordering the Debtors to pay the disputed amount.

8. Modification of Automatic Stay. The automatic stay under Bankruptcy Code section 362(a) is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the automatic attachment and perfection of the Adequate Protection Liens and the allowance of the Adequate Protection Superpriority Claim; (b) permit the Debtors to perform such acts as the Prepetition Agents or Prepetition Lenders each may request in their sole discretion to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Prepetition Secured Parties under the this Interim Order; and (d) authorize the Debtors to pay, and the Prepetition Secured Parties to retain and, in accordance with the Prepetition Loan

Documents and the Intercreditor Agreement, apply, payments made pursuant to the terms of this Interim Order.

9. Perfection of Adequate Protection Liens. This Interim Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Adequate Protection Liens without the necessity of filing or recording any financing statement or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the Adequate Protection Liens, or to entitle the Prepetition Agents and Prepetition Lenders to the priorities granted herein. Notwithstanding the foregoing, each of the Prepetition Agents is authorized to file, as it deems necessary in their sole discretion, such financing statements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the applicable Adequate Protection Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; provided, however, that no such filing or recordation shall be necessary or required in order to create or perfect the Adequate Protection Liens. The Debtors are authorized to execute and deliver promptly upon demand to the Prepetition Agents all such financing statements, mortgages, notices and other documents as any of the Prepetition Agents and Prepetition Lenders may reasonably request. The Prepetition Agents, each in their sole discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar instrument.

10. Debtors' Obligations. The Debtors shall:

(a) Apply Cash Collateral and other sources of cash available to the Debtors hereunder to the expenses of the operation of their business solely as provided for in the Budget and solely for the type and categories of disbursements listed in the Budget;

(b) Deliver to the Prepetition Agents on or before 3:00 p.m. (Eastern Time) on Wednesday of each week a: (i) comparison for the prior week of actual results of all items contained in the Budget to the budgeted amounts originally contained in the Budget; (ii) cumulative comparison for the period from the Petition Date through the end of the prior week; and (iii) a two week cumulative comparison for the prior two weeks of the actual results of all items contained in the Budget to the budgeted amounts originally contained in the Budget, in each case along with such supporting information and management discussion of Budget variances as each Prepetition Agent may request, including without limitation information previously delivered in connection with the borrowing base reports delivered pursuant to the Prepetition Loan Documents;

(c) Deliver to the Prepetition Agents on each business day by no later than 1:00 p.m. (Eastern Time) a daily sales and metrics report (including, without limitation, with respect to e-commerce and retail sales) and cash flow reconciliation report, each in form and substance and with such supporting information as acceptable to the Prepetition Agents, reporting sales and metrics information and disbursement information for the prior day, weekend and/or holiday period as applicable;

(d) Provide and allow BRG to provide full access, documentation, information and cooperation to the Prepetition Agents during the Specified Period; and

(e) Deliver and allow BRG to deliver to the Prepetition Agents copies of any and all financial, operational or strategic reports (whether draft or final) produced by the Debtors or BRG (including, without limitation, any inventory appraisals, any list of auctioneers or appraisers consulted in relation to the sale of the Collateral).

11. Cash Management. Until the indefeasible payment in full in cash of all Senior Obligations, the Debtors shall maintain a cash management system in accordance with section 345(b) of the Bankruptcy Code and otherwise agreed to by the Senior Agent, in its sole discretion, except as may be modified pursuant to a cash management order that is in form and substance acceptable to and approved in writing by the Senior Agent. Thereafter, and until the indefeasible payment in full in cash of all Subordinated Obligations, the Debtors shall maintain a cash management system in accordance with section 345(b) of the Bankruptcy Code and otherwise agreed to by the Subordinated Agent, in its sole discretion, except as may be modified pursuant to a cash management order that is in form and substance acceptable to and approved in writing by the Subordinated Agent.

12. Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral without the prior written consent of the Senior Agent and, subject to and consistent with the Intercreditor Agreement, the Subordinated Agent (and no such consent shall be implied, from any other action, inaction or acquiescence); provided, however, that the Debtors are permitted to sell, transfer, convey, assign or otherwise dispose of any Collateral constituting the sale of Inventory (as defined in the Senior Loan Documents) Merchandise and FF&E (each as defined in the Consulting Agreement) in the ordinary course of business and as permitted in the Consulting Agreement. The Debtors shall comply with each term and condition of the Retention Agreements and any of the documents or

agreements executed in connection with the Retention Agreements, and agree not to amend or otherwise modify the Retention Agreements, and agree not to amend or otherwise modify the Retention Agreements (without the prior written consent of the Senior Agent). Any agreements entered into governing the sale of all or substantially all of the remaining assets of the Debtors, including without limitation, intellectual property, shall be in form, substance and terms reasonably acceptable to the Senior Agent (the “Purchase Agreements”). The Debtors shall comply with each term and condition of the Purchase Agreements and any of the documents or agreements executed in connection with the Purchase Agreements, and agree not to amend or otherwise modify the Purchase Agreements (without the prior written consent of the Senior Agent).

13. Events of Default. The occurrence of any of the following events, unless waived in writing by the Senior Agent, shall constitute an event of default (collectively, the “Events of Default”):

- (a) the failure by the Debtors to perform, in any respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order;
- (b) until indefeasible payment in full in cash of the Senior Obligations and the Subordinated Obligations, the obtaining of credit or the incurring of indebtedness that is (i) secured by a security interest, mortgage or other lien on all or any portion of the Collateral which is equal or senior to any security interest, mortgage or other lien of any of the Senior Secured Parties or the Subordinated Secured Parties, or (ii) entitled to priority administrative status which is equal or senior to that granted to any of the Senior Secured Parties or Subordinated Secured Parties herein;

(c) the failure of the Debtors to execute and deliver promptly upon demand to the Prepetition Agents all such financing statements, mortgages, notices and other documents as any of the Prepetition Agents and Prepetition Lenders may reasonably request pursuant to paragraph 9 herein;

(d) any lien or security interest purported to be created under the Senior Loan Documents (or the Subordinated Loan Documents after indefeasible payment in full in cash of the Senior Obligations) shall cease to be, or shall be asserted by any Debtors not to be, a valid and perfected lien on or security interest in any Collateral, with the priority required by the Senior Loan Documents (or the Subordinated Loan Documents after indefeasible payment in full in cash of the Senior Obligations) or herein;

(e) the entry of an order by the Court granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code: (i) to allow any creditor to execute upon or enforce a lien on or security interest in any Collateral, or (ii) with respect to any lien of or the granting of any lien on any Collateral to any state or local environmental or regulatory agency or authority;

(f) any of the Debtors' return of goods constituting Collateral pursuant to section 546(h) of the Bankruptcy Code;

(g) reversal, vacatur, or modification (without the express prior written consent of the Senior Agent or the Subordinated Agent, if required under the Intercreditor Agreement or after indefeasible payment in full in cash of the Senior Obligations, each in their sole discretion) of this Interim Order;

(h) dismissal of the Cases or conversion of the Cases to chapter 7 cases, or appointment of a chapter 11 trustee, examiner with enlarged powers, or other responsible person;

(i) any material misrepresentation of fact made after the Petition Date by any of the Debtors or their agents to any of the Senior Secured Parties, or to agents for any of the Senior Secured Parties, about the financial condition of the Debtors, or the nature, extent, location or quality of any Collateral, or the disposition or use of any Collateral, including Cash Collateral;

(j) a default by any of the Debtors in reporting financial information as and when required herein or under the Senior Loan Documents;

(k) except with respect to the "store closing" under the Consulting Agreement, the sale of any portion of any of the Debtors' assets outside the ordinary course of business without the prior written consent of the Senior Agent;

(l) the failure of the Debtors to, by the Closing Date, close a sale of substantially all of the Debtors' remaining assets on terms and in form and substance acceptable to the Senior Agent and pay the proceeds thereof to the Senior Agent for application to the Senior Obligations and the repayment in full in cash of the Senior Obligations;

(m) the failure of the Debtors to obtain a final order (the "Final Order") on the Motion on terms acceptable to the Senior Agent (and the Subordinated Agent, if required under the Intercreditor Agreement or upon indefeasible payment in full in cash of the Senior Obligations) on or before February 21, 2017;

(n) the Debtors' issuance of any notice of termination of any retail location's lease, without the prior written consent of the Senior Agent;

