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*Bruce T. Beesley*



Honorable Bruce T. Beesley  
United States Bankruptcy Judge

Entered on Docket  
January 03, 2012

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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

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In re  
  
AHERN RENTALS, INC.,  
  
Debtor.

Case No.: BK-S-11-53860-BTB  
Chapter 11  
  
Date: December 23, 2011  
Time: 9:30 a.m.  
Place: Clifton Young Federal Bldg.  
300 S. Booth Street  
Reno, NV 89509  
Court Room: 2

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**AMENDED INTERIM ORDER UNDER 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 9014 (I) AUTHORIZING THE DEBTOR TO OBTAIN POSTPETITION FINANCING AND GRANT SECURITY INTERESTS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (II) MODIFYING THE AUTOMATIC STAY,**



1 **(III) AUTHORIZING THE DEBTOR TO USE CASH COLLATERAL, (IV) GRANTING**  
2 **ADEQUATE PROTECTION TO PREPETITION SECURED LENDERS AND**  
3 **(V) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES**  
4 **4001(b) AND 4001(c)**

5 Upon the motion, dated December 22, 2011 (the "Motion") [ECF No. 17], of Ahern  
6 Rentals, Inc. ("Ahern"), as debtor and debtor-in-possession (the "Debtor") in the above-  
7 captioned case (the "Case") commenced on December 22, 2011 (the "Petition Date") for interim  
8 and final orders under sections 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1),  
9 364(e) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the  
10 "Bankruptcy Code"), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure  
11 (as amended, the "Bankruptcy Rules"), and the Local Bankruptcy Rules for the United States  
12 Bankruptcy Court for the District of Nevada (this "Court") seeking:

13 (I) authorization for Ahern, as borrower (the "Borrower"), to obtain postpetition  
14 financing under an asset-based revolving credit facility on an interim basis in an amount up to  
15 \$20,000,000 outstanding at any time (such revolving extensions of credit, the "DIP Loans") for a  
16 period through and including the date of the Final Hearing (as defined below) on the terms and  
17 conditions set forth in this interim order (this "Order") and the Debtor-in-Possession Loan and  
18 Security Agreement (substantially in the form annexed to the Motion as Exhibit A and as  
19 hereafter amended, supplemented or otherwise modified from time to time, the "DIP  
20 Agreement"; together with all agreements, documents and instruments executed and delivered in  
21 connection therewith, as hereafter amended, supplemented or otherwise modified from time to  
22 time, the "DIP Documents"), among the Borrower, the lending institutions party thereto (the  
23 "DIP Lenders"), Bank of America, N.A. ("Bank of America"), as administrative agent (in such  
24 capacity, the "DIP Agent") for itself and the DIP Lenders and as a "Decision Agent" under, and  
25 as defined in, the DIP Agreement, Wells Fargo Bank, N.A. ("Wells Fargo Bank"), as collateral  
26 agent (in such capacity, the "DIP Collateral Agent") for the DIP Lenders and as a "Decision  
27 Agent", and Merrill Lynch, Pierce Fenner & Smith Incorporated ("Merrill Lynch") as lead  
28 arranger, and, subject to the entry of the Final Order (as defined herein) authorization for  
Borrower to obtain DIP Loans under the DIP Documents in an amount up to the aggregate

1 principal amount of \$350 million outstanding at any time on a final basis (including a \$10  
2 million sub-limit for letters of credit) on the terms and conditions set forth in the Final Order and  
3 the DIP Documents;

4 (II) authorization for the Debtor to execute and deliver the DIP Agreement and the  
5 other DIP Documents and to perform such other and further acts as may be necessary or  
6 appropriate in connection therewith;

7 (III) authorization to deem all prepetition letters of credit issued under the First Lien  
8 Credit Agreement (as defined below) (the "Prepetition L/Cs") in the approximate aggregate  
9 undrawn principal amount of \$410,000 to have been issued under the DIP Agreement upon entry  
10 of the Final Order, and closing of the DIP Agreement, under the DIP Documents;

11 (IV) authorization for the Debtor to (a) use the Cash Collateral (as defined in  
12 paragraph 16 below) pursuant to section 363 of the Bankruptcy Code, and all other Prepetition  
13 Collateral (as defined in paragraph 4(b) below), and (b) provide adequate protection to (i) the  
14 revolving lenders (the "Revolving Lenders") and the term lenders (the "Term Lenders";  
15 collectively with the Revolving Lenders, the "First Lien Lenders") under the Second Amended  
16 and Restated Loan and Security Agreement, dated as of January 8, 2010, among the Borrower,  
17 the First Lien Lenders, Bank of America, as administrative agent (including any successor  
18 thereto, in such capacity, the "First Lien Agent") for itself and the First Lien Lenders, Wells  
19 Fargo Bank, as collateral agent for itself and the First Lien Lenders (including any successor  
20 thereto, in such capacity, the "First Lien Collateral Agent") (as amended, supplemented or  
21 otherwise modified, the "First Lien Credit Agreement"; and together with all security, pledge  
22 and guaranty agreements and all other documentation executed and/or delivered in connection  
23 with any of the foregoing, including without limitation, the Intercreditor Agreement (as defined  
24 in paragraph 4(h) below), each as amended, supplemented or otherwise modified, the "First Lien  
25 Documents") and; (ii) U.S. Bank National Association as successor to Wells Fargo Bank, as  
26 collateral agent and trustee (the "Second Lien Trustee") for the benefit of holders of the 9 1/4%  
27 Senior Secured Notes Due 2013 (collectively, the "Second Lienholders," and together with the  
28 First Lien Lenders, the "Prepetition Lenders") under the Indenture dated August 18, 2005 (as

1 amended, supplemented or otherwise modified, the “Second Lien Indenture”; the notes issued  
2 thereunder; and together with the Second Lien Indenture and all security, pledge and guaranty  
3 agreements and all other documentation executed and/or delivered in connection with the  
4 foregoing, including without limitation, the Intercreditor Agreement, each as amended,  
5 supplemented or otherwise modified, the “Second Lien Documents”);

6 (V) authorization for the DIP Agent, the DIP Collateral Agent and the DIP Lenders to  
7 exercise remedies under the DIP Documents upon the occurrence and during the continuance of  
8 an Event of Default (as defined in the DIP Agreement);

9 (VI) subject to entry of the Final Order, the waiver by the Debtor of any right to seek  
10 to surcharge against the DIP Collateral (as defined in paragraph 8 below) or the Prepetition  
11 Collateral pursuant to section 506(c) of the Bankruptcy Code;

12 (VII) modification of the automatic stay to the extent hereinafter set forth;

13 (VIII) to schedule, pursuant to Bankruptcy Rule 4001, an interim hearing (the “Interim  
14 Hearing”) on the Motion to be held before this Court to consider entry of this Order  
15 (a) authorizing the Borrower, on an interim basis, to borrow under the DIP Agreement up to  
16 \$20,000,000 of DIP Loans outstanding at any time to be used for working capital and general  
17 corporate purposes of the Debtor, (b) authorizing the Debtor to use the Cash Collateral, subject  
18 to and in accordance with the Initial Budget (as defined below) and the other Prepetition  
19 Collateral, and (c) granting adequate protection to the First Lien Lenders and the Second  
20 Lienholders; and

21 (IX) to schedule, pursuant to Bankruptcy Rule 4001, a final hearing (the “Final  
22 Hearing”) for this Court to consider entry of a final order (the “Final Order”) authorizing and  
23 approving on a final basis the relief requested in the Motion, including without limitation, for the  
24 Borrower to borrow the balance of the DIP Loans and to use the proceeds of the DIP Loans to  
25 refinance in full the “Revolving Obligations” outstanding as of the Petition Date under, and as  
26 defined in, the First Lien Credit Agreement on the terms and subject to the conditions set forth in  
27 the DIP Documents (such refinancing event, the “Revolving Obligations Roll-Up”), for the  
28 Debtor to continue to use the Cash Collateral, subject to and in accordance with the Initial

1 Budget, and the other Prepetition Collateral and for the Debtor to grant adequate protection to the  
2 First Lien Lenders and the Second Lienholders.

3 The Interim Hearing having been held by this Court on December 23, 2011, and upon the  
4 record made by the Debtor at the Interim Hearing, and after due deliberation and consideration  
5 and sufficient cause appearing therefor;

6 IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

7 1. *Jurisdiction.* This Court has core jurisdiction over the Case, the Motion, and the  
8 parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper  
9 before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

10 2. *Notice.* Notice of the Motion, the relief requested therein and the Interim Hearing  
11 was served by the Debtor on (i) its twenty largest unsecured creditors, (ii) the DIP Agent, (iii) the  
12 First Lien Agent, (iv) the First Lien Collateral Agent, (v) the Second Lien Trustee, (vi) counsel  
13 for the Majority Term Lenders (as defined in the First Lien Credit Agreement), (vii) counsel for  
14 Sphere Capital, LLC, the holder of a majority of the Second Lien Debt (as defined in the First  
15 Lien Credit Agreement) (the "Majority Second Lienholder"), (viii) the United States Trustee for  
16 the District of Nevada (the "U.S. Trustee"); (ix) the Securities and Exchange Commission;  
17 (x) the Internal Revenue Service; (xi) any lessor of real property to the Debtor; (xiii) all parties  
18 holding security interests in any of the Debtor's assets; (xiii) counsel for Wells Fargo Bank; and  
19 (xiv) counsel for GE Capital. Under the circumstances, the notice given by the Debtor of the  
20 Motion, the relief requested therein and the Interim Hearing constitutes due and sufficient notice  
21 thereof and complies with Bankruptcy Rules 4001(b) and (c), and Local Rule 4001(e) and no  
22 further notice of the relief sought at the Interim Hearing is necessary or required.

23 3. *Approval of Motion.* The relief requested in the Motion is granted as described  
24 herein[, and the stipulations attached as Exhibits to the Motion are approved]. Except as  
25 otherwise expressly provided in this Order, any objection to the entry of this Order that has not  
26 been withdrawn, waived, resolved or settled is hereby denied and overruled on the merits.

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1           4.     *Debtor's Stipulations.* Without prejudice to the rights of any other party (but  
2 subject to the limitations thereon contained in paragraphs 23 and 24), the Debtor admits,  
3 stipulates, acknowledges and agrees that:

4                   (a) as of the Petition Date, the Debtor was truly and justly indebted to the  
5 First Lien Lenders, without defense, counterclaim or offset of any kind, in the aggregate  
6 principal amount of not less than \$352,742,749.80, consisting of revolving credit loans in the  
7 aggregate outstanding principal amount of \$257,332,749.80, term loans in the aggregate  
8 outstanding principal amount of \$95,000,000 and letters of credit issued and outstanding in the  
9 aggregate amount of \$410,000, in each case, provided by the First Lien Lenders pursuant to the  
10 First Lien Documents, plus accrued and unpaid interest thereon (including, but not limited to,  
11 accrued but unpaid interest at the Default Rate (as defined in the First Lien Credit Agreement)  
12 on the outstanding Term Loan Obligations as of the Petition Date (the "Term Loan Unpaid  
13 Interest Obligation")), any cash management obligations owed to any First Lien Lender and fees  
14 and expenses (including fees and expenses of attorneys and advisors), in each case, as provided  
15 in the First Lien Documents and other amounts constituting "Revolving Obligations" or "Term  
16 Loan Obligations" under, and as defined in, the First Lien Documents (collectively, the "First  
17 Lien Obligations").