(o) entry into the Purchase Agreements or any amendment thereto, without the prior written consent of the Senior Agent;

- (p) the failure of the Debtors to have retained and continue to maintain a financial advisor of nationally recognized standing reasonably acceptable to the Senior Agent;
- (q) any amendment or change to the validity or existence of any material contract, without the prior written consent of the Senior Agent;
- (r) any amendment or change to the validity or existence of the Consulting Agreement, without the prior written consent of the Senior Agent or the failure to conduct a sale of inventory and furniture, fixture and equipment strictly in accordance with the Consulting Agreement, without the prior written consent of the Senior Agent or the occurrence of any event which could reasonably be expected to adversely affect any Debtors' ability to comply with the terms of the Consulting Agreement;
- (s) the failure of the Debtors to have retained a broker of nationally recognized standing reasonably acceptable to the Senior Agent by February 6, 2017, and the failure to maintain such broker engaged for the sale of all or substantially all of the Debtors' remaining assets;
- (t) the failure to receive bids on all or substantially all of the remaining assets of the Debtors, including without limitation, intellectual property by February 28, 2017;
- (u) the failure of the Debtors to assume the Consulting Agreement;
- (v) the reimbursement in whole or in part of any intercompany loan, without the prior written consent of the Senior Agent;
- (w) any payments to the Subordinated Agent or the Subordinated Lenders or with respect to any Subordinated Debt (as defined in the Senior Credit Agreement) provided that the Senior Obligations have not been indefeasibly paid in full in cash;

(x) "Sale Receipts" amount to less than ninety percent (90%) of the amount set forth in the Budget for any cumulative two week period;

(y) the Overadvance is greater than 105% of the amount of negative "Excess Availability" set forth in the Budget for each week; or

(z) the failure to comply with any Budget Covenant.

14. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default, the Senior Agent may declare a termination, reduction or restriction of the ability of the Debtors to use any Cash Collateral (any such declaration shall be referred to herein as a "Termination Declaration"). The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the Prepetition Agents, counsel to a Committee (if and when appointed), and the U.S. Trustee (the earliest date any such Termination Declaration is made shall be referred to herein as the "Termination Declaration Date"). Any automatic stay otherwise applicable to the Prepetition Agents or Prepetition Lenders is hereby modified so that five (5) business days after the Termination Declaration Date (the "Remedies Notice Period"), the Senior Secured Parties shall be entitled to exercise their rights and remedies to satisfy the Senior Obligations, the Senior Secured Parties Adequate Protection Superpriority Claim, Senior Adequate Protection Liens, and any other obligation under this Interim Order or the Senior Loan Documents. During the Remedies Notice Period, the Debtors and a Committee shall be entitled to seek an emergency hearing with the Court to contest the occurrence of an Event of Default. Unless the Court determines otherwise during the Remedies Notice Period, the automatic stay shall automatically be terminated at the end of the Remedies Notice Period without further notice or order, and the Debtors shall no longer have the right to use or seek to use Cash Collateral, and the Senior

Secured Parties shall be permitted to exercise all remedies set forth herein, in the Senior Loan Documents and as otherwise available at law against the Collateral, without further order of or application or motion to the Court, and without restriction or restraint by any stay under sections 362 or 105 of the Bankruptcy Code, or otherwise, against the enforcement of the liens and security interest in the Collateral or any other rights and remedies granted to the Senior Agent and the Senior Lenders with respect thereto pursuant to the Senior Loan Documents or this Interim Order, as applicable. Notwithstanding anything to the contrary in this Interim Order, the rights of the Senior Agent and the Senior Lenders to enter onto the Debtors' leased premises shall be limited to (i) any such rights agreed to in writing by the applicable landlord and the Senior Agent or the Senior Lenders (including, without limitation, in the governing lease agreement itself or in any landlord waiver or similar agreement), (ii) any rights that the Senior Agent or the Senior Lenders have under non-bankruptcy law, if any, or (iii) such rights as may be granted by the Court on a separate motion with notice to the applicable landlords of the leased premises and an opportunity for such landlords to respond and be heard.

15. Carve Out. As used in this Interim Order, until the indefeasible payment in full of the Senior Obligations, the "Carve Out" means the following expenses:

- (i) all fees required to be paid to the Clerk of the Bankruptcy Court and all statutory fees payable to the U.S. Trustee under 28 U.S.C. § 1930(a), together with the statutory rate of interest pursuant to 31 U.S.C. § 3717;
- (ii) to the extent allowed by the Bankruptcy Court at any time, all accrued and unpaid fees, disbursements, costs and expenses incurred by professionals or professional firms retained by the Debtors or the Committee (if any) pursuant to sections 327, 328, 363 or 1103 of the Bankruptcy Code, other than ordinary course professionals,

(collectively, the “Professionals”) at any time before or on the date of the delivery by the Senior Agent of a Carve-Out Trigger Notice (as defined below) up to an amount not to exceed the amount of such fees, disbursements, costs and expenses for each Professional (on a professional-by-professional, and not an aggregate basis) in the Budget for the period prior to delivery of the Carve-Out Trigger Notice, whether such amounts are allowed by the Bankruptcy Court prior to or after delivery of such Carve-Out Trigger Notice (and including amounts incurred but not invoiced prior to the delivery of the Carve-Out Trigger Notice); provided that, there shall be a dollar-for-dollar reduction of the Carve Out for (x) any unused retainers held by or on behalf of the Professionals as of the delivery of the Carve-Out Trigger Notice, and (y) any amount previously paid to Professionals after the Petition Date pursuant to the Budget; and

(iii) all unpaid fees, disbursements, costs and expenses incurred by the Professionals on or after the day following the delivery by the Senior Agent of a Carve-Out Trigger Notice up to an amount not to exceed the amount of such fees, disbursements, costs and expenses for each Professional (on a professional-by-professional, and not an aggregate basis) in the Budget for the relevant time period following the delivery of the Carve-Out Trigger Notice, to the extent allowed by the Bankruptcy Court at any time, in an aggregate amount not to exceed \$100,000; provided that, without duplication of the above reduction for retainers, there shall be a dollar-for-dollar reduction of the Carve Out for any unused retainers held by or on behalf of the Professionals as of the delivery of the Carve-Out Trigger Notice (such amount set forth in clause (iii), the “Post-Carve-Out Trigger Notice Cap”, and, together with such amounts set forth in clauses (i) and (ii) above, the “Carve Out”).

As used herein, the term “Carve-Out Trigger Notice” means a written notice provided by the Senior Agent to the Debtors, the U.S. Trustee, the Subordinated Agent and the Committee (if any) that the Post-Carve-Out Trigger Notice Cap is invoked, which notice can be delivered by the Senior Agent only upon the occurrence of an Event of Default (as defined herein). Notwithstanding anything to the contrary herein: (a) the Carve Out shall be senior in priority to the Prepetition Senior Liens, the Prepetition Subordinated Liens, the Senior Adequate Protection Liens, the Subordinated Adequate Protection Liens and the Adequate Protection Superpriority Claim; (b) following indefeasible payment in full of the Senior Obligations, the “Carve Out” may be modified (but without retroactive application) to be in an amount in accordance with any subsequent order of this Court; (c) none of the Prepetition Secured Parties shall be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Cases or any Successor Cases; and (d) so long as a Carve-Out Trigger Notice has not been delivered in accordance with this Interim Order, the Debtors shall be permitted to pay administrative expenses of Professionals allowed and payable under sections 330 and 331 of the Bankruptcy Code, as the same may become due and payable by way of order of the Court approving a fee application on notice, or pursuant to procedures set forth in any interim compensation order this Court may enter, including on an interim basis, solely as provided herein and in the Budget (for the avoidance of doubt, on a professional-by-professional, and not an aggregate basis). Nothing in this Interim Order or otherwise shall be construed (i) to obligate any of the Prepetition Secured Parties in any way to pay compensation to or to reimburse expenses of any Professional (by direct payment, disgorgement or otherwise), or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, (ii) as consent to the allowance of any professional fees or expenses of any Professionals, or (iii) to

affect the rights of any of the Prepetition Secured Parties to object to the allowance and payment of such fees and expenses. Nothing in this Interim Order shall increase the Carve Out above the amounts set forth in the Budget.