18                   (b) the liens and security interests granted by the Debtor to the First Lien  
19 Collateral Agent (for the ratable benefit of the First Lien Lenders) to secure the First Lien  
20 Obligations are (i) valid, binding, perfected, enforceable, first priority (subject to permitted  
21 exceptions under the First Lien Credit Agreement) liens on and security interests in the personal  
22 and real property of the Debtor constituting "Collateral" under, and as defined in, the First Lien  
23 Credit Agreement (together with the Cash Collateral, the "Prepetition Collateral"), (ii) not  
24 subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or  
25 applicable nonbankruptcy law and (iii) subject and subordinate only to (A) after giving effect to  
26 this Order, the Carve-Out (as defined in paragraph 7(b) below) and the liens and security  
27 interests granted to secure the DIP Loans and the First Lien Adequate Protection Obligations (as  
28 defined in paragraph 18 below), and (B) other valid and unavoidable liens perfected prior to the

1 Petition Date (or perfected after the Petition Date to the extent permitted by section 546(b) of  
2 the Bankruptcy Code) which are permitted under the First Lien Documents to the extent such  
3 permitted liens are senior to the liens securing the First Lien Obligations;

4 (c) (i) the liens that secure the Term Loan Obligations are the same as and  
5 *pari passu* with the liens that secure the Revolving Obligations, (ii) pursuant to Section 15.25 of  
6 the First Lien Credit Agreement, the Term Loan Obligations are not contractually subordinate in  
7 right of payment to the Revolving Obligations, and (iii) pursuant to Section 4.6 of the First Lien  
8 Credit Agreement, the Revolving Obligations are payable prior to the Term Loan Obligations;

9 (d) (i) the First Lien Obligations constitute allowed, legal, valid, binding,  
10 enforceable and non-avoidable obligations of the Debtor, (ii) no portion of the First Lien  
11 Obligations shall be subject to avoidance, recharacterization, recovery or subordination pursuant  
12 to the Bankruptcy Code or applicable nonbankruptcy law and (iii) the Debtor does not have, and  
13 hereby forever releases, any claims, counterclaims, causes of action, defenses or setoff rights  
14 whether arising under the Bankruptcy Code or applicable nonbankruptcy law, against any or all  
15 of the First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, the Participants  
16 (as defined in the First Lien Credit Agreement), and, as to each of the foregoing, their respective  
17 affiliates, subsidiaries, agents, officers, directors, employees, attorneys and advisors, in each  
18 case in connection with any matter related to the First Lien Obligations, the First Lien Credit  
19 Agreement, the First Lien Documents or the financing and transactions contemplated thereby or  
20 the Prepetition Collateral and the First Lien Collateral Agent's liens, claims or security interests  
21 therein.

22 (e) as of the Petition Date, the Debtor was truly and justly indebted to the  
23 Second Lienholders, without defense, counterclaim or offset of any kind, in the approximate  
24 aggregate principal amount of not less than \$236,666,667.00 owing in respect of the notes issued  
25 pursuant to the Second Lien Documents, plus accrued and unpaid interest thereon and fees and  
26 expenses (including fees and expenses of attorneys and advisors), in each case, as provided in the  
27 second lien documents and other amounts constituting "Obligations" under, and as defined in,  
28 the Second Lien Documents (collectively, the "Second Lien Obligations");

1 (f) the liens and security interests granted by the Debtor to the Second Lien  
2 Trustee (for the ratable benefit of the Second Lienholders) to secure the Second Lien Obligations  
3 are (i) valid, binding, perfected, enforceable second priority (subject to permitted exceptions  
4 under the Second Lien Indenture) liens on and security interests in the personal and real property  
5 of the Debtor constituting “Collateral” under, and as defined in, the Second Lien Indenture (the  
6 “Prepetition Second Lien Collateral” and, together with the Prepetition First Lien Collateral, the  
7 “Prepetition Collateral”), (ii) not subject to avoidance, recharacterization or subordination  
8 pursuant to the Bankruptcy Code or applicable non-bankruptcy law and (iii) subject and  
9 subordinate only to (A) the liens securing the First Lien Obligations, (B) after giving effect to  
10 this Order, the Carve-Out (as defined in paragraph 7(b) below) and the liens and security  
11 interests granted to secure the DIP Loan, the First Lien Adequate Protection Obligations, and the  
12 Second Lien Adequate Protection Liens and (C) other valid and unavoidable liens perfected prior  
13 to the Petition Date (or perfected after the petition date to the extent permitted by section 546(b)  
14 of the bankruptcy code) which are permitted under the Second Lien Documents to the extent  
15 such permitted liens are senior to the liens securing the Second Lien Obligations;

16 (g) (i) the Second Lien Obligations constitute allowed, legal, valid, binding,  
17 enforceable and non-avoidable obligations of the Debtor, and (ii) no portion of the Second Lien  
18 Obligations shall be subject to avoidance, recharacterization, recovery or subordination pursuant  
19 to the Bankruptcy Code or applicable non-bankruptcy law.

20 (h) In connection with the execution and delivery of the First Lien Documents  
21 and the Second Lien Documents, the First Lien Collateral Agent and the Second Lien Trustee  
22 entered into that certain Intercreditor Agreement, dated as of August 18, 2005, by and among  
23 Wells Fargo Bank, as collateral agent for holders of the First Lien Obligations (as defined in the  
24 Intercreditor Agreement), Wells Fargo Bank, as collateral agent and trustee for the holders of  
25 the Second Lien Obligations (as defined in the Intercreditor Agreement), the Borrower, and  
26 Wells Fargo Bank, as control agent for the First Lien Collateral Agent and the Second Lien  
27 Collateral Agent (each as defined in the Intercreditor Agreement) (as amended, supplemented or  
28 otherwise modified, the “Intercreditor Agreement”), to set forth the relative lien priorities and



1 other rights and remedies of the First Lien Lenders and the Second Lienholders with respect to,  
2 among other things, the Prepetition Collateral.

3 (i) The aggregate value of the Prepetition Collateral securing the Revolving  
4 Obligations substantially exceeds the aggregate amount of the Revolving Obligations.

5 5. *Findings Regarding the DIP Loans.*

6 (a) Good cause has been shown for the entry of this Order.

7 (b) The Debtor does not have sufficient available sources of working capital,  
8 including cash collateral, to operate its business in the ordinary course of business without the  
9 use of Prepetition Collateral, including the Cash Collateral, and the financing requested under  
10 the Motion. The Debtor has an immediate need to obtain the DIP Loans and to use the  
11 Prepetition Collateral, including the Cash Collateral, in order to, among other things, permit the  
12 orderly continuation of its business, preserve the going concern value of the Debtor, and make  
13 payroll, pay trade and other creditors, and satisfy other working capital and general corporate  
14 purposes of the Debtor (including costs related to the Case) as set forth herein. The refinancing  
15 of the "Revolving Obligations" outstanding as of the Petition Date under, and as defined in, the  
16 First Lien Credit Agreement as set forth in the DIP Documents with the proceeds of the DIP  
17 Loans upon entry of the Final Order and deeming the Prepetition L/Cs to be outstanding under  
18 the DIP Agreement upon entry of the Final Order is appropriate because, among other reasons,  
19 the aggregate value of the Prepetition Collateral securing the Revolving Obligations  
20 substantially exceeds the aggregate amount of the Revolving Obligations.

21 (c) The Debtor is unable to obtain financing on more favorable terms from  
22 sources other than the DIP Lenders pursuant to, and for the purposes set forth in, the DIP  
23 Documents and is unable to obtain adequate unsecured credit allowable under section 503(b)(1)  
24 of the Bankruptcy Code as an administrative expense. The Debtor is also unable to obtain  
25 secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy  
26 Code without granting priming liens under section 364(d)(1) of the Bankruptcy Code and the  
27 Superpriority Claims (as defined in paragraph 7(a) below) and refinancing the "Revolving  
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1 Obligations” outstanding as of the Petition Date under, and as defined in, the First Lien Credit  
2 Agreement on the terms and conditions set forth in this Order and the DIP Documents.

3 (d) The terms of the DIP Loans and the use of the Prepetition Collateral  
4 (including the Cash Collateral) pursuant to this Order are fair and reasonable, reflect the  
5 Debtor’s exercise of prudent business judgment consistent with its fiduciary duties and  
6 constitute reasonably equivalent value and fair consideration.

7 (e) The DIP Documents and the use of the Prepetition Collateral (including  
8 the Cash Collateral) have been the subject of extensive negotiations conducted in good faith and  
9 at arm’s-length among the Debtor, the Decision Agents, the DIP Lenders, the First Lien Agent,  
10 the Revolving Lenders, the Majority Term Lender and the Majority Second Lienholder and all  
11 of the Debtor’s obligations and indebtedness arising under or in connection with the DIP  
12 Documents, this Order and the DIP Loans (including obligations in respect of any Bank  
13 Products (as defined in the DIP Agreement) provided by any DIP Lender or any affiliate  
14 thereof, collectively, the “DIP Obligations”), shall be deemed to have been extended by the  
15 Decision Agents and the DIP Lenders in “good faith” as such term is used in section 364(e) of  
16 the Bankruptcy Code, and in express reliance upon the protections set forth therein, and shall be  
17 entitled to the full protection of sections 363(m) and 364(e) of the Bankruptcy Code in the event  
18 that this Order or any provision hereof is vacated, reversed or modified on appeal or otherwise.

19 (f) The Debtor has requested immediate entry of this Order pursuant to  
20 Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and Local Rule 4001(a), (b) and (e). Absent  
21 granting the interim relief set forth in this Order, the Debtor’s estate and its business operations  
22 will be immediately and irreparably harmed. The borrowing of the DIP Loans and the use of  
23 the Prepetition Collateral (including the Cash Collateral) in accordance with this Order and the  
24 DIP Documents are, therefore, necessary in order to permit the orderly continuation of the  
25 Debtor’s business operations, minimize the disruption of its business operations, and preserve  
26 and maximize the value of the Debtor’s assets in order to maximize the recovery to all creditors  
27 of the Debtor’s estate. As set forth in the DIP Documents, the Debtor has prepared and  
28 delivered to the DIP Agent the 13-week cash flow, a copy of which is attached hereto as Exhibit

1 “A” (the “Initial Budget”). The Initial Budget is adequate to pay all administrative expenses  
2 due or accruing during the period covered by the Initial Budget.

3 6. *Authorization of the DIP Loans and the DIP Documents.*

4 (a) The Debtor is hereby authorized to enter into and perform under the DIP  
5 Documents and to borrow under the DIP Agreement pending entry of the Final Order up to an  
6 aggregate principal amount of \$20,000,000 outstanding at any time of the DIP Loans (in such  
7 amounts as may be made available to Debtor by the DIP Lenders in accordance with all of the  
8 lending formulae, sublimits, terms and conditions set forth in the DIP Agreement, the other DIP  
9 Documents, including the Initial Budget, and this Order) for working capital and other general  
10 corporate purposes of the Debtor in accordance with the Initial Budget (including costs related  
11 to the Case), including without limitation, to pay interest, fees and expenses in connection with  
12 the DIP Loans. The Debtor is further authorized to continue using the Bank Products (as  
13 defined in the DIP Credit Agreement) as set forth in the DIP Credit Agreement and DIP Loan  
14 Documents, including without limitation, the Bank of America Corporate Card Purchasing  
15 Agreement dated August 25, 2005. Upon entry of the Final Order, and closing of the DIP  
16 Agreement, the Prepetition L/Cs shall be deemed issued under the DIP Documents and any  
17 obligations in respect thereof owing to any issuing bank automatically shall be deemed owing  
18 under the DIP Documents to such bank and secured by the DIP Liens as if such Prepetition  
19 L/Cs were issued under the DIP Documents.