16. Limitations on the Cash Collateral and the Carve Out. The Cash Collateral and the Carve Out may not be used: (a) in connection with or to finance in any way any action, suit, arbitration, proceeding, application, motion or other litigation of any type (i) adverse to the interests of the Prepetition Secured Parties or their rights and remedies under the Prepetition Loan Documents, or this Interim Order, including, without limitation, for the payment of any services rendered by the professionals retained by the Debtors or creditors' committee in connection with the assertion of or joinder in any claim, counterclaim, action, proceeding, application, motion, objection, defense or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment determination, declaration or similar relief adverse to the interests of any of the Prepetition Secured Parties or their respective rights and remedies under the Prepetition Loan Documents, or this Interim Order, (ii) invalidating, setting aside, avoiding or subordinating, in whole or in part, the Prepetition Obligations, (iii) for monetary, injunctive or other affirmative relief against any of the Prepetition Secured Parties or their respective collateral, or (iv) preventing, hindering or otherwise delaying the exercise by the Prepetition Secured Parties of any rights and/or remedies under this Interim Order, the Prepetition Loan Documents, or applicable law, or the enforcement or realization (whether by foreclosure, credit bid, further order of the Court or otherwise) by the Prepetition Secured Parties upon any of the Collateral; (b) to make any distribution under a plan of reorganization in any of the Cases; (c) to make any payment in settlement of any claim, action or proceeding, before any court, arbitrator or other governmental body without the prior written

consent of the Senior Agent; (d) to pay any fees or similar amounts to any person who has proposed or may propose to purchase interests in any of the Debtors without the prior written consent of the Senior Agent, (e) to object to, contest or interfere with in any way the enforcement or realization upon any of the Collateral once an Event of Default has occurred by the Senior Agent or Senior Lenders; (f) to use or seek to use Cash Collateral or sell or otherwise dispose of Collateral without the consent of the Senior Secured Parties; (g) to use or seek to use any insurance proceeds constituting Collateral without the consent of the Senior Secured Parties; (h) to incur Indebtedness (as defined in the Senior Credit Agreement) outside the ordinary course of business without the prior consent of the Senior Secured Parties; (i) to object to or challenge in any way the claims, liens, or interests (including interests in the Collateral) held by or on behalf of any of the Prepetition Secured Parties; (j) to assert, commence or prosecute any claims or causes of action whatsoever, including, without limitation, any actions under chapter 5 of the Bankruptcy Code, against any of the Prepetition Secured Parties; (k) to prosecute an objection to, contest in any manner, or raise any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the Prepetition Obligations or Prepetition Liens or any other rights or interests of any of the Prepetition Secured Parties; or (l) to prevent, hinder or otherwise delay the exercise by any of the Prepetition Secured Parties of any rights and remedies granted under this Interim Order. Notwithstanding the foregoing, the Cash Collateral and the Carve Out may be used by a Committee in an amount not to exceed \$35,000 in the aggregate to investigate (but not to prosecute) any claims against any of the Prepetition Secured Parties or any bases for objecting to the Prepetition Liens (the “Investigation Cap”).

17. Reservation of Certain Third Party Rights and Bar of Challenges and Claims.

Prior to the Challenge Period Termination Date (as defined below), nothing in this Interim Order

shall prejudice the rights of a Committee (if and when appointed) or any party in interest with requisite standing, to seek to object to or to challenge the Debtors' Stipulations, waivers and releases, including, but not limited to those in relation to: (a) the validity, extent, priority, or perfection of the Prepetition Liens; or (b) the validity, allowability, priority, full secured status or amount of the Prepetition Obligations. Any such challenge must be commenced, as appropriate, through a contested matter or adversary proceeding raising such objection or challenge, including, without limitation, any claim in the nature of a setoff, counterclaim or defense to the applicable Prepetition Obligations (each, a "Challenge") by no later than (a) seventy-five (75) calendar days after the Petition Date for parties in interest other than a Committee; (b) sixty (60) calendar days after a Committee is formed for a Committee; or (c) such later date as agreed by the parties (including the Prepetition Secured Parties) or ordered by the Court (the "Challenge Period"). If a chapter 7 or chapter 11 trustee is appointed (x) after the Committee commences a Challenge, the chapter 7 or chapter 11 trustee may pursue the Challenge in the place of the Committee, or (y) before the expiration of the Challenge Period, the chapter 7 or chapter 11 trustee may commence a Challenge until the later of the expiration of the Challenge Period or ten (10) days from appointment. Upon the expiration of the Challenge Period (the "Challenge Period Termination Date"):

(A) any and all such challenges by any party (including, without limitation, a Committee (if and when appointed), any chapter 11 trustee, and/or any examiner or other estate representative appointed in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed in any Successor Cases) to any of the Debtors' Stipulations, shall be deemed to be forever waived, released and barred, and

(B) all of the Debtors' Stipulations (including all waivers and releases) shall be of full force and effect and forever binding upon the Debtors, the Debtors' bankruptcy estates and all creditors, interest holders, and

other parties in interest in these Cases and any Successor Cases, and the claims of the Prepetition Agents and Lenders shall be deemed allowed secured claims that are not subject to objection, defense, counterclaim, recoupment or reduction on any grounds.

18. No Third Party Rights. Except as explicitly provided for herein, this Interim Order do not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

19. Section 506(c) Claims. Subject to entry of a Final Order, no costs or expenses of administration which have been or may be incurred in the Cases at any time shall be charged against any of the Prepetition Secured Parties, their respective claims, or the Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent of the applicable Prepetition Agent or Prepetition Lender, and no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders.

20. No Marshaling/Application of Proceeds. Subject to entry of a Final Order, except as otherwise previously agreed to in writing by the Prepetition Agents, the Prepetition Agents and Prepetition Lenders shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Collateral, as the case may be, and proceeds shall be received and applied in accordance with this Interim Order and the Prepetition Loan Documents notwithstanding any other agreement or provision to the contrary.

21. Section 552(b). Subject to entry of a Final Order, the Prepetition Agents and Prepetition Lenders shall each be entitled to all of the rights and benefit of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to any of the Prepetition Secured Parties with respect to proceeds, product, offspring or profit of any of the Prepetition Collateral or the Collateral.

22. Sales and Use Taxes. Commencing on March 1, 2017, and on the first business day of each month thereafter, the Debtors shall fund into a segregated account (the "Tax Account") an amount equal to sales tax liability for the prior calendar month. The liens (including Adequate Protection Liens) of the Prepetition Secured Parties shall attach to the Tax Account in the priority set forth in this Interim Order but shall be junior to the sales tax obligations.

23. Rights Preserved. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) any of the Prepetition Secured Parties' respective rights to seek any other or supplemental relief in respect of any Debtors, including the right to seek additional adequate protection (without prejudice to any other person's right to object to or otherwise oppose such additional adequate protection) in accordance with the Intercreditor Agreement; or (b) any of the rights of any Prepetition Agent or Prepetition Lender under the Bankruptcy Code or under non-bankruptcy law.

24. Section 507(b) Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to any of the Prepetition Secured Parties hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral, as appropriate, during the Cases or any Successor Cases. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by any of the Prepetition Secured Parties that the adequate protection granted herein does in fact adequately protect any of the Prepetition Secured Parties against any Diminution in Value of their respective interests in the Prepetition Collateral (including Cash Collateral), as appropriate.

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

26. Proofs of Claim. The Prepetition Agents and Prepetition Lenders will not be required to file proofs of claim in any of the Cases or Successor Cases for any claim allowed herein. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases to the contrary, each of (a) the Senior Agent on behalf of the Senior Secured Parties and (b) the Subordinated Agent on behalf of the Subordinated Secured Parties is hereby authorized and entitled, each in their sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a proof of claim and/or aggregate proofs of claim in each of the Cases or Successor Cases for any claim allowed herein. Any proof of claim filed by a Prepetition Agent shall be deemed to be in addition and not in lieu of any other proof of claim that may be filed by any of the Prepetition Lenders. Any order entered by the Court in relation to the establishment of a bar date for any claim (including without limitation administrative claims) in any of the Cases or Successor Cases shall not apply to any of the Prepetition Secured Parties.

27. Good Faith. The Prepetition Secured Parties each have acted in good faith in connection with this Interim Order and their reliance on this Interim Order is in good faith.