20 (b) In furtherance of the foregoing and without further approval of this Court,  
21 the Debtor is authorized to perform all acts and to execute and deliver all instruments and  
22 documents that the DIP Agent determines to be reasonably required or necessary for the  
23 Debtor’s performance of its obligations under the DIP Documents, including without limitation:

24 (i) the execution, delivery and performance of the DIP Documents;

25 (ii) the execution, delivery and performance of one or more  
26 amendments, waivers, consents or other modifications to and under any of the  
27 DIP Documents, in each case in accordance with the terms of the applicable DIP  
28 Documents and in such form as the Debtor, the Decision Agents and the requisite

1 DIP Lenders may agree, and no further approval of this Court shall be required  
2 for any amendment, waiver, consent or other modification to and under any of the  
3 DIP Documents (and any fees payable in connection therewith that may be  
4 contemplated by the terms of any fee letter executed among the Debtor and any  
5 Decision Agent), or any other amendment, waiver, consent or other modification  
6 to and under any of the DIP Documents (and any fees paid in connection  
7 therewith) that does not increase the maximum permitted outstanding principal  
8 amount of the DIP Loans and which is not otherwise material (for purposes  
9 hereof, a “material” amendment, waiver, consent or modification shall mean any  
10 amendment that operates to increase the interest rate payable on or the maximum  
11 permitted outstanding principal amount of the DIP Loans, shortens the maturity of  
12 the DIP Loans, adds specific new “Events of Default” under the DIP Documents  
13 or otherwise modifies any terms and conditions of any DIP Documents in a  
14 manner materially adverse to the Debtor); provided, however, that a copy of any  
15 such amendment, waiver, consent or other modification shall be filed by the  
16 Debtor with this Court and served by the Debtor on the U.S. Trustee, counsel to  
17 the statutory committee of unsecured creditors appointed in the Case (the  
18 “Committee”), counsel to the Majority Term Lenders and counsel to the Majority  
19 Second Lienholder; provided further that any material amendment, waiver,  
20 consent or modification to the DIP Loan Documents shall not be effective unless  
21 the Court has approved such amendment, waiver, consent or modification after  
22 appropriate notice to parties in interest and a hearing;

23 (iii) the non-refundable payment to any Decision Agent any of and the  
24 DIP Lenders, as the case may be, of the commitment, underwriting, structuring,  
25 arranger and administrative agency fees set forth in the DIP Documents and  
26 referred to in one or more fee letters executed between the Debtor and any  
27 Decision Agent or any DIP Lender;

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1 (iv) upon entry of this Order and the availability of the DIP  
2 commitment, the Debtor shall pay an upfront fee to Monarch in the amount of  
3 \$140,000 for its commitment under the DIP Agreement; and

4 (v) the performance of all other acts required under or in connection  
5 with the DIP Documents.

6 (c) Upon the execution thereof, the DIP Documents shall constitute valid and  
7 binding obligations of the Debtor, enforceable against the Debtor in accordance with the terms  
8 of this Order and the DIP Documents. No obligation, payment, transfer or grant of security by  
9 the Debtor under the DIP Documents or this Order shall be voidable, avoidable or recoverable  
10 under the Bankruptcy Code or under any applicable nonbankruptcy law (including without  
11 limitation, under sections 502(d) or 548 of the Bankruptcy Code or under any applicable state  
12 Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or  
13 common law), or subject to any defense, reduction, setoff, recoupment or counterclaim.

14 (d) As provided in the DIP Agreement, proceeds of the DIP Loans made on or  
15 after the GE Effective Date (as defined in the DIP Agreement) shall be used:

16 (i) to repay all Revolving Obligations (as defined in the First Lien  
17 Credit Agreement) on a permanent basis until paid in full,

18 (ii) to repay all DIP Obligations of the Interim Lenders (as defined in  
19 the DIP Agreement) that will not be DIP Lenders after the GE Effective Date on a  
20 permanent basis until paid in full, and

21 (iii) thereafter, for post-petition expenditures permitted pursuant to the  
22 DIP Agreement.

23 (e) As further provided in the DIP Agreement, notwithstanding anything to  
24 the contrary contained in the DIP Agreement or in any other DIP Document, until the payment in  
25 full of the obligations described in clauses (i) and (ii) of clause (d) above, no amendment,  
26 waiver, or consent of the DIP Agreement shall amend, waive or otherwise modify the following  
27 definitions or provisions of the DIP Agreement: the definitions of Commitments (appearing in  
28 the definition of Commitment), Final Order Date or GE Effective Date, clause (b) of the

1 definition of Termination Date, clauses (ii) (x) and (y) of the first proviso of Section 8.22, clause  
2 (ii) of Section 9.2(e) or Section 13.1(e) or have the practical effect of any of the foregoing unless  
3 it is in writing and signed by all of the Revolving Lenders (and otherwise complies with the  
4 requirements of Section 13.1 of the DIP Agreement).

5 7. *Superpriority Claims.*

6 (a) Except to the extent expressly set forth in this Order in respect of the  
7 Carve-Out, pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations  
8 shall constitute allowed senior administrative expense claims (the “Superpriority Claims”)  
9 against the Debtor with priority over any and all administrative expenses, adequate protection  
10 claims and all other claims against the Debtor, now existing or hereafter arising, of any kind  
11 whatsoever, including without limitation, all administrative expenses of the kind specified in  
12 sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative  
13 expenses or other claims arising under sections 105, 326, 328, 330, 331, 364(c)(1), 503(b),  
14 506(c), 507(a), 507(b), 546(c), 726, 1113 or 1114 of the Bankruptcy Code, whether or not such  
15 expenses or claims may become secured by a judgment lien or other non-consensual lien, levy  
16 or attachment; provided, however, that for purposes of this Order, the Superpriority Claims shall  
17 not attach to Avoidance Actions (as defined below) or the proceeds thereof.

18 (b) For purposes hereof, the “Carve-Out” shall mean the sum of (i) accrued  
19 but unpaid professional fees, costs, expenses and disbursements (the “Professional Fees”)  
20 incurred by the Debtor and the Committee (the “Professional Persons”) at any time before or on  
21 the first business day following delivery by the DIP Agent of a Carve-Out Trigger Notice (as  
22 defined below), whether allowed by this Court prior to or after delivery of a Carve-Out Trigger  
23 Notice (it being understood that amounts accrued under this clause (i) shall be reported to the  
24 DIP Agent in accordance with the DIP Documents); (ii) after the first business day following  
25 delivery by the DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time,  
26 whether by interim order, procedural order, or otherwise, the payment of Professional Fees,  
27 only to the extent all such fees or disbursements set forth in this clause (ii) do not exceed an  
28 aggregate amount of \$1,750,000 (such amount, the “Carve-Out Trigger Notice Cap”), of which

1 the Professional Fees of the Committee shall not exceed \$450,000; and (iii) United States  
2 Trustee fees, pursuant to 28 U.S.C. § 1930; provided, however, that nothing herein shall be  
3 construed to impair the ability of any party to object to any fees, expenses, reimbursement, or  
4 compensation sought by any of the Professional Persons. For purposes hereof, “Carve-Out  
5 Trigger Notice” shall mean a written notice of the occurrence of an Event of Default under the  
6 DIP Agreement delivered by the DIP Agent to the Debtor and its counsel, the United States  
7 Trustee, counsel to the Committee, counsel to the Majority Term Lenders, and counsel to the  
8 Majority Second Lienholder.

9 8. *DIP Liens.* As security for the prompt payment and performance of any and all  
10 DIP Obligations, effective and perfected upon the date of this Order and without the necessity of  
11 the execution by the Debtor (or recordation or other filing) of security agreements, control  
12 agreements, pledge agreements, financing statements, intellectual property filings, notations on  
13 certificates of title, mortgages or other similar documents, or the possession or control by the  
14 DIP Collateral Agent or the DIP Agent of any property, the following security interests and liens  
15 are hereby granted by the Debtor to the DIP Collateral Agent, for itself and the benefit of the DIP  
16 Lenders and the other holders of DIP Obligations (all property of the Debtor identified in  
17 clauses (a), (b) and (c) below being collectively referred to as the “DIP Collateral”), subject and  
18 subordinate only to the Carve-Out (all such liens and security interests granted to the DIP  
19 Collateral Agent pursuant to this Order, the “DIP Liens”):

20 (a) First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of  
21 the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority lien  
22 on, and security interest in, all tangible and intangible prepetition and postpetition property of  
23 the Debtor, whether existing on or as of the Petition Date or thereafter acquired, that is not  
24 subject to either (i) valid, perfected, non-avoidable and enforceable liens in existence on or as of  
25 the Petition Date, or (ii) a valid lien perfected subsequent to the Petition Date as permitted by  
26 section 546(b) of the Bankruptcy Code (collectively, the “Unencumbered Property”); provided  
27 that the Unencumbered Property shall not include the Debtor’s claims and causes of action  
28 arising under sections 502(d), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code (the

1 “Avoidance Actions”), but subject to entry of the Final Order, the DIP Liens shall attach to and  
2 include any proceeds or property recovered in respect of any Avoidance Actions.

3 (b) Liens Junior to Certain Existing Liens. Pursuant to section 364(c)(3) of  
4 the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected junior lien on,  
5 and security interest in, all tangible and intangible prepetition and postpetition property of the  
6 Debtor (other than the property described in paragraph 8(c) below, as to which the DIP Liens  
7 will have the priority as described in such paragraph), whether now existing or hereafter  
8 acquired, that is subject to valid, perfected and unavoidable liens in existence immediately prior  
9 to the Petition Date or to valid and unavoidable liens in existence immediately prior to the  
10 Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the  
11 Bankruptcy Code, in each case, to the extent (and only to such extent) that such liens are senior  
12 to the liens of the First Lien Collateral Agent for the benefit of the First Lien Lenders and are  
13 permitted under the First Lien Documents to be in existence and to be senior to the liens of the  
14 First Lien Collateral Agent and the First Lien Lenders (collectively, the “Non-Primed Liens”),  
15 which security interests and liens in favor of the DIP Agent and the DIP Lenders shall be junior  
16 to the Non-Primed Liens.

17 (c) Liens Priming First Lien Lenders’ and Second Lienholders’ Liens.  
18 Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable,  
19 fully-perfected first priority, senior priming lien on, and security interest in, all Prepetition  
20 Collateral (whether now existing or hereafter acquired). The DIP Liens on the Prepetition  
21 Collateral shall be senior in all respects to the security interests in, and liens on, the Prepetition  
22 Collateral of (i) the First Lien Collateral Agent and the First Lien Lenders (including, without  
23 limitation, the First Lien Adequate Protection Liens) and (ii) the Second Lienholders (including,  
24 without limitation, the Second Lien Adequate Protection Liens (as defined in paragraph 20(a)  
25 below)), but shall be junior to any Non-Primed Liens on the Prepetition Collateral.

26 (d) Liens Senior to Certain Other Liens. The DIP Liens and the Adequate  
27 Protection Liens shall not be (i) subject or subordinate to (A) any lien or security interest that is  
28 avoided and preserved for the benefit of the Debtor and its estate under section 551 of the



1 Bankruptcy Code or (B) any liens arising after the Petition Date other than liens permitted under  
2 clause (j) of the definition of Permitted Liens under the DIP Agreement (the “Postpetition PMSI  
3 Liens”) or (ii) subordinated to or made *pari passu* with any other lien or security interest under  
4 sections 363 or 364 of the Bankruptcy Code or otherwise.

5 9. *Relief from the Automatic Stay.* The automatic stay provisions of section 362 of  
6 the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable  
7 law are hereby modified and vacated without further notice, application or order of the Court to  
8 the extent necessary to permit the DIP Agent, the DIP Collateral Agent and the DIP Lenders to  
9 perform any act authorized or permitted under or by virtue of this Order or the DIP Documents,  
10 including, without limitation, (a) to implement the post-petition financing arrangements  
11 authorized by this Order and pursuant to the terms of the DIP Documents, (b) to take any act to  
12 create, validate, evidence, attach or perfect any lien, security interest, right or claim in the DIP  
13 Collateral, and (c) to assess, charge, collect, advance, deduct and receive payments with respect  
14 to the DIP Obligations, including, without limitation, all interests, fees, costs and expenses  
15 permitted under the DIP Documents[, and apply such payments to the DIP Obligations pursuant  
16 to the DIP Documents and this Order].

17 10. *Remedies After Event of Default.* Without limiting the effect of paragraph 9 of  
18 this Order, the automatic stay under section 362 of the Bankruptcy Code is vacated and modified  
19 to the extent necessary to permit the DIP Agent, the DIP Collateral Agent and the DIP Lenders to  
20 exercise, (a) immediately upon the occurrence and during the continuance of an Event of  
21 Default, all rights and remedies under the DIP Documents, including, without limitation,  
22 declaring all DIP Obligations immediately due and payable, accelerating the DIP Obligations  
23 and ceasing to extend DIP Loans, other than those rights and remedies against the DIP Collateral  
24 as provided in clause (b) below, and (b) upon the occurrence and during the continuance of an  
25 Event of Default, and the giving of five (5) business days’ prior written notice to the Debtor  
26 (with a copy to counsel to the Debtor, counsel to the Committee, the U.S. Trustee, counsel to the  
27 Majority Term Lender, and counsel to the Majority Second Lienholder), all rights and remedies  
28 against the DIP Collateral provided for in the DIP Documents and this Order (including, without

1 limitation, the right to setoff monies of the Debtor in accounts maintained with the DIP Agent or  
2 any DIP Lender). The DIP Agent, the DIP Collateral Agent, and the DIP Lenders consent to the  
3 Debtor seeking an order shortening time for a hearing before the Bankruptcy Court in the event  
4 the Debtor contests the declaration of an Event of Default. In no event shall the DIP Agent, the  
5 DIP Collateral Agent, the DIP Lenders, the First Lien Agent or the First Lien Lenders be subject  
6 to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP  
7 Collateral. The DIP Agent’s, the DIP Collateral Agent’s or any DIP Lenders’ delay or failure to  
8 exercise rights and remedies under the DIP Documents or this Order shall not constitute a waiver  
9 of the DIP Agent’s or any DIP Lender’s rights hereunder, thereunder or otherwise, unless any  
10 such waiver is pursuant to a written instrument executed in accordance with the terms of the DIP  
11 Agreement.

12 11. *Limitation on Charging Expenses Against Collateral.* Subject to and effective  
13 upon entry of the Final Order, except to the extent of the Carve-Out, no expenses of  
14 administration of the Case or any future proceeding that may result therefrom, including  
15 liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged  
16 against or recovered from the DIP Collateral or the Prepetition Collateral, as the case may be,  
17 pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the  
18 prior written consent of the DIP Agent, the DIP Collateral Agent, the First Lien Agent, the  
19 Second Lienholders, the Majority Term Lenders, as the case may be, and no such consent shall  
20 be implied from any other action or inaction by the DIP Agent, the DIP Collateral Agent, the  
21 DIP Lenders, the First Lien Agent, the First Lien Lenders, or the Second Lienholders.

22 12. *Limitations under Section 552(b) of the Bankruptcy Code.* The First Lien Agent,  
23 the First Lien Collateral Agent, the First Lien Lenders, and the Second Lienholders shall be  
24 entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and, subject to  
25 and effective upon entry of the Final Order, the “equities of the case” exception under section  
26 552(b) of the Bankruptcy Code shall not apply to the First Lien Agent, the First Lien Collateral  
27 Agent, the First Lien Lenders, and the Second Lienholders with respect to (i) proceeds, products,  
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1 offspring or profits of any of the Prepetition Collateral or (ii) the extension of the Adequate  
2 Protection Liens to cover proceeds of the Prepetition Collateral.

3 13. *Collateral Rights.* Until all of the DIP Obligations, Revolving Obligations, and  
4 First Lien Adequate Protection Obligations shall have been indefeasibly paid and satisfied in full  
5 (i) no other party, including, without limitation, the Term Lenders, the Second Lienholders and  
6 the Second Lien Trustee, shall foreclose or otherwise seek to enforce any junior (or, additionally,  
7 in the case of Term Lenders, *parri passu*) lien or claim in or relating to any DIP Collateral or any  
8 Prepetition Collateral; and (ii) upon and after the occurrence of an Event of Default, and subject  
9 to the DIP Collateral Agent obtaining relief from the automatic stay as provided for herein, in  
10 connection with a liquidation of any of the DIP Collateral, DIP Collateral Agent (or any of its  
11 employees, agents, consultants, contractors or other professionals) shall have the right, at the sole  
12 cost and expense of Borrower, to use any and all trademarks, trade names, copyrights, licenses,  
13 patents or any other similar assets of Borrower, which are owned by or subject to a lien of any  
14 third party and which are used by Borrower in its business. DIP Collateral Agent will be  
15 responsible for the payment of any applicable fees, royalties or other amounts due such lessor or  
16 licensor for the period of time that DIP Collateral Agent actually uses such intellectual property  
17 or assets (but in no event for any accrued and unpaid fees, royalties or other amounts due for any  
18 period prior to the date that DIP Collateral Agent actually uses such intellectual property or  
19 assets).

22 14. *Payments Free and Clear.* Any and all payments or proceeds remitted to the DIP  
23 Agent on behalf of the DIP Lenders or (except as provided in paragraph 23 of this Order) or to  
24 the First Lien Agent on behalf of the First Lien Lenders pursuant to the provisions of this Order  
25 or any subsequent order of this Court shall be received free and clear of any claim, charge,  
26 assessment or other liability.

1           15.    *Intercreditor Agreement.* Nothing in this Order shall amend or otherwise modify  
2 the terms or enforceability of the Intercreditor Agreement, including without limitation, the  
3 turnover provisions contained therein, and the Intercreditor Agreement shall remain in full force  
4 and effect. The rights, benefits and privileges of the First Lien Lenders and the Second  
5 Lienholders hereunder shall at all times remain subject to the Intercreditor Agreement.

6           16.    *The Cash Collateral.* Substantially all of the Debtor's cash, including without  
7 limitation, all cash and other amounts on deposit or maintained by the Debtor in any account or  
8 accounts with any First Lien Lender and any cash proceeds of the disposition of any Prepetition  
9 Collateral, constitute proceeds of the Prepetition Collateral and, therefore, are cash collateral of  
10 the First Lien Lenders and, subject to the Intercreditor Agreement, the Second Lienholders  
11 within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral").

12           17.    *Use of Prepetition Collateral (Including Cash Collateral).* The Debtor is hereby  
13 authorized to use the Prepetition Collateral, including the Cash Collateral, during the period from  
14 the Petition Date through and including the Termination Date (as defined in the DIP Agreement)  
15 for working capital and general corporate purposes (including costs related to the Case) in  
16 accordance with the terms and conditions of this Order, the Initial Budget, provided that, (a) the  
17 First Lien Lenders and the Second Lienholders are granted adequate protection as hereinafter set  
18 forth and (b) except on the terms of this Order and the Initial Budget, the Debtor shall be  
19 enjoined and prohibited from at any time using the Cash Collateral.

20           18.    *Adequate Protection for the First Lien Agent and First Lien Lenders.* Pursuant to  
21 sections 361, 362, 363 and 364 of the Bankruptcy Code, the First Lien Agent, the First Lien  
22 Collateral Agent and the First Lien Lenders are entitled to adequate protection of any diminution  
23 in value of their interests in the Prepetition Collateral, including Cash Collateral, by virtue of (i)  
24 the Debtor's proposed use of the Prepetition Collateral, including Cash Collateral, and (ii) the  
25 senior and priming nature of the DIP Loans. For so long as any portion of the First Lien  
26 Obligations remains unpaid or outstanding (including, with respect to the Term Lenders, any  
27 Term Loan Obligations that remain outstanding following any Revolving Obligations Roll-Up),  
28 the First Lien Agent, the First Lien Collateral Agent and the First Lien Lenders are entitled,

1 pursuant to sections 361, 363(c)(2), 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate  
2 protection of their interests in the Prepetition Collateral, including the Cash Collateral, in an  
3 amount equal to the aggregate diminution in value of their interests in the Prepetition Collateral,  
4 including without limitation, any such diminution resulting from the sale, lease or use by the  
5 Debtor of the Cash Collateral and any other Prepetition Collateral, the priming of the First Lien  
6 Collateral Agent's liens on the Prepetition Collateral by the DIP Liens and the imposition of the  
7 automatic stay pursuant to section 362 of the Bankruptcy Code (such diminution in value, the  
8 "First Lien Adequate Protection Obligations"). As adequate protection, the First Lien Agent, the  
9 First Lien Collateral Agent and the First Lien Lenders are hereby granted the following:

10 (a) First Lien Adequate Protection Liens. As security for the payment of the  
11 First Lien Adequate Protection Obligations, the First Lien Collateral Agent (for itself and for  
12 the benefit of the First Lien Lenders) is hereby granted (effective and perfected upon the date of  
13 this Order and without the necessity of the execution by the Debtor of security agreements,  
14 pledge agreements, mortgages, notations on certificates of title, financing statements,  
15 intellectual property filings or other agreements) a valid, perfected replacement security interest  
16 in and lien on all of the DIP Collateral (the "First Lien Adequate Protection Liens"), subject and  
17 subordinate only to (i) the DIP Liens, (ii) the Carve-Out, (iii) Non-Primed Liens and (iv) the  
18 Postpetition PMSI Liens. Subject to paragraph 13 herein, the First Lien Adequate Protection  
19 Liens in favor of the Revolving Lenders shall be equal in all respects to and *parri passu* with the  
20 First Lien Adequate Protection Liens in favor of the Term Lenders.

21 (b) First Lien Section 507(b) Claims. The First Lien Adequate Protection  
22 Obligations shall constitute superpriority claims as provided in section 507(b) of the Bankruptcy  
23 Code (the "First Lien 507(b) Claims"), with priority in payment over any and all administrative  
24 expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code,  
25 including without limitation, sections 326, 328, 330, 331 and 726 of the Bankruptcy Code,  
26 subject and subordinate only to (i) the Carve-Out and (ii) the Superpriority Claims granted in  
27 respect of the DIP Obligations. Subject to paragraph 13 herein, the First Lien 507(b) Claims in  
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1 favor of the Revolving Lenders shall be equal in all respects to and *pari passu* with the First  
2 Lien 507(b) Claims in favor of the Term Lenders.

3 (c) Interest, Fees and Expenses. The Debtor is authorized and directed to  
4 (a) immediately pay as adequate protection to the First Lien Agent, for the benefit of the  
5 Revolving Lenders, an amount equal to all accrued and unpaid interest on the “Revolving  
6 Obligations” at the non-default contract rate under the First Lien Credit Agreement, all accrued  
7 and unpaid letter of credit fees and all other non-default pre-Petition Date accrued and unpaid  
8 fees, charges, costs and disbursements constituting “Revolving Obligations” owing to the First  
9 Lien Agent or the Revolving Lenders under the First Lien Documents, (b) on the first business  
10 day of each calendar month after the entry of this Order, pay to the First Lien Agent, for the  
11 benefit of the Revolving Lenders, as adequate protection an amount equal to all accrued and  
12 unpaid interest, fees or charges on the “Revolving Obligations” at the applicable contract rate  
13 set forth in the First Lien Documents and (c) pay to the First Lien Agent and the First Lien  
14 Collateral Agent, as applicable, all reasonable fees and expenses payable to the First Lien Agent  
15 and the First Lien Collateral Agent, as applicable, under the First Lien Documents, whether  
16 arising prior or subsequent to the Petition Date, including without limitation, the reasonable fees  
17 and disbursements of primary counsel, Nevada counsel, and financial advisors to the First Lien  
18 Agent and/or First Lien Collateral Agent. None of the fees and expenses payable pursuant to  
19 clause (c) of the previous sentence shall be subject to separate approval by this Court, and no  
20 recipient of any such payment shall be required to file any interim or final fee application with  
21 respect thereto. The Debtor shall pay the fees and expenses provided for in clause (c) of this  
22 paragraph 18(c) within ten (10) business days after receipt of reasonably detailed invoices  
23 therefor, and the Debtor shall promptly provide copies of such invoices to counsel to the  
24 Committee and the U.S. Trustee. In the event that within ten (10) days from receipt of such  
25 invoices the Debtor, the U.S. Trustee, or counsel to the Committee notifies counsel for the First  
26 Lien Agent, in writing, of an objection to a particular invoice, and the parties are unable to  
27 resolve any dispute regarding the fees, costs and expenses included in such invoices, the Court  
28 shall hear and determine such dispute. The Debtor is further authorized and directed to (x) on

1 the first business day of each calendar month after the entry of this Order, pay to the First Lien  
2 Agent, for the benefit of the Term Lenders, as adequate protection an amount equal to all  
3 accrued and unpaid interest, fees or charges on the “Term Loan Obligations” (including, but not  
4 limited to, on the Term Loan Unpaid Interest Obligation) which accrue from and after the  
5 Petition Date at the rate of 16% per annum, and (y) pay all reasonable fees and expenses of  
6 Milbank, Tweed, Hadley & McCloy LLP (“Milbank”) for their representation of the Majority  
7 Term Lenders, regardless of whether such fees and expenses were incurred prior to the Petition  
8 Date or during the Case and (ii) Nevada counsel for their representation of the Majority Term  
9 Lenders. None of the fees and expenses payable pursuant to clause (y) of the previous sentence  
10 shall be subject to separate approval by this Court, and no recipient of any such payment shall  
11 be required to file any interim or final fee application with respect thereto. The Debtor shall pay  
12 the fees and expenses provided for in clause (y) of this paragraph 18(c) within ten (10) business  
13 days after receipt of reasonably detailed invoices therefor, and the Debtor shall promptly  
14 provide copies of such invoices to counsel to the Committee and the U.S. Trustee; provided  
15 that, notwithstanding anything to the contrary herein, the Debtor is deemed to acknowledge and  
16 agree that all fees and expenses reflected in Milbank’s prepetition invoices previously submitted  
17 to the Debtor in connection with Milbank’s representation of the Majority Term Lenders are  
18 reasonable, and, accordingly, the Debtors shall pay such fees and expenses promptly after entry  
19 of this Order and the closing of the DIP Agreement. In the event that within ten (10) days from  
20 receipt of such invoices the Debtor, the U.S. Trustee, or counsel to the Committee notifies  
21 counsel for the Majority Term Lender in writing, of an objection to a particular invoice, and the  
22 parties are unable to resolve any dispute regarding the fees, costs and expenses included in such  
23 invoices, the Court shall hear and determine such dispute.

24 (d) Use of Cash Collateral. Cash Collateral may be used during the Interim  
25 Period in accordance with the Initial Budget, subject to Permitted Variances under and as defined  
26 in the DIP Agreement.

27 (e) Information.  
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(i) The Debtor shall promptly provide to the First Lien Agent and the First Lien Collateral Agent any written financial information or periodic reporting that is provided to, or required to be provided to, the DIP Agent or the DIP Lenders under the DIP Agreement.

(ii) Commencing in the second week after Petition Date, the Debtor shall provide the First Lien Lenders with a cumulative Budget variance report since the Petition Date on a bi-weekly basis on Thursday of every other week (or if such day is on a business day, the first business day thereafter).

(iii) The Debtor shall promptly provide to the Majority Term Lender any written financial information or periodic reporting that is provided to, or required to be provided to, the DIP Agent or the DIP Lenders under the DIP Agreement.

(iv) The Debtor shall continue to provide the Majority Term Lenders with financial information and other reporting in compliance with the First Lien Credit Agreement and the Term Loan Forbearance Agreement, dated as of February 14, 2011, by and among the Debtor and Majority Term Lenders.

19. *Reservation of Rights of First Lien Lenders.* Notwithstanding any other provision hereof, the grant of adequate protection to the First Lien Agent, the First Lien Collateral Agent and the First Lien Lenders pursuant hereto is without prejudice to the right of the First Lien Agent and the First Lien Collateral Agent to jointly seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection.

20. *Adequate Protection for the Second Lienholders.* The Second Lienholders are entitled, pursuant to sections 361, 363(c)(2), 363(e) and 364(d)(1) of the Bankruptcy Code, subject to the Intercreditor Agreement, to adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral (the "Second Lien Adequate Protection Obligations", together with the First Lien Adequate Protection Obligations, the "Adequate Protection Obligations"). As adequate protection, the Second Lienholders are hereby granted the following:



1 (a) Second Lien Adequate Protection Liens. As security for the payment of  
2 the Second Lien Adequate Protection Obligations, the Second Lien Trustee (for itself and for  
3 the benefit of the Second Lienholders) is hereby granted (effective and perfected upon the date  
4 of this Order and without the necessity of the execution and/or filing by the Debtor of security  
5 agreements, pledge agreements, intellectual property filings, mortgages, financing statements or  
6 other agreements) a valid, perfected replacement security interest in and lien on all of the DIP  
7 Collateral (the “Second Lien Adequate Protection Liens”, together with the First Lien Adequate  
8 Protection Liens, the “Adequate Protection Liens”), subject and subordinate only to (i) the DIP  
9 Liens, (ii) the Carve-Out, (iii) the First Lien Adequate Protection Liens, (iv) the liens securing  
10 the First Lien Obligations, (v) the Non-Primed Liens and (vi) the Postpetition PMSI Liens.

11 (b) Second Lien 507(b) Claims. The Second Lien Adequate Protection  
12 Obligations shall constitute superpriority claims as provided in section 507(b) of the Bankruptcy  
13 Code (the “Second Lien 507(b) Claims”, together with the First Lien 507(b) Claims, the “507(b)  
14 Claims”), with priority in payment over any and all administrative expenses of the kinds  
15 specified or ordered pursuant to any provision of the Bankruptcy Code, including without  
16 limitation, sections 326, 328, 330, 331 and 726 of the Bankruptcy Code, subject and subordinate  
17 only to (i) the Carve-Out, (ii) the Superpriority Claims and (iii) the First Lien 507(b) Claims  
18 granted in respect of the DIP Obligations or First Lien Obligations, as applicable. Except as  
19 expressly set forth herein, the Second Lien Trustee and the Second Lienholders shall not receive  
20 or retain any payments, property or other amounts in respect of the Second Lien 507(b) Claims  
21 unless and until all DIP Obligations, the First Lien Adequate Protection Obligations and the  
22 First Lien Obligations shall have indefeasibly been paid in full in cash.

23 (c) Use of Cash Collateral.

24 Cash Collateral may be used during the Interim Period in accordance with the Initial  
25 Budget, subject to Permitted Variances under and as defined in the DIP Agreement.

26 (d) Information.

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1 (i) The Debtor shall promptly provide to the Second Lien Trustee any  
2 written financial information or periodic reporting that is provided to, or required  
3 to be provided to, the DIP Agent or the DIP Lenders under the DIP Agreement.

4 (ii) Commencing in the second week after Petition Date, the Debtor  
5 shall provide the Second Lien Trustee with a cumulative Budget variance report  
6 since the Petition Date on a bi-weekly basis on Thursday of every other week (or  
7 if such day is on a business day, the first business day thereafter).

8 (iii) The Debtor shall continue to provide the Second Lien Trustee with  
9 financial and other reporting in compliance with the Second Lien Indenture.

10 (iv) The Debtor shall maintain all necessary insurance, including,  
11 without limitation, life, fire, hazard, comprehensive, property, fidelity, public  
12 liability, and workmen's compensation as may be currently in effect and as  
13 required pursuant to the Second Lien Indenture, and provide copies of all such  
14 policies to the Second Lien Trustee.

15 21. *Perfection of DIP Liens and Adequate Protection Liens.*

16 (a) The DIP Agent, the DIP Collateral Agent, the First Lien Agent, the First  
17 Lien Collateral Agent and the Second Lien Trustee are hereby authorized, but not required, to  
18 file or record financing statements, intellectual property filings, mortgages, notices of lien or  
19 similar instruments in any jurisdiction, take possession of or control over, or take any other  
20 action in order to validate and perfect the DIP Liens and the Adequate Protection Liens granted  
21 to them hereunder (each, a "Perfection Act"), and the Debtor is authorized and directed to  
22 perform such acts to the extent requested and necessary or required by the DIP Agent, the DIP  
23 Collateral Agent, the First Lien Agent, the First Lien Collateral Agent or the Second Lien  
24 Trustee to give effect to any such Perfection Act, which act or acts shall be deemed to have been  
25 accomplished as of the date and time of entry of this Order notwithstanding the date and time  
26 actually accomplished, and in such event, the subject filing or recording office is authorized to  
27 accept, file and/or record any document in regard to such act in accordance with applicable law.  
28 Whether or not the DIP Agent, the DIP Collateral Agent, the First Lien Agent, the First Lien

1 Collateral Agent or the Second Lien Trustee shall, in their respective sole discretion, choose to  
2 file such financing statements, intellectual property filings, mortgages, notices of lien or similar  
3 instruments, take possession of or control over, or otherwise confirm perfection of the DIP  
4 Liens and the Adequate Protection Liens, such DIP Liens and the Adequate Protection Liens  
5 shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to  
6 challenge, dispute or subordination as of the date of entry of this Order. Should the DIP Agent,  
7 the DIP Collateral Agent, the First Lien Agent, the First Lien Collateral Agent or the Second  
8 Lien Agent so choose and attempt to file, record or perform a Perfection Act, no defect or  
9 failure in connection with such attempt shall in any way limit, waive or alter the validity,  
10 enforceability, attachment, or perfection of the DIP Liens and the Adequate Protection Liens  
11 granted herein by virtue of the entry of this Order.

12 (b) A certified copy of this Order may, in the discretion of the DIP Agent, the  
13 DIP Collateral Agent, the First Lien Agent and the Second Lien Trustee, as the case may be, be  
14 filed with or recorded in filing or recording offices in addition to or in lieu of such financing  
15 statements, mortgages, intellectual property filings, notices of lien or similar instruments, and  
16 all filing offices are hereby authorized to accept such certified copy of this Order for filing and  
17 recording.

18 (c) The Debtor shall execute and deliver to the DIP Agent, the DIP Collateral  
19 Agent, the First Lien Agent, and the Second Lien Trustee, as the case may be, all such  
20 agreements, financing statements, instruments and other documents as the DIP Agent, the DIP  
21 Collateral Agent, the First Lien Agent, the First Lien Collateral Agent or the Second Lien  
22 Agent, as the case may be, may reasonably request to evidence, confirm, validate or perfect the  
23 DIP Liens and the Adequate Protection Liens.

24 (d) Subject to and effective upon entry of the Final Order (but without  
25 limiting or prejudicing the rights of the DIP Lenders, the First Lien Lenders or the Second  
26 Lienholders under applicable bankruptcy law pending such entry), any provision of any lease or  
27 other license, contract or other agreement that requires (i) the consent or approval of one or  
28 more landlords or other parties or (ii) the payment of any fees or obligations to any

1 governmental entity, in order for the Debtor to pledge, grant, sell, assign, or otherwise transfer  
2 any such leasehold interest, or the proceeds thereof, or other DIP Collateral related thereto, is  
3 hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code, and  
4 any such provision shall have no force and effect with respect to the granting of the DIP Liens  
5 or the Adequate Protection Liens on such leasehold interest or the proceeds of any assignment  
6 and/or sale thereof or other DIP Collateral by the Debtor in favor of the DIP Lenders, the First  
7 Lien Lenders or the Second Lienholders in accordance with the terms of the DIP Documents or  
8 this Order.

9 22. *Preservation of Rights Granted Under the Order.*

10 (a) Other than the Postpetition PMSI Liens, no claim or lien having a priority  
11 senior to or *pari passu* with those granted by this Order to the DIP Agent, the DIP Collateral  
12 Agent, the First Lien Agent, the First Lien Collateral Agent or, subject to the terms of the  
13 Intercreditor Agreement, the Second Lien Trustee shall be granted or allowed while any portion  
14 of the DIP Obligations, the Adequate Protection Obligations, the First Lien Obligations or the  
15 Second Lien Obligations remain outstanding, and the DIP Liens, Adequate Protection Liens and  
16 the First Lien Collateral Agent's liens in the Prepetition Collateral shall not be subject or junior  
17 to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate  
18 under section 551 of the Bankruptcy Code or, except as set forth in the Intercreditor Agreement,  
19 subordinated to or made *pari passu* with any other lien or security interest, whether under  
20 section 364(d) of the Bankruptcy Code or otherwise.

21 (b) Unless all DIP Obligations shall have been indefeasibly paid in full in cash  
22 in accordance with the terms of the DIP Agreement, in the case of clause (i) below, the Debtor  
23 shall not seek, and in the case of clauses (i) and (ii) below, it shall constitute an Event of Default  
24 under the DIP Agreement and a termination of the right to use the Cash Collateral if the Debtor  
25 seeks, or if there is entered, (i) any modification of this Order without the prior written consent  
26 of the DIP Agent, as applicable, and no such consent shall be implied by any other action,  
27 inaction or acquiescence by the DIP Agent, or (ii) an order converting or dismissing the Case.

28

1 (c) Unless all Revolving Obligations shall have been indefeasibly paid in full  
2 in cash in accordance with the terms of the First Lien Credit Agreement, in the case of clause (i)  
3 below, the Debtor shall not seek, and in the case of clauses (i) and (ii) below, it shall constitute a  
4 termination of the right to use the Cash Collateral if the Debtor seeks, or if there is entered, (i)  
5 any modification of this Order, to the extent materially and adversely affecting the Majority  
6 Revolving Lenders (as such term is defined in the First Lien Credit Agreement) without the prior  
7 written consent of the Majority Revolving Lenders, as applicable, and no such consent shall be  
8 implied by any other action, inaction or acquiescence by the Majority Revolving Lenders or the  
9 First Lien Agent, or (ii) an order converting or dismissing the Case.

10 (d) Unless all Term Loan Obligations shall have been indefeasibly paid in full  
11 in cash in accordance with the terms of the First Lien Credit Agreement, in the case of clause (i)  
12 below, the Debtor shall not seek, and in the case of clauses (i) and (ii) below, it shall constitute a  
13 termination of the right to use the Cash Collateral if the Debtor seeks, or if there is entered, (i)  
14 any modification of this Order, to the extent materially and adversely affecting the Majority  
15 Term Lenders without the prior written consent of the Majority Term Lenders, as applicable, and  
16 no such consent shall be implied by any other action, inaction or acquiescence by the Majority  
17 Term Lenders or the First Lien Agent, or (ii) an order converting or dismissing the Case.

18 (e) If any or all of the provisions of this Order are hereafter reversed,  
19 modified, vacated or stayed, such reversal, stay, modification or vacatur shall, to the extent  
20 provided in section 364(e) of the Bankruptcy Code, not affect (i) the validity, priority or  
21 enforceability of any DIP Obligations or the Adequate Protection Obligations incurred prior to  
22 the effective date of such reversal, stay, modification or vacatur or (ii) the validity, priority or  
23 enforceability of the DIP Liens or the Adequate Protection Liens. Notwithstanding any such  
24 reversal, stay, modification or vacatur, any use of the Cash Collateral, any DIP Obligations or  
25 any Adequate Protection Obligations incurred by the Debtor to the DIP Agent, the DIP  
26 Collateral Agent, the DIP Lenders, the First Lien Agent, the First Lien Collateral Agent, the  
27 First Lien Lenders, the Second Lien Agent and the Second Lienholders, as the case may be,  
28 prior to the effective date of such reversal, stay, modification or vacatur shall, to the extent

1 provided in section 364(e) of the Bankruptcy Code, be governed in all respects by the original  
2 provisions of this Order, and the DIP Agent, the DIP Collateral Agent, the DIP Lenders, the  
3 First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, the Second Lien Agent  
4 and the Second Lienholders shall be entitled to all of the rights, remedies, privileges and  
5 benefits granted in section 364(e) of the Bankruptcy Code, this Order and pursuant to the DIP  
6 Documents, the Adequate Protection Obligations and uses of the Cash Collateral.

7 (f) Except as expressly provided in this Order or in the DIP Documents, the  
8 DIP Liens, the Superpriority Claims, the Adequate Protection Liens, the 507(b) Claims and all  
9 other rights and remedies of the DIP Agent, the DIP Collateral Agent, the DIP Lenders, the First  
10 Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, and the Second Lienholders  
11 granted by this Order and the DIP Documents shall survive, and shall not be modified, impaired  
12 or discharged by (i) the entry of an order converting the Case to a case under chapter 7 of the  
13 Bankruptcy Code or dismissing the Case, or (ii) the entry of an order confirming a plan of  
14 reorganization in the Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the  
15 Debtor has waived any discharge as to any remaining DIP Obligations or Adequate Protection  
16 Obligations. The terms and provisions of this Order and the DIP Documents shall continue in  
17 the Case, in any successor case, or in any superseding chapter 7 case under the Bankruptcy  
18 Code, and the DIP Liens, the Adequate Protection Liens, the DIP Obligations, the Adequate  
19 Protection Obligations, the Superpriority Claims, the section 507(b) Claims, and all other rights  
20 and remedies of the DIP Agent, the DIP Collateral Agent, the DIP Lenders, the First Lien  
21 Agent, the First Lien Collateral Agent, the First Lien Lenders, and the Second Lienholders  
22 granted by this Order and the DIP Documents shall continue in full force and effect until all DIP  
23 Obligations are indefeasibly paid in full in cash and all Adequate Protection Obligations are  
24 indefeasibly paid in full in cash or otherwise satisfied in accordance with this Order.

25 23. *Effect of Stipulations on Third Parties.* Each of the stipulations and admissions  
26 contained in this Order, including without limitation, in paragraphs 4 and 16 of this Order, shall  
27 be binding upon the Debtor and any successor thereto (including, without limitation, any estate  
28 representative or a chapter 7 or 11 trustee appointed or elected for the Debtor) under all

1 circumstances. Each of the stipulations and admissions contained in this Order, including  
2 without limitation, in paragraphs 4 and 16 of this Order, shall be binding upon all parties in  
3 interest unless (a) any party-in-interest (including the Committee) with standing to do so has  
4 timely filed an adversary proceeding or contested matter (subject to the limitations contained  
5 herein, including without limitation, in this paragraph 23) by no later than the earlier of (x) the  
6 date that is 75 days after the Petition Date and (y) the date that is 60 days following the  
7 formation of the Committee; provided that any such deadline is subject to extension as may be  
8 specified by this Court for cause shown, (i) challenging the validity, enforceability, priority or  
9 extent of the First Lien Obligations or the liens on the Prepetition Collateral securing the First  
10 Lien Obligations, or the Second Lien Obligations or liens on the Prepetition Collateral securing  
11 the Second Lien Obligations or (ii) otherwise asserting or prosecuting any Avoidance Actions or  
12 any other claims, counterclaims or causes of action, objections, contests or defenses  
13 (collectively, the “Claims and Defenses”) against the First Lien Agent, the First Lien Collateral  
14 Agent, any of the First Lien Lenders, or any of the Second Lienholders, or their respective  
15 agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors in  
16 connection with any matter related to the First Lien Obligations, the Second Lien Obligations or  
17 the Prepetition Collateral and (b) an order is entered and becomes final in favor of the plaintiff  
18 sustaining any such challenge or claim in any such timely filed adversary proceeding or  
19 contested matter; provided that, as to the Debtor, all such Claims and Defenses are hereby  
20 irrevocably waived and relinquished as of the Petition Date. If no such adversary proceeding or  
21 contested matter is timely filed in respect of the First Lien Obligations or the Second Lien  
22 Obligations, as applicable, (x) the First Lien Obligations or the Second Lien Obligations, as  
23 applicable, shall constitute allowed claims, not subject to counterclaim, setoff, subordination  
24 (except with respect to the Second Lien Obligations, as set forth in the Intercreditor Agreement),  
25 recharacterization, defense or avoidance, for all purposes in the Case and any subsequent chapter  
26 7 case, and to the extent repaid shall be deemed to have been indefeasibly repaid (it being  
27 understood that the payment of the “Revolving Obligations” outstanding as of the Petition Date  
28 under the First Lien Credit Agreement in accordance with the Final Order shall be without

1 prejudice to any right or remedy in respect of any such timely filed adversary proceeding or  
2 contested matter, provided that the First Lien Agent itself shall have no liability for any such  
3 payment remitted to a Revolving Lender pursuant to the First Lien Documents), (y) the liens on  
4 the Prepetition Collateral securing the First Lien Obligations or the Second Lien Obligation, as  
5 applicable, shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding,  
6 perfected and, in the case of the liens on the Prepetition Collateral securing the First Lien  
7 Obligations, of the priority specified in paragraphs 4(b) and 4(c), as applicable, not subject to  
8 defense, counterclaim, recharacterization, subordination (except as provided in the Intercreditor  
9 Agreement) or avoidance and (z) the First Lien Obligations, the Second Lien Obligations and the  
10 liens on the Prepetition Collateral granted to secure the First Lien Obligations or the Second Lien  
11 Obligations, as applicable, shall not be subject to any other or further challenge by any party-in-  
12 interest (including the Committee), and such party-in-interest shall be enjoined from seeking to  
13 exercise the rights of the Debtor's estate, including without limitation, any successor thereto  
14 (including, without limitation, any estate representative or a chapter 7 or 11 trustee appointed or  
15 elected for the Debtor). If any such adversary proceeding or contested matter is timely filed,  
16 each of the stipulations and admissions contained in this Order including, without limitation,  
17 paragraphs 4 and 16 of this Order shall nonetheless remain binding and preclusive (as provided  
18 in the second sentence of this paragraph) on all parties-in-interest (including the Committee),  
19 except as to any such findings and admissions that were expressly and successfully challenged in  
20 such adversary proceeding or contested matter.

21       24. *Limitation on Use of DIP Loans and DIP Collateral.* The Debtor shall use the  
22 DIP Loans, the DIP Collateral and the Prepetition Collateral (including the Cash Collateral)  
23 solely as provided in this Order and the DIP Documents, including the Initial Budget.  
24 Notwithstanding anything herein or in any other order of this Court to the contrary, no DIP  
25 Loans, no DIP Collateral, no Prepetition Collateral (including the Cash Collateral) nor the Carve-  
26 Out may be used to (a) object, contest or raise any defense to, the validity, perfection, priority,  
27 extent or enforceability of any amount due under the DIP Documents, the First Lien Documents,  
28 the Second Lien Documents or the liens or claims granted under this Order, the DIP Documents,



1 the First Lien Documents, or the Second Lien Documents (b) assert any Claims and Defenses or  
2 any other causes of action against the DIP Agent, the DIP Collateral Agent, the DIP Lenders, the  
3 First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, the Second Lienholders  
4 or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or  
5 advisors, (c) prevent, hinder or otherwise delay the DIP Agent's, the DIP Collateral Agent's, the  
6 First Lien Agent's, the First Lien Collateral Agent's or the Second Lienholders' assertion,  
7 enforcement or realization on the Prepetition Collateral or the DIP Collateral in accordance with  
8 the DIP Documents, the First Lien Documents, the Second Lien Documents or this Order,  
9 (d) seek to modify any of the rights granted to the DIP Agent, the DIP Collateral Agent, the DIP  
10 Lenders, First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, or the Second  
11 Lienholders hereunder or under the DIP Documents or the First Lien Documents, in the case of  
12 each of the foregoing clauses (a) through (d), without such party's prior written consent or  
13 (e) pay any amount on account of any claims arising prior to the Petition Date unless such  
14 payments are (i) approved by an order of this Court and (ii) permitted under the DIP Documents;  
15 provided that, notwithstanding anything to the contrary herein, no more than an aggregate of  
16 \$50,000 of the Prepetition Collateral (including the Cash Collateral), the DIP Loans, the DIP  
17 Collateral or the Carve-Out may be used by the Committee to investigate the validity,  
18 enforceability or priority of the First Lien Obligations or the Second Lien Obligations or the liens  
19 on the Prepetition Collateral securing the First Lien Obligations or the Second Lien Obligations,  
20 or investigate any Claims and Defenses or other causes of action against the First Lien Agent, the  
21 First Lien Collateral Agent, the First Lien Lenders, or the Second Lienholders. For the  
22 avoidance of doubt, nothing in this Order vests or confers on any entity, including any  
23 Committee, standing or authority to pursue any cause of action belonging to the Debtor or its  
24 estate with respect to the First Lien Documents, the First Lien Obligations, the Second Lien  
25 Documents, or the Second Lien Obligations.

26       25. *Access to Collateral.* Upon entry of the Final Order, notwithstanding anything  
27 contained herein to the contrary and without limiting any other rights or remedies of the DIP  
28 Agent or the DIP Collateral Agent contained in this Order or the DIP Documents, or otherwise

1 available at law or in equity, and subject to the terms of the DIP Agreement, the DIP Collateral  
2 Agent may, on the same terms and conditions set forth in any agreement between the relevant  
3 landlord and the First Lien Agent (which may include additional parties thereto) at any time  
4 delivered in connection with the First Lien Credit Agreement or any predecessor agreement  
5 (whether related to the same leased premises or another leased premises), enter upon any leased  
6 premises of the Debtor for the purpose of exercising any remedy with respect to the DIP  
7 Collateral located thereon and shall be entitled to all of the Debtor's rights and privileges as  
8 lessee under such lease without interference from the landlords thereunder. Nothing herein shall  
9 require the DIP Collateral Agent to assume any lease as a condition to the rights afforded to the  
10 DIP Collateral Agent in this paragraph.

11       26. *Insurance.* To the extent the First Lien Agent is listed as loss payee under the  
12 Debtor's insurance policies, the DIP Agent is also deemed to be the loss payee under the  
13 Debtor's insurance policies and shall act in that capacity and subject to the terms of the DIP  
14 Documents, distribute any proceeds recovered or received in respect of any such insurance  
15 policies (other than insurance proceeds with respect to the casualty at the leased premises itself,  
16 which shall be paid to the landlord of such leased premises), first, to the payment in full of the  
17 DIP Obligations, second, to the payment of the "Obligations" under the First Lien Credit  
18 Agreement in accordance with the terms thereof, and third, to the payment of the Second Lien  
19 Obligations.

20       27. *Master Proof of Claim; Rule 2019.*

21       (a) To facilitate the processing of claims, to ease the burden upon this Court  
22 and to reduce any unnecessary expense to the Debtor's estate, the First Lien Agent is authorized  
23 in its discretion to file a single master proof of claim in the Case on behalf of itself and the First  
24 Lien Lenders on account of their claims arising under the First Lien Documents and hereunder  
25 against the Debtor; provided, however, that the Term Lenders, in their sole discretion, may file  
26 a separate proof of claims with respect to their individual claims under the First Lien  
27 Documents (each, a "Term Lender Proof of Claim"). The First Lien Agent shall not be required  
28 to file a verified statement pursuant to Bankruptcy Rule 2019 in the Case.

1           (b) Subject to the last proviso in this subparagraph (b), upon filing of any such  
2 Master Proof of Claim, the First Lien Agent and each First Lien Lender and each of their  
3 respective successors and assigns shall be deemed to have filed a proof of claim in the amount  
4 set forth opposite its name therein in respect of its claims against the Debtor arising under the  
5 First Lien Documents or under this Order and the claims of the First Lien Agent and each First  
6 Lien Lender (and each of their respective successors and assigns), named in the Master Proof of  
7 Claim shall be allowed or disallowed as if each such entity had filed a separate proof of claim in  
8 the Case in the amount set forth in the applicable Master Proof of Claim; provided that the First  
9 Lien Agent may, but shall not be required to, amend the Master Proof of Claim from time to  
10 time to, among other things, reflect a change in the holders of the claims set forth therein or a  
11 reallocation among such holders of the claims asserted therein resulting from any transfer of any  
12 such claims; provided, further, that in the event of a conflict between the Master Proof of Claim  
13 and a Term Lender Proof of Claim, the Term Lender Proof of Claim shall govern with respect  
14 to the Term Loan Obligations set forth in the Term Lender Proof of Claim.

15           (c) The provisions set forth in paragraphs (a) and (b) above and the Master  
16 Proofs of Claim are intended solely for the purpose of administrative convenience and, except  
17 to the extent set forth herein or therein, neither the provisions of this paragraph nor the Master  
18 Proofs of Claim shall affect the substantive rights of the Debtor, the First Lien Agent, the First  
19 Lien Lenders or any other party in interest or their respective successors in interest, including  
20 without limitation, the right of each First Lien Lender to vote separately on any plan of  
21 reorganization proposed in the Case.

22           28. *Order Governs.* In the event of any inconsistency between the provisions of this  
23 Order and the DIP Documents, the provisions of this Order shall govern.

24           29. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions  
25 of this Order, including all findings herein, shall be binding upon all parties-in-interest in the  
26 Case, including without limitation, the DIP Agent, the DIP Collateral Agent, the DIP Lenders,  
27 the First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, the Second Lien  
28 Trustee, the Second Lienholders, and the Debtor and its successors and assigns (including any

1 chapter 7 or chapter 11 trustee hereinafter appointed or elected for the Debtor, an examiner with  
2 expanded powers appointed pursuant to section 1104 of the Bankruptcy Code, or any other  
3 fiduciary appointed as a legal representative of the Debtor or with respect to the property of the  
4 estate of the Debtor) and shall inure to the benefit of the DIP Agent, the DIP Collateral Agent,  
5 the DIP Lenders, the First Lien Agent, the First Lien Collateral Agent, the First Lien Lenders, the  
6 Second Lien Trustee, the Second Lienholders and the Debtor and their respective successors and  
7 assigns; provided that, except to the extent expressly set forth in this Order, the DIP Agent, the  
8 DIP Collateral Agent, the First Lien Agent, the First Lien Collateral Agent, the DIP Lenders, the  
9 First Lien Lenders and the Second Lienholders shall have no obligation to permit the use of the  
10 DIP Loans or the Cash Collateral by, or extend any financing to, any chapter 7 trustee or similar  
11 responsible person appointed for the estate of the Debtor.

12 30. *Limitation of Liability.* In determining to make any loan under the DIP  
13 Agreement, permitting the use of Cash Collateral or in exercising any rights or remedies as and  
14 when permitted pursuant to this Order or the DIP Documents, the DIP Agent, the DIP Collateral  
15 Agent, the First Lien Agent, the First Lien Collateral Agent, the DIP Lenders, the First Lien  
16 Lenders and the Second Lienholders shall, subject to and effective upon entry of the Final Order,  
17 not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible  
18 person” or “owner or operator” with respect to the operation or management of the Debtor (as  
19 such terms, or any similar terms, are used in the United States Comprehensive Environmental  
20 Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar  
21 federal or state statute). Furthermore, nothing in this Order or in the DIP Documents in and of  
22 themselves shall in any way be construed or interpreted to impose or allow the imposition upon  
23 the DIP Agent, the DIP Collateral Agent, the DIP Lenders, the First Lien Agent, the First Lien  
24 Collateral Agent, the First Lien Lenders, or the Second Lienholders of any liability for any  
25 claims arising from the pre-petition or post-petition activities of the Debtor.

26 31. *Direction of First Lien Agent and First Lien Collateral Agent Following*  
27 *Revolving Obligations Roll-Up.* Upon (i) the occurrence of the Revolving Obligations Roll-Up  
28 following the entry of a Final Order or (ii) the occurrence of a Revolving Facility Payment in

1 Full (as defined in the First Lien Credit Agreement; the occurrence of either event in clause (i) or  
2 (ii), a “Full Roll-up or Payment Event”), any and all references to “Majority Lenders” in the First  
3 Lien Documents shall be deemed to be a reference to the Majority Term Lenders. Upon the  
4 occurrence of a Full Roll-up or Payment Event, and notwithstanding anything to the contrary set  
5 forth in the First Lien Documents (other than with respect to Letter of Credit Security, as defined  
6 in Section 14.9 of the First Lien Credit Agreement), (a) with respect to the rights and remedies of  
7 the First Lien Agent and any Term Lenders (including the Majority Term Lenders) set forth in  
8 this Interim Order or any First Lien Document, including, but not limited to, the delivery of any  
9 notice of an Event of Default or exercise of any remedies following an Event of Default, the First  
10 Lien Agent and the First Lien Collateral Agent shall take direction solely from the Majority  
11 Term Lenders (other than with respect to Letter of Credit Security), and all other First Lien  
12 Lenders, including, but not limited to, the Majority Lenders and the Majority Revolver Lenders  
13 (each as defined in the First Lien Credit Agreement), shall have no ability to direct the First Lien  
14 Agent or the First Lien Collateral Agent with respect to the rights and remedies set forth in this  
15 Order or any First Lien Document (other than with respect to Letter of Credit Security) and (b)  
16 the Majority Term Lenders shall have the right, in their sole and absolute discretion, to replace  
17 the First Lien Agent and/or the First Lien Collateral Agent with successor agents of their choice  
18 (except as otherwise provided in Section 14.9 of the First Lien Credit Agreement).

19 32. *Right to Credit Bid.* The DIP Lenders and the First Lien Lenders shall have the  
20 right to “credit bid” the amount of their claims during any sale of all or substantially all of the  
21 Debtor’s assets, including without limitation, sales occurring pursuant to section 363 of the  
22 Bankruptcy Code or included as part of any restructuring plan subject to confirmation under  
23 section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code. The Second Lienholders shall retain their  
24 right, if any, to credit bid, the amount of their claims during any sale of all or substantially all of  
25 the Debtor’s assets, including without limitation, sales occurring pursuant to section 363 of the  
26 Bankruptcy Code or included as part of any restructuring plan subject to confirmation under  
27 section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code.

28

1           33.     *Effectiveness.* This Order shall constitute findings of fact and conclusions of law  
2 and shall take effect immediately upon entry hereof, and there shall be no stay of effectiveness of  
3 this Order.

4           34.     *Term; Termination.* Notwithstanding any provision of this Order to the contrary,  
5 the term of the financing arrangements among the Debtor and the DIP Lenders authorized by this  
6 Order may be terminated pursuant to the terms of the DIP Documents.

7           35.     *Final Hearing.* The Final Hearing is scheduled for January 17, 2012 at 2:00 p.m.,  
8 prevailing Pacific time, before this Court.

9           36.     *Final Hearing Notice.* The Debtor shall promptly serve copies of this Order  
10 (which shall constitute adequate notice of the Final Hearing) on the parties having been given  
11 notice of the Interim Hearing, and to any other party that has filed a request for notices with this  
12 Court and to the Committee after the same has been appointed, or Committee counsel, if the  
13 same shall have been appointed. Any party-in-interest objecting to the relief sought at the Final  
14 Hearing shall serve and file written objections; which objections shall be served upon (a) Gordon  
15 Silver, 3960 Howard Hughes Parkway, Ninth Floor, Las Vegas, Nevada 89169, Attention:  
16 Gerald M. Gordon, Esq. and William M. Noall, Esq., attorneys for the Debtor, (b) Kaye Scholer  
17 LLP, 425 Park Avenue, New York, New York 10022, Attention: Albert M. Fenster, Esq. and  
18 Marc D. Rosenberg, Esq. and Snell & Wilmer, 3883 Howard Hughes Parkway #1100, Las  
19 Vegas, Nevada 89169-5958, Attention: Robert R. Kinas, Esq., co-counsel for the DIP Agent and  
20 the First Lien Agent, (c) Milbank, Tweed, Hadley & McCloy LLP, 601 South Figueroa Street,  
21 30th Floor, Los Angeles, CA 90017, Attention: Paul Aronzon, Esq. / Robert Jay Moore, Esq.,  
22 attorneys for the Majority Term Lenders, (d) Willkie Farr & Gallagher LLP, 787 Seventh  
23 Avenue, New York, New York 10019-6099, Attention: Paul V. Shalhoub, Esq. / Joseph G.  
24 Minias, Esq. / Ana M. Alfonso, Esq., counsel for the Majority Second Lienholder,  
25 (e) McGuireWoods LLP, 7 Saint Paul Street, Suite 1000, Baltimore, MD 21202, Attention:  
26 James E. Van Horn, Esq., attorneys for GE Capital; (f) Otterbourg, Steindler, Houston & Rosen,  
27 P.C., 230 Park Avenue, New York, NY 10169, Attention: Andrew M. Kramer, Esq., attorneys  
28 for Wells Fargo Bank, (g) Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036,

1 Attention: Allan S. Brilliant, Esq. and Glenn E. Siegel, Esq., counsel to certain revolving  
2 lenders, (h) Sheppard, Mullin, Richter & Hampton LLP, 333 South Hope Street, 48th Floor, Los  
3 Angeles, California 90071, Attention: Kyle Matthews, Esq., and Holland & Hart, 5441 Kietzke  
4 Lane, Second Floor, Reno, NV 89511, Attention: Timothy Lukas, attorneys for the Second Lien  
5 Trustee; (i) counsel to the Committee and (j) the office of the U.S. Trustee, and shall be filed  
6 with the Clerk of the Bankruptcy Court, ~~in each case~~ to allow actual receipt by the foregoing no  
7 later than January 6, 2012 at 4:00 p.m., prevailing Pacific time.

8 37. *Retention of Jurisdiction.* This Court shall, and hereby does, retain jurisdiction  
9 with respect to all matters arising from or related to the implementation and interpretation of this  
10 Order.

11 **IT IS SO ORDERED.**

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PREPARED AND SUBMITTED:

GORDON SILVER

By:     /s/ William M. Noall      
GERALD M. GORDON, ESQ.  
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and

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and

SNELL & WILMER  
ROBERT R. KINAS, ESQ.  
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Counsel for the DIP Agent and the  
First Lien Agent

**APPROVED/DISAPPROVED:**

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**APPROVED/DISAPPROVED:**

By:     /s/ Timothy Lukas      
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**APPROVED/DISAPPROVED:**

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Counsel to certain Revolving Lenders

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**LR 9021 CERTIFICATION**

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court’s ruling and that (check one):

- The court waived the requirement of approval under LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion.
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated above.
- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objection to the form or content of the order.

###

# EXHIBIT “A”

Ahern Rentals, Inc  
13-Week Cash Flow Forecast

Week Ending (\$ in thousands)	Forecasting Period													Total
	Dec-24 1	Dec-31 2	Jan-07 3	Jan-14 4	Jan-21 5	Jan-28 6	Feb-04 7	Feb-11 8	Feb-18 9	Feb-25 10	Mar-03 11	Mar-10 12	Mar-17 13	
<b>Cash Receipts:</b>														
Collections	\$ 1,635.5	\$ 4,104.5	\$ 4,810.3	\$ 6,679.1	\$ 5,720.6	\$ 7,243.6	\$ 6,730.6	\$ 6,435.1	\$ 6,413.6	\$ 4,828.8	\$ 5,898.4	\$ 6,025.9	\$ 6,035.5	\$ 72,561.3
Sales of new equipment	175.0		197.4	197.4	197.4	197.4	195.7	194.4	194.4	194.4	192.0	188.8	188.8	2,488.0
Sales of used equipment	221.5	221.5	200.3	200.3	200.3	200.3	195.6	192.1	192.1	192.1	204.3	220.7	220.7	2,661.8
<b>Total Receipts</b>	<b>\$ 2,032.0</b>	<b>\$ 4,501.0</b>	<b>\$ 5,207.9</b>	<b>\$ 7,076.8</b>	<b>\$ 6,118.2</b>	<b>\$ 7,641.3</b>	<b>\$ 7,121.8</b>	<b>\$ 6,821.6</b>	<b>\$ 6,800.1</b>	<b>\$ 5,215.3</b>	<b>\$ 6,294.7</b>	<b>\$ 6,435.4</b>	<b>\$ 6,445.0</b>	<b>\$ 77,711.1</b>
<b>Cash Disbursements:</b>														
Salaries and Wages	-	1,400.0	1,400.0	1,750.0	1,300.0	1,300.0	1,400.0	1,300.0	1,750.0	1,300.0	1,400.0	1,300.0	1,750.0	17,350.0
Payroll Taxes	-	959.9	480.0	600.0	445.7	445.7	480.0	445.7	600.0	445.7	480.0	445.7	600.0	6,428.0
Operating Disbursements	-	579.7	1,512.4	1,112.4	1,162.4	1,162.4	1,565.6	1,167.9	1,167.9	1,167.9	1,556.1	1,140.5	1,140.5	14,435.7
Rent	-	37.3	1,225.0	-	-	75.7	1,225.0	-	-	75.7	1,225.0	-	-	3,863.8
Utilities	-	-	-	200.0	100.0	170.0	43.0	43.0	43.0	170.0	43.0	43.0	43.0	897.9
Property and sales taxes	-	1,205.8	8.0	613.6	1,143.4	2,293.5	3.5	117.1	1,037.3	1,206.1	249.5	-	1,138.1	9,015.9
Other SG&A (1)	-	150.0	300.0	350.0	350.0	400.0	500.0	500.0	500.0	500.0	500.0	500.0	500.0	5,050.0
Subtotal	\$ -	\$ 4,332.8	\$ 4,925.4	\$ 4,626.0	\$ 4,501.5	\$ 5,847.3	\$ 5,217.0	\$ 3,573.7	\$ 5,098.1	\$ 4,865.4	\$ 5,453.6	\$ 3,429.1	\$ 5,171.5	\$ 57,041.4
Insurance	-	66.7	-	524.8	344.3	66.7	-	524.8	344.3	66.7	-	524.8	344.3	2,807.3
Purchases of equipment for sale	-	-	171.8	171.8	171.8	171.8	168.7	166.3	166.3	166.3	178.1	193.8	193.8	1,920.3
Capex	-	100.0	569.0	569.0	569.0	569.0	596.1	616.5	616.5	616.5	657.1	711.3	711.3	6,901.3
Restructuring expenses	2,272.5	30.0	-	1,072.5	-	750.0	3,675.0	615.0	-	-	1,179.0	515.0	100.0	10,209.0
Revolver Cash Interest	-	-	1,466.5	-	-	-	1,241.3	-	-	-	1,085.7	-	-	3,793.5
First Lien Term Loan Cash Interest	-	-	495.2	-	-	-	1,485.6	-	-	-	1,485.6	-	-	3,466.3
Total Cash Interest Expense	\$ -	\$ -	\$ 1,961.7	\$ -	\$ -	\$ -	\$ 2,726.9	\$ -	\$ -	\$ -	\$ 2,571.3	\$ -	\$ -	\$ 7,259.8
<b>Total Disbursements</b>	<b>\$ 2,272.5</b>	<b>\$ 4,529.4</b>	<b>\$ 7,627.9</b>	<b>\$ 6,964.1</b>	<b>\$ 5,586.6</b>	<b>\$ 7,404.8</b>	<b>\$ 12,383.7</b>	<b>\$ 5,496.3</b>	<b>\$ 6,225.2</b>	<b>\$ 5,714.8</b>	<b>\$ 10,039.1</b>	<b>\$ 5,374.0</b>	<b>\$ 6,520.9</b>	<b>\$ 86,139.2</b>
<b>Net Cash Flow</b>	<b>\$ (240.5)</b>	<b>\$ (28.5)</b>	<b>\$ (2,420.0)</b>	<b>\$ 112.6</b>	<b>\$ 531.6</b>	<b>\$ 236.5</b>	<b>\$ (5,261.9)</b>	<b>\$ 1,325.3</b>	<b>\$ 574.9</b>	<b>\$ (499.5)</b>	<b>\$ (3,744.3)</b>	<b>\$ 1,061.4</b>	<b>\$ (75.9)</b>	<b>\$ (8,428.1)</b>
Cumulative Net Cash Flow From Petition Date	\$ (240.5)	\$ (269.0)	\$ (2,688.9)	\$ (2,576.3)	\$ (2,044.7)	\$ (1,808.2)	\$ (7,070.1)	\$ (5,744.7)	\$ (5,169.8)	\$ (5,669.3)	\$ (9,413.6)	\$ (8,352.2)	\$ (8,428.1)	
Pre-Petition Revolver - Beginning Balance	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7							
Repayment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Pre-Petition Revolver - Ending Balance	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7	\$ 256,743.7							
Interim DIP Facility - Maximum Amount	\$ 20,000.0	\$ 20,000.0	\$ 20,000.0	\$ 20,000.0	\$ 20,000.0	\$ 20,000.0	\$ 20,000.0							
Interim DIP Facility - Beginning Balance	\$ -	\$ 240.5	\$ 269.0	\$ 2,688.9	\$ 2,576.3	\$ 2,044.7								
Draw / (Paydown)	240.5	28.5	2,420.0	(112.6)	(531.6)	(236.5)								
Interim DIP Facility - Ending Balance	\$ 240.5	\$ 269.0	\$ 2,688.9	\$ 2,576.3	\$ 2,044.7	\$ 1,808.2								
Cash Reserve Account - Beginning Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Additions / (Reductions) in Cash Reserve Account	-	-	-	-	-	-	-							
Cash Reserve Account - Ending Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
<b>Interim DIP Availability</b>	<b>\$ 19,759.5</b>	<b>\$ 19,731.0</b>	<b>\$ 17,311.1</b>	<b>\$ 17,423.7</b>	<b>\$ 17,955.3</b>	<b>\$ 18,191.8</b>								
<b>Cash Reserve Account</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>								
<b>Total Availability</b>	<b>\$ 19,759.5</b>	<b>\$ 19,731.0</b>	<b>\$ 17,311.1</b>	<b>\$ 17,423.7</b>	<b>\$ 17,955.3</b>	<b>\$ 18,191.8</b>								
Final DIP - Beginning Balance							\$ 258,551.9	\$ 263,813.8	\$ 262,488.5	\$ 261,913.6	\$ 262,413.1	\$ 266,157.4	\$ 265,095.9	
Final DIP - Revolver (Paydown) / Draws							5,261.9	(1,325.3)	(574.9)	499.5	3,744.3	(1,061.4)	75.9	
Final DIP - Ending Balance							\$ 263,813.8	\$ 262,488.5	\$ 261,913.6	\$ 262,413.1	\$ 266,157.4	\$ 265,095.9	\$ 265,171.8	
Beginning Cash balance	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0
Ending Cash balance	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0	\$ 2,000.0
DIP borrowing availability							\$ 42,592.9	\$ 43,918.2	\$ 44,493.1	\$ 40,536.5	\$ 36,792.1	\$ 37,853.6	\$ 37,777.7	
Indenture borrowing availability	\$ 28,276.1	\$ 28,247.7	\$ 24,740.7	\$ 24,853.4	\$ 25,385.0	\$ 25,621.4	\$ 20,359.6	\$ 21,684.9	\$ 22,259.8	\$ 21,760.3	\$ 18,016.0	\$ 19,077.4	\$ 19,001.6	
<b>Effective Borrowing Availability</b>	<b>\$ 19,759.5</b>	<b>\$ 19,731.0</b>	<b>\$ 17,311.1</b>	<b>\$ 17,423.7</b>	<b>\$ 17,955.3</b>	<b>\$ 18,191.8</b>	<b>\$ 20,359.6</b>	<b>\$ 21,684.9</b>	<b>\$ 22,259.8</b>	<b>\$ 21,760.3</b>	<b>\$ 18,016.0</b>	<b>\$ 19,077.4</b>	<b>\$ 19,001.6</b>	
<b>Total Liquidity</b>	<b>\$ 21,759.5</b>	<b>\$ 21,731.0</b>	<b>\$ 19,311.1</b>	<b>\$ 19,423.7</b>	<b>\$ 19,955.3</b>	<b>\$ 20,191.8</b>	<b>\$ 22,359.6</b>	<b>\$ 23,684.9</b>	<b>\$ 24,259.8</b>	<b>\$ 23,760.3</b>	<b>\$ 20,016.0</b>	<b>\$ 21,077.4</b>	<b>\$ 21,001.6</b>	

(1) Primarily consists of ordinary course professionals, travel and entertainment, aircraft related costs and other general G&A items.  
Note: Week one starts as of the Petition Date