28. Continuing Effect of Intercreditor Agreement. The Prepetition Secured Parties each shall be bound by and be subject to all the terms, provisions and restrictions of the Intercreditor Agreement. Nothing in this Interim Order is meant to or shall be deemed to alter or

otherwise modify the rights, including consent rights, contained in the Intercreditor Agreement as between and among the Prepetition Secured Parties.

29. Binding Effect of Interim Order. Immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, the Prepetition Secured Parties, all other creditors of the Debtors, any committee appointed in the Cases, and all other parties in interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed or elected in any of the Cases, any Successor Cases, or upon dismissal of any Cases or Successor Cases. The rights of all parties are reserved as provided in paragraph 34 herein.

30. No Modification of Interim Order. The Debtors irrevocably waive any right to seek any amendment, modification or extension of this Interim Order without the prior written consent of the Senior Secured Parties, and no such consent shall be implied by any other action, inaction or acquiescence of the applicable Senior Agent or Senior Lenders. In the event any or all of the provisions of this Interim Order are hereafter modified, amended or vacated by a subsequent order of this Court or any other court, such modification, amendment or vacatur shall not affect the validity, perfection, priority, allowability, enforceability or non-avoidability of any advances previously made or made hereunder, or lien, claim or priority authorized or created hereby. Any liens or claims granted to any of the Prepetition Secured Parties hereunder arising prior to the effective date of any such modification, amendment or vacatur of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges and benefit granted herein.

31. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Cases; (b) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Cases or Successor Cases. The terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to any of the Prepetition Secured Parties pursuant to this Interim Order, notwithstanding the entry of any such order, shall continue in the Cases, in any Successor Cases, or following dismissal of the Cases or any Successor Cases, and shall maintain their priority as provided by this Interim Order until all Prepetition Obligations have been indefeasibly paid in full in cash, notwithstanding the expiration of the Specified Period or any earlier termination of the Debtors' authorization to use Cash Collateral.

32. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon execution thereof.

33. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Interim Order according to their terms.

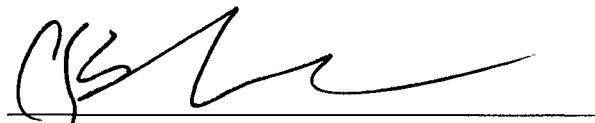
34. Reservation of Rights. The rights of all parties to raise any and all arguments with respect to any further interim orders, or any final order, regarding the Motion are preserved and nothing in this Interim Order shall prejudice any such rights with respect to the use of Cash Collateral under such further orders.

35. Rights of Subordinated Secured Parties. Upon indefeasible payment in full in cash of the Senior Obligations, any and all rights, remedies, defaults, consents or other actions

solely granted to or solely to be exercised by the Senior Agent or the Senior Secured Parties under this Interim Order shall instead be deemed solely granted to or solely to be exercised only by the Subordinated Agent or the Subordinated Secured Parties.

36. Final Hearing. The Final Hearing is scheduled for February 22, 2017 at 10:00 a.m. (ET) before this Court. The Debtors shall promptly mail copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the parties that have been given notice of the Interim Hearing, and to any other party that has filed a request for notices with this Court and to a Committee (if and when appointed). Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which shall be served upon (a) Young Conaway Stargatt & Taylor, LLP, 1000 N. King Street, Wilmington, DE 19801 (attention: Robert S. Brady, rbrady@ycst.com, and Michael R. Nestor, mnestor@ycst.com), counsel for the Debtors; (b) Morgan, Lewis and Bockius LLP, One Federal Street, Boston, MA 02110-1726 (attention: Julia Frost-Davies, Esq., julia.frost-davies@morganlewis.com, and Sandra J. Vrejan, Esq., sandra.vrejan@morganlewis.com) and Reed Smith LLP (attention: Kurt F. Gwynne, Esq., kgwynne@reedsmith.com), counsel for the Senior Agent; (c) counsel for Subordinated Agent; and (e) the office of the United States Trustee (attention: Linda J. Casey, Esq., linda.casey@usdoj.gov), in each case to allow actual receipt by the foregoing no later than February 15, 2017 at 4:00 p.m. (ET) or such later date as agreed by the parties or ordered by the Court.

Dated: Wilmington, Delaware  
February 3, 2017



CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE