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Proposed Counsel to the Debtors and Debtors in Possession

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

In re:

GLOBAL A&T ELECTRONICS LTD., *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 17-23931 (RDD)
)

) (Joint Administration Requested)
)
)

**DEBTORS' MOTION FOR THE ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING DEBTORS TO USE CASH
COLLATERAL PURSUANT TO 11 U.S.C. § 363, (II) GRANTING
CERTAIN PROTECTIONS TO PREPETITION NOTEHOLDERS
PURSUANT TO 11 U.S.C. §§ 361, 362, 363, AND 507, AND (III) SCHEDULING
FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(b) AND (c)**

The above-captioned debtors and debtors in possession (collectively, the "Debtors")
respectfully state the following in support of this motion (this "Motion")²:

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's tax identification, registration, or like number, include: Global A&T Electronics Ltd. (9744); Global A&T Finco Ltd. (N/A); UGS America Sales Inc. (7511); United Test and Assembly Center Ltd. (070H); UTAC (Shanghai) Co., Ltd. (919N); UTAC (Taiwan) Corporation (9456); UTAC Cayman Ltd. (2839); UTAC Dongguan Ltd. (6386); UTAC Group Global Sales Ltd. (0797); UTAC Headquarters Pte. Ltd. (214R); UTAC Hong Kong Limited (1526); UTAC Thai Holdings Limited (4876); and UTAC Thai Limited (6324). The debtors' service address for purposes of these chapter 11 cases is: 11 Martine Avenue, 12th Floor, White Plains, New York 10606.

² Capitalized terms used but not defined have the meanings given to them elsewhere in this Motion or the Interim Order (as defined below), as applicable.

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Interim Order”), and, if necessary, a final order (the “Final Order”), (a) authorizing the Debtors’ use of Cash Collateral on an interim basis pending a final hearing on this Motion (the “Final Hearing”), (b) granting adequate protection to the Protection Parties, (c) modifying the automatic stay, and (d) scheduling the Final Hearing within approximately 25 days of the commencement of these chapter 11 cases to consider approval of the Final Order, if necessary.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 361, 362, 363, and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rules 2002, 4001, and 9014, and rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Bankruptcy Rules”).

Background

5. The Debtors operate a global enterprise that performs assembly and testing services for customers that utilize semiconductors (*i.e.*, microchips) in a variety of products, including smartphones, tablets, personal digital assistants, Bluetooth and WiFi equipment, personal computers, and automotive, industrial, and medical applications. The Debtors manage their business enterprise from their corporate headquarters in Singapore. The Debtors employ approximately 10,000 highly trained engineers, technicians, and corporate, legal, and sales professionals at locations in the People's Republic of China, the Republic of China, Singapore, Thailand, and the United States. As of December 31, 2016, the Debtors generated gross revenue of approximately \$687 million and posted earnings before interest, taxes, and amortization of approximately \$189.2 million.

6. On November 2, 2017, the Debtors entered in the Global Settlement, Forbearance, and Restructuring Support Agreement (the "Restructuring Support Agreement") with all of their major stakeholders, pursuant to which the Debtors agreed to a comprehensive financial reorganization of their capital structure. Pursuant to the Restructuring Support Agreement, on November 20, 2017, the Debtors commenced a prepetition solicitation process and distributed the *Debtors' Joint Chapter 11 Plan of Reorganization* (the "Prepackaged Plan") and a related disclosure statement (the "Disclosure Statement") to creditors entitled to vote to accept the Prepackaged Plan. As of December 13, 2017, the proposed Prepackaged Plan voting deadline, 100 percent of the holders of claims entitled to vote to accept or reject the Prepackaged Plan who had returned ballots had voted to accept the Prepackaged Plan.

7. On December 17, 2017 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. In connection therewith,

the Debtors requested that the Court schedule a combined hearing to approve the adequacy of the Disclosure Statement and confirm the Prepackaged Plan.

8. The Debtors continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these chapter 11 cases.

9. Additional information regarding the Debtors’ business, their capital structure, and the circumstances leading to these chapter 11 filings is contained in the *Declaration of Michael E. Foreman, General Counsel and Authorized Officer of Global A&T Electronics Ltd., (I) in Support of Debtors’ Chapter 11 Petitions and First Day Motions and (II) Pursuant to Local Rule 1007-2* (the “First Day Declaration”), filed in connection herewith.

The Debtors’ Prepetition Capital Structure³

I. The Senior Secured Notes.

10. As of the Petition Date, the Debtors’ funded debt is comprised of approximately \$1.127 billion in aggregate principal amount of the 10 percent senior secured notes due 2019 (collectively, the “Prepetition Notes,” and holders thereof, the “Prepetition Noteholders”). The Prepetition Notes were issued under that certain Indenture, dated as of February 7, 2013 (as amended, modified, or supplemented from time to time, the “Indenture”), by and among Global A&T Electronics Ltd. (“GATE”), as issuer, Debtors UTAC Headquarters Pte. Ltd., UTAC Hong

³ The descriptions of the Debtors’ prepetition debt facilities and the collateral securing those facilities provided herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, and/or enforceability of any liens and security interests granted in connection therewith, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever. Capitalized terms used within this summary of lenders with liens on Cash Collateral but not otherwise defined herein shall have the meanings set forth in the Interim Order or the Prepackaged Plan, as applicable.

Kong Limited, United Test and Assembly Center Ltd., UTAC Cayman Ltd., UTAC Thai Holdings Limited, UTAC Thai Limited, and UTAC (Taiwan) Corporation, as guarantors, and Citicorp International Limited, as indenture trustee and security agent (the “Indenture Trustee”).

11. In February 2013, GATE initially issued \$625 million of Prepetition Notes (collectively, the “Initial Notes,” and the holders thereof, the “Initial Noteholders”). On September 20, 2013, GATE supplemented the Indenture and issued \$502,257,000 of additional Prepetition Notes (collectively, the “Additional Notes,” and the holders thereof, the “Additional Noteholders”) in exchange for their pre-existing second lien notes as part of an out-of-court exchange transaction. The Indenture, as supplemented, contemplated that the Additional Notes would be equal in priority to—or *pari passu* with—the Initial Notes. The following table summarizes the Debtors’ outstanding funded-debt obligations as of the Petition Date.

Funded Debt	Maturity	Principal Amount
Initial Notes	February 2019	\$625,000,000
Additional Notes	February 2019	\$502,257,000
	Total	\$1,127,257,000

12. Whether the exchange transaction was permissible under the Indenture and the relative priority of the Initial Notes to the Additional Notes has been the subject of extensive prepetition litigation. In 2014, certain Initial Noteholders commenced litigation in the Supreme Court of the State of New York, asserting that GATE’s issuance of the Additional Notes violated the terms of GATE’s indenture and intercreditor agreement with the holders of the prior second-lien notes. In 2017, certain other Initial Noteholders commenced a separate lawsuit, pursuant to which they asserted substantially similar claims against the same parties regarding the validity of the 2013 exchange.

13. The Prepetition Notes mature on February 1, 2019 and require semi-annual interest payments on February 1st and August 1st of each year. Historically, interest paid in

respect of these obligations amounted to approximately \$106.6 million, \$115.0 million, and \$114.0 million in 2014, 2105, and 2016, respectively. To preserve liquidity, the Debtors deferred making the interest payment that came due on August 1, 2017.

II. Letters of Credit.

14. The Debtors maintain approximately 15 letters of credit that primarily address financial assurance requirements related to certain operational matters. These letters of credit are unsecured and not cash collateralized. The Debtors have approximately 18.7 million in New Taiwan dollars and approximately 61.5 million in Thai baht in outstanding letters of credit.

III. Other Secured Claims.

15. In the ordinary course of business, the Debtors routinely transact business with a number of third-party contractors and vendors that may be able to assert liens under applicable non-bankruptcy law against the Debtors and/or their assets if the Debtors fail to pay for the goods delivered or services rendered. If such parties have valid liens under applicable non-bankruptcy law, such claims are likely secured claims against the Debtors. The Prepackaged Plan provides for payment in full in cash for all such claims.

IV. General Unsecured Claims.

16. In the ordinary course, the Debtors routinely transact business with a number of third-party contractors and vendors, substantially all of which are based outside of the United States. These transactions give rise to general unsecured claims against the Debtors. The Prepackaged Plan provides for payment in full in cash for all such claims.

**Concise Statement of the
Material Terms of the Interim Order**

17. Pursuant to and in accordance with Bankruptcy Rule 4001(b)(1)(B) and Local Bankruptcy Rule 4001-2(a), the material provisions of the Interim Order, and the location of such provisions therein are summarized below.⁴

Material Terms	Summary of Material Terms	Para(s). of Interim Order
Entities with an Interest in Cash Collateral (Fed. R. Bankr. P. 4001(b)(1)(B)(i))	The Prepetition Noteholders and/or the Indenture Trustee.	¶ 3
Purpose for Use of Cash Collateral (Fed. R. Bankr. P. 4001(b)(1)(B)(ii))	The Debtors require the use of Cash Collateral to operate their businesses. Without the use of Cash Collateral, the Debtors will be unable to meet their case requirements for working capital needs and would result in an immediate shutdown of the Debtors' businesses.	¶¶ F, 3
Duration of Use of Cash Collateral / Termination Events (Fed. Bankr. R. P. 4001(b)(1)(B)(iii); S.D.N.Y. Bankr. L.R. 4001-2(a)(10))	<u>Termination Events</u> : The Interim Order includes standard and customary termination events, which events, unless waived by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement), shall terminate the Debtors' authority to continue to use Cash Collateral.	¶ 9
Proposed Adequate Protection (Fed. Bankr. R. P. 4001(b)(1)(B)(iv)) Economic Terms Including Fees and Expenses of the Lenders, Agents, and Their Respective Professionals (S.D.N.Y. Bankr. L.R. 4001-2(a)(3)).	<u>Initial Secured Parties Adequate Protection Package</u> . The adequate protection package provided to the Initial Secured Parties includes: <ul style="list-style-type: none"> • the adequate protection liens, including a first priority lien on and security interest in unencumbered property, a junior lien on all encumbered property that is not Prepetition Collateral, and a priming lien on and security interest in all Prepetition Collateral; • a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code; and • payment of the reasonable and documented fees and disbursements incurred by the professionals retained by the Indenture Trustee, the Milbank Initial Noteholder Ad Hoc Group, and the Dechert Initial Noteholder Ad Hoc Group. 	¶¶ 5, 6

⁴ This summary is qualified in its entirety by the provisions of the Interim Order. To the extent there are any conflicts between this summary and the Interim Order, the terms of the Interim Order shall govern.

Material Terms	Summary of Material Terms	Para(s). of Interim Order
	<p><u>Additional Noteholders Adequate Protection Package.</u> The adequate protection package provided to the Additional Secured Parties includes:</p> <ul style="list-style-type: none"> • the adequate protection liens, including a first priority lien on and security interest in unencumbered property, a junior lien on all encumbered property that is not Prepetition Collateral, and a priming lien on and security interest in all Prepetition Collateral; • a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code; and • payment of the reasonable and documented fees and disbursements incurred by the professionals retained by the Indenture Trustee and the Additional Noteholder Ad Hoc Group. 	
<p>Amount of Cash Collateral to be Used (S.D.N.Y. Bankr. L.R. 4001-2(a)(1))</p>	<p>Subject to the terms of the Interim Order, the Debtors may use Cash Collateral in which the Prepetition Noteholders and/or the Indenture Trustee may have an interest. Any dispute in connection with the use of Cash Collateral shall be heard by the Court. Notwithstanding anything in the Interim Order to the contrary, the Debtors shall be immediately prohibited from using the Cash Collateral upon the Cash Collateral Termination Date.</p>	¶ 3
<p>Material Conditions to Closing and Borrowing, Including Budget Provisions (S.D.N.Y. Bankr. L.R. 4001-2(a)(2))</p>	<p><u>The Budget.</u> If the Effective Date does not occur before January 31, 2018, all use of Cash Collateral by the Debtors shall be pursuant to the 13-Week Budget, provided that, during any four-week period, the Debtors may carry forward projected expenses.</p>	¶ 3
<p>Effect On the Existing Liens of the Adequate Protection (S.D.N.Y. Bankr. L.R. 4001-2(a)(4))</p>	<p><u>Priority of Protections Liens.</u> Except as otherwise provided in the Interim Order, the Protection Liens granted to the Initial Secured Parties and the Additional Secured Parties pursuant to paragraphs 5 and 6 of the Interim Order shall not be subject or subordinated to, or made <i>pari passu</i> with any lien, security interest or claim existing as of the Petition Date, or created under sections 363 or 364(d) of the Bankruptcy Code or otherwise or subject any lien or security interest that is avoided and preserved for the benefit of the Debtors’ estates under section 551 of the Bankruptcy Code.</p>	¶ 7
<p>Carve-Out (S.D.N.Y. Bankr. L.R. 4001-2(a)(5))</p>	<p>The Interim Order provides a “Carve-Out” of certain statutory fees, allowed professional fees of the Debtors, and any Creditors’ Committee appointed in the chapter 11 cases pursuant to section 1103 of the Bankruptcy Code, including a Post-Carve-Out Trigger Notice Cap, all as detailed in the Interim Order.</p>	¶ 4
<p>Provisions that Could Restrict the Rights and Powers of the Debtor In Possession</p>	<p>The Interim Order contains certain stipulations by the Debtors, among other things, to the amount, validity, priority, and enforceability of the Initial Notes and the Additional Notes. The Interim Order also includes a release, effective as of the earlier of entry of the Final Order and the occurrence of the Effective Date (as defined in the Prepackaged Plan),</p>	¶¶ E, 11, 12

Material Terms	Summary of Material Terms	Para(s). of Interim Order
<p>(S.D.N.Y. Bankr. L.R. 4001-2(a)(8))</p> <p>Limitations on the Lender’s Obligation to Fund Certain Activities of the Debtors or Any Committee Appointed Under Sections 1102 or 1114 of the Bankruptcy Code</p> <p>(S.D.N.Y. Bankr. L.R. 4001-2(a)(9))</p>	<p>of the Indenture Trustee and Prepetition Noteholders.</p> <p><u>Claims Stipulation Investigation Period Reservation of Rights.</u> Except as expressly set forth in the Interim Order and subject in all cases to the Noteholder Reservation of Rights,⁵ the stipulations set forth in paragraph E in the Interim Order (together, the “<u>Claims Stipulation</u>”) and all of the terms and conditions of the Interim Order shall be immediately and irrevocably binding on all persons and entities, subject to a customary investigation period for the Creditors’ Committee through the earlier of (a) the effective date under a confirmed plan of reorganization and (b) the day that is 60 days from the date of the entry of the Final Order (as such date may be extended by the Required Consenting Noteholders).</p> <p><u>Restriction on Use of Funds.</u> The Interim, Order provides that no Collateral, proceeds thereof, Cash Collateral, Prepetition Collateral, proceeds thereof, or any portion of the Carve-Out may be used by any of the Debtors, their estates, any affiliate of the Debtors, any Creditors’ Committee, any trustee or examiner appointed in these chapter 11 cases or any chapter 7 trustee, or any other person, party or entity for certain proscribed actions; provided, however, that the Creditors’ Committee, if any, may use (in accordance with the 13-Week Budget) up to \$60,000 (the “<u>Investigation Fund</u>”) to investigate the liens and claims of and claims against the Protection Parties, but may not use the Investigation Fund to initiate, assert, join, commence, support, or prosecute any actions or discovery with respect thereto. Any claim incurred in connection with any proscribed activities described in paragraph 11 of the Interim Order shall not constitute an allowed administrative expense claim for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.</p>	

The Debtors’ Need to Use Cash Collateral

18. As of the Petition Date, the Debtors’ cash on hand totaled approximately \$89.7 million, substantially all of which is Cash Collateral of the Prepetition Noteholders. As noted above, substantially all of the Debtors’ cash on hand is Cash Collateral. Furthermore, because the Debtors do not believe that they can provide adequate protection to the Prepetition Noteholders, the Debtors engaged with the Prepetition Noteholders regarding the terms on which they would consent to permit the Debtors to continue to use Cash Collateral as part of their negotiations regarding the Restructuring Support Agreement. These discussions resulted in the

⁵ The Claims Stipulation is subject to the Noteholder Reservation of Rights if the Effective Date under the Prepackaged Plan does not occur in certain circumstances.

proposed Interim Order, entry of which will allow the Debtors to transition smoothly into chapter 11, effectuate the Restructuring Support Agreement, and confirm and consummate the Prepackaged Plan, all while continuing to operate their businesses without disruption.

Summary of Proposed Use of Cash Collateral

19. Pursuant to the Interim Order, the Debtors' right to use Cash Collateral will commence on the date of entry of the Interim Order and shall remain in effect until the earlier of (a) 45 days after the Petition Date (unless such period is extended by mutual agreement of the Required Consenting Noteholders and the Debtors), if the Final Order has not been entered on or before such date, (b) the effective date of the Prepackaged Plan, and (c) the occurrence of any Termination Event.

20. Immediate access to Cash Collateral will provide the Debtors with the necessary liquidity to (a) minimize (and perhaps eliminate, if all other "first day" relief is granted) disruption to the Debtors' businesses and ongoing operations, (b) preserve and maximize the value of the Debtors' estates for the benefit of all the Debtors' creditors, and (c) avoid immediate and irreparable harm to the Debtors and their creditors, businesses, employees, and assets. If the Debtors are unable to access Cash Collateral to meet their obligations on a timely basis, the Debtors could suffer permanent harm.

Basis for Relief

I. The Use of Cash Collateral Is Warranted and Should Be Approved.

21. Pursuant to section 363(c)(2) of the Bankruptcy Code, a debtor may not use cash collateral unless "(A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section." 11 U.S.C. § 363(c)(2).

22. Here, the Prepetition Noteholders have consented to the Debtors' use of Cash Collateral pursuant to the Restructuring Support Agreement, which has the support of holders of approximately 97 percent of the Initial Notes and holders of approximately 98 percent of the Additional Notes. Accordingly, the Debtors submit that the use of Cash Collateral satisfies the requirements of section 363(c)(2) of the Bankruptcy Code.

II. The Debtors' Proposed Adequate Protection is Appropriate.

23. Section 363(c)(2) of the Bankruptcy Code provides that, absent consent, a debtor may use cash collateral where "the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section." 11 U.S.C. § 363(c)(2)(A), (B). Section 363(e) of the Bankruptcy Code requires that the debtor adequately protect the secured creditors' interest in property to be used by a debtor against any diminution in value of such interest resulting from the debtor's use of the property during the chapter 11 proceedings. 11 U.S.C. § 363(e).

24. The essential purpose of adequate protection is to protect against the diminution of a secured creditor's collateral during the period when such collateral is being used by the debtor in possession. *See Contrarian Funds LLC v. Aretex LLC (In re WestPoint Stevens, Inc.)*, 600 F.3d 231, 257 (2d Cir. 2010) ("Adequate protection is generally defined as a method by which a secured creditor may apply to the Bankruptcy Court to protect its interest in the diminution in value of its security during a bankruptcy proceeding." (internal quotation marks omitted)); *see also In re WorldCom, Inc.*, 304 B.R. 611, 618-19 (Bankr. S.D.N.Y. 2004) ("The legislative history for section 361 of the Bankruptcy Code, which sets forth how adequate protection may be provided under section 363, makes clear that the purpose is to insure that the secured creditor receives the value for which the creditor bargained for prior to the debtor's bankruptcy."); *In re Carbone Cos., Inc.*, 395 B.R. 631, 635 (Bankr. N.D. Ohio 2008) ("The test

is whether the secured party's interest is protected from diminution or decrease as a result of the proposed use of cash collateral." (citation omitted)). "However, neither the legislative history nor the Bankruptcy Code requires the Court to protect a creditor beyond what was bargained for by the parties." *WorldCom, Inc.*, 304 B.R. at 619; *see In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) ("Adequate protection, not absolute protection, is the statutory standard.").

25. Generally, what constitutes sufficient adequate protection is decided on a case-by-case basis. *See, e.g., In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804 (HSB), 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *In re Monroe Park*, 17 B.R. 934 (D. Del. 1982) (noting that adequate protection requires a debtor to propose some form of relief that will preserve the secured creditor's interest in collateral pending the outcome of the bankruptcy proceedings); *see also In re Martin*, 761 F.2d 472 (8th Cir. 1985); *In re Mosello*, 195 B.R. at 289; *In re Realty Southwest Assocs.*, 140 B.R. 360 (Bankr. S.D.N.Y. 1992). Adequate protection can come in various forms, including the payment of adequate protection fees, payment of interest, and granting of replacement liens.

26. As described above, the Debtors have obtained the consent of the Prepetition Noteholders to continue to use Cash Collateral during the pendency of these cases. A critical condition of that agreement with the Prepetition Noteholders is the Debtors' agreement to provide the Prepetition Noteholders with the proposed adequate protection package, which is consistent with the forms of adequate protection contemplated by the Bankruptcy Code.

27. Accordingly, the Debtors submit that the adequate protection proposed for the benefit of the Prepetition Noteholders is necessary and appropriate and satisfies the standards under section 363(c)(2) of the Bankruptcy Code. Courts in this district and others have granted

similar relief in other chapter 11 cases. *See, e.g., In re Answers Holdings Inc.*, No. 17-10496 (SMB) (Bankr. S.D.N.Y. Apr. 5, 2017); *In re Sabine Oil & Gas Corp.*, No 15-11185 (SCC) (Bankr. S.D.N.Y. July 17, 2015); *In re Cengage Learning, Inc.*, No. 13-44106 (ESS) (Bankr. E.D.N.Y. July 3, 2013); *In re Citadel Broad. Corp.*, No. 09-17442 (Bankr. S.D.N.Y. Mar. 3, 2010); *In re Reader's Digest Ass'n, Inc.*, No. 09-23529 (Bankr. S.D.N.Y. Oct. 6, 2009); *In re Extended Stay Inc.*, No. 09-13764 (Bankr. S.D.N.Y. July 23, 2009); *In re ION Media Networks, Inc.*, No. 09-13125 (Bankr. S.D.N.Y. June 2, 2009); *In re Gen. Growth Props., Inc.*, No. 09-11977 (Bankr. S.D.N.Y. May 14, 2009).⁶

III. The Automatic Stay Should Be Modified on a Limited Basis.

28. The Interim Order provides that the automatic stay provisions of section 362 of the Bankruptcy Code will be modified as necessary to effectuate the terms and provisions of the Interim Order. The Interim Order further provides that the automatic stay is modified and vacated to the extent necessary, upon the occurrence of the Cash Collateral Termination Date, to permit the Protection Obligations, if any, to become immediately due and payable and to allow the Indenture Trustee to exercise the rights and remedies available under the Prepetition Notes Documents, the Interim Order, or applicable law, including foreclosing upon and selling all or a portion of the Prepetition Collateral or Collateral in order to collect the Protection Obligations.

29. The Debtors have determined, in an exercise of their business judgment that such stay modifications are appropriate under the circumstances, in the context of a negotiated consensual cash collateral order. Further, stay modifications of this kind are ordinary, and are reasonable and fair under the circumstances of these chapter 11 cases. Courts in this district have granted similar relief in other chapter 11 cases. *See, e.g., In re Hawker Beechcraft, Inc.*,

⁶ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

No. 12-11873 (SMB) (Bankr. S.D.N.Y. June 1, 2012); *In re Velo Holdings Inc.*, No. 12-11384 (MG) (Bankr. S.D.N.Y. Apr. 23, 2012); *In re United Retail Grp., Inc.*, No. 12-10405 (SMB) (Bankr. S.D.N.Y. Feb. 23, 2012); *In re Hostess Brands, Inc.*, No. 12-22052 (RDD) (Bankr. S.D.N.Y. Feb. 3, 2012); *In re Great Atl. & Pac. Tea Co.*, No. 10-24549 (RDD) (Bankr. S.D.N.Y. Jan. 11, 2011); *In re Reader's Digest Assoc.*, No. 09-23529 (RDD) (Bankr. S.D.N.Y. Oct. 6, 2009), *In re Lear Corp.*, No. 14326 (ALG) (Bankr. S.D.N.Y. Aug. 4, 2009); *In re Gen. Growth Props. Inc.*, No. 09-11977 (ALG) (Bankr. S.D.N.Y. May 14, 2009); *In re Tronox Inc.*, No. 09-10156 (ALG) (Bankr. S.D.N.Y. Feb. 6, 2009); *In re Chemtura Corp.*, No. 09-11233 (REG) (Bankr. S.D.N.Y. April 23, 2009); *In re Wellman, Inc.*, No. 08-10595 (SMB) (Bankr. S.D.N.Y. Apr. 7, 2008).

Request for Final Hearing

30. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court, if necessary, set a date for the Final Hearing that is as soon as practicable, but in no event later than 25 days following the entry of the Interim Order, and fix the time and date prior to the Final Hearing for parties to file objections to this Motion.

Motion Practice

31. This Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this Motion. Accordingly, the Debtors submit that this Motion satisfies Local Bankruptcy Rule 9013-1(a).

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

32. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a)

and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Notice

33. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the indenture trustee under the Debtors' senior secured notes; (d) Milbank, Tweed, Hadley & McCloy LLP, counsel to an *ad hoc* committee of initial senior secured noteholders; (e) Dechert LLP, counsel to an *ad hoc* committee of initial senior secured noteholders; (f) Ropes & Gray LLP, counsel to an *ad hoc* committee of additional senior secured noteholders; (g) counsel to the Debtors' ultimate equity sponsors; (h) the United States Attorney's Office for the Southern District of New York; (i) the Internal Revenue Service; (j) the Environmental Protection Agency; (k) the office of the attorneys general for the states in which the Debtors operate; (l) the Securities and Exchange Commission; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

34. No prior request for the relief sought in this Motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter the Interim Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: December 17, 2017
New York, New York

/s/ Marc Kieselstein

Marc Kieselstein, P.C.

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- and -

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Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

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

In re:)	Chapter 11
)	
GLOBAL A&T ELECTRONICS LTD., <i>et al.</i> , ¹)	Case No. 17-23931 (RDD)
)	
)	
Debtors.)	(Joint Administration Requested)
)	
)	Re Docket No.

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO USE CASH
COLLATERAL PURSUANT TO 11 U.S.C. § 363, (II) GRANTING CERTAIN
PROTECTIONS TO PREPETITION NOTEHOLDERS PURSUANT TO 11
U.S.C. §§ 361, 362, 363 AND 507, AND (III) SCHEDULING FINAL
HEARING PURSUANT TO BANKRUPTCY RULES 4001(b) AND (c)**

Upon consideration of the motion (the “Motion”)², dated December 17, 2017, of Global A&T Electronics Ltd. (the “GATE”) and the other above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned cases (collectively, the “Chapter 11 Cases”) for entry of this interim order (this “Interim Order”) and a final order (the “Final Order”) pursuant to sections 105, 361, 362, 363 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”), and Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and the Local Rules for the Bankruptcy Court for the Southern District of New York (the “Local Bankruptcy Rules”, seeking, among other things:

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor’s tax identification, registration, or like number, include: Global A&T Electronics Ltd. (9744); Global A&T Finco Ltd. (N/A); UGS America Sales, Inc. (7511); United Test and Assembly Center Ltd. (070H); UTAC (Shanghai) Co., Ltd. (919N); UTAC (Taiwan) Corporation (9456); UTAC Cayman Ltd. (2839); UTAC Dongguan Ltd. (6386); UTAC Group Global Sales Ltd. (0797); UTAC Headquarters Pte. Ltd. (214R); UTAC Hong Kong Limited (1526); UTAC Thai Holdings Limited (4876); and UTAC Thai Limited (6324). The debtors’ service address for purposes of these chapter 11 cases is: 11 Martine Avenue, 12th Floor, White Plains, New York 10606.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

(i) The Court's authorization for the Debtors to use any Cash Collateral (as defined below) in which certain prepetition secured parties as set forth below (such parties, the "Protection Parties") have an interest and the granting of certain protections to the Protection Parties with respect to, inter alia, use of their Cash Collateral in accordance with this Interim Order;

(ii) The Court's grant of protection to the Protection Parties;

(iii) The Court's vacatur and modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order and a Final Order granting relief requested in the Motion;

(iv) The Court's waiver of any applicable stay (including under Bankruptcy Rules 4001 and 6004) and provision for immediate effectiveness of this Interim Order;

(v) Pursuant to Bankruptcy Rule 4001, the Court's holding that an interim hearing on the Motion be held before this Court to consider entry of this Interim Order, authorizing that during the period commencing on the date of this Court's entry of this Interim Order and ending on the earlier of (a) the date this Court enters the Final Order, (b) the date on which the right to use cash collateral terminates under the terms of this Interim Order, and (c) the Effective Date (as defined in the Prepackaged Plan (as defined below)), the Debtors be authorized to use the Cash Collateral; and

(vi) The Court's scheduling of a final hearing (the "Final Hearing"), if necessary, to consider entry of the Final Order granting the relief requested in the Motion on a final basis;

The interim hearing on the Motion having been held on December 18, 2017 (the "Interim Hearing"); and based upon all of the pleadings filed with the Court, the evidence presented at the Interim Hearing and the entire record herein; and the Court having heard and resolved or overruled all objections to the interim relief requested in the Motion; and the Court having noted the

appearances of all parties in interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors, and other parties in interest; and the Debtors having provided notice of the Motion as set forth in the Motion and it appearing that no further or other notice of the Motion need be given; and after due deliberation and consideration, and sufficient cause appearing therefor:

BASED ON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:³

A. Petition Date. On December 17, 2017, (the "Petition Date"), the Debtors commenced their Chapter 11 Cases by filing voluntary petitions for relief under the Bankruptcy Code. The Debtors are operating their businesses and managing their affairs as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in any of these Chapter 11 Cases.

B. Jurisdiction; Venue. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the Southern District of New York, dated January 31, 2012. The Debtors confirm their consent, pursuant to Bankruptcy Rule 7008, to the entry of a final order by the Court in connection with the Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief requested herein are sections 105, 361, 362, 363, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, and 9014, and the Local Bankruptcy Rules.

³ Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, pursuant to Bankruptcy Rule 7052.

C. Committee Formation. No official committee of unsecured creditors has been appointed in any of these Chapter 11 Cases.

D. Prepetition Secured Indebtedness.

(i) Initial Notes. GATE is the issuer of \$625,000,000 in principal amount of 10% Senior Secured Notes due 2019 (the “Initial Notes” and the holders of such Notes, the “Initial Noteholders”) pursuant to that certain Indenture dated as of February 7, 2013 (as validly and properly amended, supplemented or otherwise modified prior to the date hereof, and including all exhibits and other ancillary documentation in respect thereof, the “Indenture”), among GATE, as issuer, the guarantors party thereto, and Citicorp International Limited, as trustee and security agent (the “Indenture Trustee”). The Indenture, the Initial Notes and all instruments and documents executed at any time in connection therewith, shall be referred to collectively as the “Initial Notes Documents.”) For purposes of this Interim Order, the term “Initial Notes Indebtedness” shall mean all amounts owed, as of the Petition Date, to the Indenture Trustee and the Initial Noteholders under the Initial Notes Documents.

(ii) Additional Notes. GATE is the Issuer of approximately \$502,257,000 in principal amount of additional 10% Senior Secured Notes due 2019 (the “Additional Notes” and the holders of such Notes, the “Additional Noteholders” and together with the Initial Noteholders, the “Prepetition Noteholders”) pursuant to that certain Second Supplemental Indenture dated as of September 30, 2013 to the Indenture. The Indenture, the Additional Notes and all instruments and documents executed at any time in connection therewith, shall be

referred to collectively as the “Additional Notes Documents” and together with the Initial Notes Documents, the “Prepetition Notes Documents”). For purposes of this Interim Order, the term “Additional Notes Indebtedness” shall mean all amounts owed, as of the Petition Date, to the Indenture Trustee and the Additional Noteholders under the Additional Notes Documents and the term “Prepetition Obligations” shall mean, collectively, all Initial Notes Indebtedness and all Additional Notes Indebtedness.

E. Stipulations. Subject in all respects to the Noteholder Reservation of Rights contained in paragraph E(x) and the Claims Stipulation Investigation Period Reservation of Rights contained in paragraph 12 of this Interim Order, the Debtors permanently, immediately, and irrevocably acknowledge, represent, stipulate, and agree, except as expressly set forth in this Paragraph E, that:

- (i) (A) the Initial Notes were validly issued by GATE pursuant to the Indenture, guaranteed by the guarantors thereunder (the “Guarantors”) as set forth in the Indenture (the Guarantors together with GATE, the “Prepetition Obligors”), (B) the aggregate principal amount of the Initial Notes Indebtedness is not less than \$625,000,000 plus all accrued and unpaid interest, plus all fees, costs, and expenses incurred in connection therewith, and all other obligations under the Initial Notes Documents, (C) all of the Initial Notes Indebtedness is unconditionally owing by the Prepetition Obligors to the Indenture Trustee and the Initial Noteholders, and (D) all claims in respect of the Initial Notes Indebtedness are not and shall not be subject to any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-

claims, recoupment, defenses, disallowance, impairment, or any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity and the Initial Notes Documents constitute the legal, valid, and binding obligations of the Prepetition Obligors and their respective estates, and are enforceable against each Prepetition Obligor and estate in accordance with the terms of the Initial Notes Documents;

(ii) the liens securing the Initial Notes Indebtedness (the “Existing Initial Liens”) (A) constitute valid, binding, enforceable, and perfected first priority liens on the collateral as described in the Initial Notes Documents (the “Prepetition Collateral”) that, prior to the entry of this Interim Order, were subject only to valid, perfected, binding, and enforceable Permitted Liens (as defined in the Initial Notes Documents) that were senior to the Existing Initial Liens and (B) are not, and shall not be, subject to avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, or any other challenges under the Bankruptcy Code or any other applicable foreign or domestic law or regulation by any person or entity;

(iii) (A) the Additional Notes were validly issued by GATE pursuant to the Indenture, guaranteed by the Guarantors as set forth in the Indenture, (B) the aggregate principal amount of the Additional Notes Indebtedness is not less than \$502,257,000 plus all accrued and unpaid interest, plus all fees, costs, and expenses incurred in connection therewith, and all other obligations under the Additional Notes Documents, (C) all of the Additional Notes Indebtedness is unconditionally

owing by the Prepetition Obligors to the Indenture Trustee and the Additional Noteholders, and (D) all claims in respect of the Additional Notes Indebtedness are not and shall not be subject to any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, recoupment, defenses, disallowance, impairment, or any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity and the Additional Notes Documents constitute the legal, valid, and binding obligations of the Prepetition Obligors and their respective estates, and are enforceable against each Prepetition Obligor and estate in accordance with the terms of the Additional Notes Documents;

(iv) the liens securing the Additional Notes Indebtedness (the “Existing Additional Liens” and together with the Existing Initial Liens, the “Existing Liens”) (A) constitute valid, binding, enforceable, and perfected first priority liens on the Prepetition Collateral that, prior to the entry of this Interim Order, were subject only to valid, perfected, binding, and enforceable Permitted Liens (as defined in the Additional Notes Documents) that were senior to the Existing Additional Liens and (B) are not, and shall not be, subject to avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, or any other challenges under the Bankruptcy Code or any other applicable foreign or domestic law or regulation by any person or entity;

(v) the Indenture Trustee and the Prepetition Noteholders are entitled, pursuant to sections 105, 361, and 363(e) of the Bankruptcy Code, to adequate protection of their interests in the Prepetition Collateral, including Cash Collateral, to the extent of any Diminution in Value thereof;

(vi) the Indenture Trustee and the Prepetition Noteholders are not control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to, or arising from the Prepetition Notes Documents;

(vii) there exist no claims or causes of action against any of the Prepetition Noteholders with respect to, in connection with, related to, or arising from the Initial Notes or the Additional Notes (collectively, the “Prepetition Notes”) that may be asserted by the Debtors or any other person or entity;

(viii) there were no other liens on or security interests in the Collateral except for the Existing Liens and, to the extent such liens are determined to be valid, perfected, binding, and enforceable, the Permitted Liens; and

(ix) as of the earlier of the entry of the Final Order and the Effective Date (as defined in the Prepackaged Plan (as defined below)) the Prepetition Obligors forever and irrevocably release, discharge, and acquit the former, current, or future Indenture Trustee and Prepetition Noteholders, their current and former affiliates, and each such entities’ and their current and former affiliates’ current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors,

managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, and predecessors in interest, each in their capacities as such (collectively, the “Releasees”), of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys’ fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description, including, without limitation, (i) any so-called “lender liability” or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action with respect to the validity, priority, perfection or avoidability of the liens or claims of the Indenture Trustee or the Prepetition Noteholders;

(x) the Debtors acknowledge the existence of the disputes subject to the N.Y. Litigation Proceedings (as defined in the Prepackaged Plan) (collectively, the “Disputes”). In the event the Effective Date (as defined in the Prepackaged Plan) of the *Debtors’ Joint Chapter 11 Plan of Reorganization*, dated as of November 20, 2017 (as amended, modified, or supplemented from time to time in accordance with the terms thereof, the “Prepackaged Plan”) occurs, the Disputes will be resolved by the settlement contained therein. Notwithstanding anything to the contrary in this

Interim Order, and solely in the event that the Effective Date (as defined in the Prepackaged Plan) has not yet occurred, then upon the earliest to occur of either (i) the Cash Collateral Termination Date (only if such date is prior to the Effective Date (as defined in the Prepackaged Plan)) and (ii) the termination of the Global Settlement, Forbearance, and Restructuring Support Agreement, dated as of November 2, 2017, by and among the Debtors and the other parties party thereto (the “Restructuring Support Agreement”) in accordance with its terms (such earliest date, the “Noteholder Reservation of Rights Date”), the Disputes may be litigated in an action brought by the Debtors, the Equity Parties (as defined in the Prepackaged Plan), one or more Initial Noteholders, one or more Additional Noteholders, or the Indenture Trustee in this Court or by the renewed prosecution of the N.Y. Litigation Proceedings (as defined in the Restructuring Support Agreement), and the stipulations made in this Interim Order shall not (after the occurrence of such Noteholder Reservation of Rights Date) be binding on any such party in such litigation or any other proceeding related to the Disputes, shall not be argued or deemed to be admissions in such litigation, and such parties’ rights are expressly preserved in any such litigation or action (the “Noteholder Reservation of Rights”).

F. Cash Collateral. For purposes of this Interim Order, the term “Cash Collateral” shall mean and include all “cash collateral,” as defined in section 363 of the Bankruptcy Code, in which the Indenture Trustee has, for the benefit of itself and the other secured parties pursuant to the Prepetition Notes, a lien, security interest or other interest (including, without limitation, any adequate protection liens or security interests) whether existing on the Petition Date, arising pursuant to this Interim Order, or otherwise. The Debtors require the use of Cash Collateral to

operate their businesses. Without the use of Cash Collateral, the Debtors will not be able to meet their cash requirements for working capital needs and would result in an immediate shutdown of the Debtors' businesses. The Prepetition Noteholders and the Indenture Trustee do not consent to the use of Cash Collateral except on the terms and for the purposes specified herein.

G. Protection. The Protection Obligations (as defined below) are sufficient to protect the interests of the Protection Parties in the collateral securing the Prepetition Obligations and no further adequate protection is required under sections 361 or 363, or any other provision of the Bankruptcy Code.

H. Good Faith. The terms of the use of the Cash Collateral pursuant to this Interim Order have been the subject of extensive negotiations conducted in good faith and at arm's length among the Debtors, the Indenture Trustee and the Prepetition Noteholders and, pursuant to Bankruptcy Code sections 105, 361 and 363, the Indenture Trustee and the Prepetition Noteholders are hereby found to be entities that have acted in "good faith" in connection with the negotiation and entry of this Interim Order, and each is entitled to the protection provided under Bankruptcy Code section 363(m).

I. Good Cause. The ability of the Debtors to continue to use Cash Collateral is vital to the Debtors, their estates, and creditors and other parties in interest. The liquidity to be provided through the use of the Cash Collateral will enable the Debtors to continue to operate their businesses in the ordinary course and preserve the value of their businesses. The Debtors' estates will be immediately and irreparably harmed if this Interim Order is not entered. Good cause has, therefore, been shown for the relief sought in the Motion.

J. Consideration. All of the Debtors will receive and have received fair consideration and reasonably equivalent value in exchange for the use of Cash Collateral, and all other financial accommodations provided under this Interim Order.

K. Consent. Prior to the Petition Date, holders of over 97% of the Initial Noteholders and over 98% of the Additional Noteholders became party to the Restructuring Support Agreement, which, *inter alia*, contemplates and requires entry of this Interim Order.

L. Immediate Entry of Interim Order. The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2). The permission granted herein to utilize Cash Collateral is necessary to avoid immediate and irreparable harm to the Debtors. This Court concludes that entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued flow of supplies and services to the Debtors necessary to sustain the operation of the Debtors' existing businesses and further enhance the Debtors' prospects for a successful restructuring. Based upon the foregoing findings, acknowledgements, and conclusions, and upon the record made before this Court at the Interim Hearing, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED:

1. Disposition. The Motion is granted on an interim basis and on the terms set forth herein. Any objections to the Motion that have not previously been withdrawn, waived, settled, or resolved and all reservations of rights included therein are hereby denied and overruled on their merits with prejudice.

2. Effectiveness. This Interim Order shall constitute findings of fact (subject to the terms set forth herein) and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9024 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

3. Authorization to Use Cash Collateral.

(a) Subject to the terms of this Interim Order, the Debtors are authorized to use Cash Collateral in which the Prepetition Noteholders and/or the Indenture Trustee (the “Protection Parties”) may have an interest. Any dispute in connection with the use of Cash Collateral shall be heard by the Court. Notwithstanding anything in this Interim Order to the contrary, the Debtors shall be immediately prohibited from using the Cash Collateral upon the Cash Collateral Termination Date.

(b) If the Effective Date (as defined in the Prepackaged Plan) does not occur before January 31, 2018 (the “Effective Date Condition”), all use of Cash Collateral by the Debtors shall be pursuant to a 13-week budget in form and substance acceptable to the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) (such an acceptable budget, the “13-Week Budget”). Subject to the occurrence of the Effective Date Condition, every four (4) weeks, by Thursday at 5:00 p.m. (prevailing Eastern Time), the Debtors shall deliver to the advisors for the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) an updated 13-week budget. Upon approval of such updated budget by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement), such budget shall become the new 13-Week Budget. Until such approval, the then-existing 13-Week Budget shall remain in place. Subject to the occurrence of the Effective Date Condition, each week, by Thursday at 5:00 p.m. (prevailing Eastern Time) the Debtors shall deliver to the advisors for the Required Consenting Noteholders (as defined in the Restructuring

Support Agreement) a variance report (a “Variance Report”) setting forth the Debtors’ actual cash flow for the preceding week compared to the 13-Week Budget. For purposes of this Interim Order, the Debtors shall ensure that at no time shall any of the following occur: (i) an unfavorable variance of 20% or more from the “Total Receipts” line item (on a consolidated basis) in the 13-Week Budget, tested every week on a cumulative rolling four (4) week basis (to begin on the fifth week); and (ii) an unfavorable variance by 15% or more from the “Total Operating Disbursements” (on a consolidated basis), tested every week on a cumulative rolling four (4) week basis (such cumulative rolling basis to begin on the fifth week) (the variances described in subparagraphs (i) and (ii), less any Carry Forward (as defined below), each, a “Non-Permitted Variance”) *provided, however*, that the Debtors are authorized to use Cash Collateral and pay expenses of the estates for weekly budgeted items not paid through any subsequent week within a four-week period thereafter (thus authorizing the Debtors to “carry forward” projected expenses for a limited period of time) (such budgeted amounts and actual disbursements carried forward, the “Carry Forwards”). Each proposed budget shall be of no force and effect unless and until it is approved by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) and until such approval is given, the prior 13-Week Budget shall remain in effect; provided that if a proposed budget has been neither approved nor disapproved within 2 weeks of its delivery, it shall be deemed a 13-Week Budget; provided further that if a proposed budget has not become a 13-Week Budget within 2 weeks of its delivery, the

Debtors may seek authorization of the Court to make such budget a 13-Week budget (and the Protection Parties may oppose such relief).

4. Carve-Out.

(a) As used in this Interim Order, the “Carve-Out” means the sum of: (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the U.S. Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$100,000 incurred by a trustee appointed in the Debtors’ cases under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the official committee of unsecured creditors (if any) appointed in the Chapter 11 Cases (the “Creditors’ Committee”) pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the Required Consenting Noteholders of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$1,000,000 incurred after the first business day following delivery by the Required Consenting Noteholders of the

Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve-Out Trigger Notice Cap”). For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the Required Consenting Noteholders to the Debtors, their lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Termination Event (as defined herein), stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(b) Carve-Out Reserves. On the day on which a Carve-Out Trigger Notice is given by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) to the Debtors, their lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee (if any), if any, (the “Termination Declaration Date”), the Debtors shall utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The Debtors shall deposit and hold such amounts in a segregated account in trust to pay such then unpaid Allowed Professional Fees (the “Pre-Carve-Out Trigger Notice Reserve”) prior to any and all other claims. The Debtors shall also deposit and hold cash in an amount equal to the Post-Carve-Out Trigger Notice Cap in a segregated account in trust to pay such Allowed Professional Fees benefiting from the Post-Carve-Out Trigger Notice Cap (the “Post-Carve-Out Trigger Notice Reserve” and, together with the Pre-Carve-Out Trigger Notice Reserve, the “Carve-Out

Reserves”) prior to any and all other claims. All funds in the Pre-Carve-Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve-Out set forth above (the “Pre-Carve-Out Amounts”), but not, for the avoidance of doubt, the Post-Carve-Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve-Out Trigger Notice Reserve has not been reduced to zero, to pay the Indenture Trustee for the benefit of the Prepetition Noteholders, unless the Prepetition Obligations have been indefeasibly paid in full, in cash, and all letters of credit have been cancelled, in which case any such excess shall be paid to the Debtors’ prepetition creditors in accordance with their rights and priorities as of the Petition Date. All funds in the Post-Carve-Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve-Out set forth above (the “Post-Carve-Out Amounts”), and then, to the extent the Post-Carve-Out Trigger Notice Reserve has not been reduced to zero, to pay the Indenture Trustee for the benefit of the Prepetition Noteholders, unless the Prepetition Obligations have been indefeasibly paid in full, in cash, in which case any such excess shall be paid to the Debtors’ prepetition secured creditors in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the Prepetition Notes Documents, this Interim Order, or the Final Order, if either of the Carve-Out Reserves is not funded in full in the amounts set forth herein, then, any excess funds in one of the Carve-Out Reserves following the payment of the Pre-Carve-Out Amounts and Post-Carve-Out Amounts, respectively, shall be used to fund the other Carve-Out Reserve, up to the applicable amount set forth herein, prior to

making any payments to the Indenture Trustee for the benefit of the Prepetition Noteholders or the Debtors' prepetition creditors, as applicable. Notwithstanding anything to the contrary in the Prepetition Notes Documents, this Interim Order, or the Final Order, following delivery of a Carve-Out Trigger Notice, the Indenture Trustee shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve-Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve-Out Reserves, with any excess paid to the Indenture Trustee for application in accordance with the Prepetition Note Documents. Further, notwithstanding anything to the contrary in the Final Order, (i) disbursements by the Debtors from the Carve-Out Reserves shall not constitute Loans (as defined in the Prepetition Notes Documents) or increase or reduce the Prepetition Obligations, (ii) the failure of the Carve-Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out, and (iii) in no way shall the 13-Week Budget, Carve-Out, Post-Carve-Out Trigger Notice Cap, Carve-Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary herein, the Final Order, or the Prepetition Notes Documents, the Carve-Out shall be senior to all liens and claims securing the Prepetition Collateral, any adequate protection liens, and any claim under section 507(b) provided under this Interim Order and/or the Final Order, and any and all other forms of adequate protection, liens, or claims securing the Prepetition Obligations.

(c) Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve-Out.

(d) Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve-Out on a dollar-for-dollar basis.

5. Protections for Initial Secured Parties. The Indenture Trustee (solely in its capacities as trustee and collateral agent for the Initial Notes) and the Initial Noteholders (together the “Initial Secured Parties”) are hereby granted the following protections (collectively, the “Initial Party Protection”), pursuant to sections 361, 507, and 363(e) of the Bankruptcy Code or otherwise, with respect to their prepetition security interests in the Prepetition Collateral for the consent of such Initial Secured Parties to the use of their Prepetition Collateral (including Cash Collateral) and as adequate protection for the diminution in the value (each such diminution, a “Diminution in Value”) of their Existing Liens, whether or not such Diminution in Value results from the sale, lease or use by the Debtors of the Prepetition Collateral (including, without limitation, Cash Collateral), the priming of the Existing Liens or the stay of enforcement of any prepetition security interest arising from section 362 of the Bankruptcy Code, or otherwise ((a) through (c) below shall be referred to collectively as the “Initial Protection Obligations”):

(a) Initial Protection Liens. The Indenture Trustee on behalf of the Initial Secured Parties, shall be granted, solely to the extent of any Diminution in Value, effective and perfected as of the date of this Interim Order and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements, valid, perfected, postpetition security

interests in and liens (together, the “Initial Protection Liens”) on all of the property, assets or interests in property or assets of each Debtor, each Debtor’s “estate” (as defined in the Bankruptcy Code), in each case of any kind or nature whatsoever, real or personal, tangible or intangible, and now existing or hereafter acquired or created, including, without limitation, all accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, general intangibles, payment intangibles, tax or other refunds, insurance proceeds, letters of credit, letter-of-credit rights, supporting obligations, machinery and equipment, real property, fixtures, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each subsidiary of such Debtor, all of the capital stock of all other entities that are not subsidiaries directly owned by such Debtor, money, investment property, deposit accounts, all commercial tort claims and other causes of action (including any and all actions arising under the Bankruptcy Code), Cash Collateral, and all cash and non-cash proceeds, rents, products, substitutions, accessions, and profits of any of the collateral described above (collectively, with respect to all such entities, the “Collateral”) as follows:

- i. a first priority, perfected security interest in, and lien, under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all of the Collateral of each Debtor and of each Debtor’s estate that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens;
- ii. a junior lien, under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all of the Collateral of each Debtor and of each Debtor’s estate that is, as of the Petition Date subject to valid, perfected, and non-avoidable liens in favor of third parties except as set forth in subparagraph (iii) below; and

- iii. a first priority, perfected priming security interest in and lien under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all Collateral that also constitutes Prepetition Collateral, in all cases senior to the Existing Liens as well as all other liens and obligations secured by the Prepetition Collateral on a *pari passu* or junior basis to the Existing Liens.

(b) Administrative Expense Claim. The Indenture Trustee on behalf of the Initial Secured Parties, shall be granted, for the reasons set forth above in this paragraph 5, solely to the extent of any Diminution in Value, subject to the Carve-Out, a superpriority administrative expense claim (the “Initial Notes Superpriority Claim”) pursuant to section 507(b) of the Bankruptcy Code, having priority over any and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113, and 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof. Except as expressly set forth herein, no other superpriority claims shall be granted or allowed in these Chapter 11 Cases. The Initial Notes Superpriority Claim shall be waived upon the occurrence of the Effective Date (as defined in the Prepackaged Plan).

(c) As further compensation for the consensual use of the Prepetition Collateral (including Cash Collateral) by the Debtors for the reasons set forth above in this paragraph 5, and in accordance with sections 361 and 363 of the Bankruptcy Code and the Debtors’ obligations under the Restructuring Support Agreement, the

Indenture Trustee or the respective professional identified below shall receive from the Debtors current cash payments of all reasonable and documented fees and disbursements (whether incurred before or subsequent to the Petition Date) of (a) professionals retained by the Indenture Trustee and (b) professionals retained by the Milbank Initial Noteholder Ad Hoc Group (as defined in the Prepackaged Plan) or the Dechert Initial Noteholder Ad Hoc Group (as defined in the Prepackaged Plan), including, without limitation (i) Milbank, Tweed, Hadley & McCloy LLP, (ii) Drew & Napier LLC, (iii) PJT Partners LLC, (iv) Lowenstein Sandler LLP, (v) Dechert LLP, (vi) Brown Rudnick LLP and (iv) any local or foreign counsel (including those advising on security or collateral matters), in each case promptly upon receipt of summary form invoices and without the need for such professional to file any fee statement or application with the Bankruptcy Court or provide detailed time entries to the Debtors or any other party.

(d) Reservation of Rights. Notwithstanding any other provision hereof to the contrary, the grant of Initial Protection Obligations to the Initial Secured Parties pursuant hereto is without prejudice to the right of the Initial Secured Parties to seek different or additional adequate protection, including without limitation the current payment of post-petition interest (at the applicable default rate) and to seek payments under section 506(b) of the Bankruptcy Code when this Interim Order or the Final Order, as applicable, is no longer in effect. Except as expressly provided herein, nothing contained in this Interim Order (including without limitation, the authorization to use any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to the Initial Secured Parties. Nothing in this

Interim Order shall constitute an admission that the Initial Secured Parties are not entitled to payment under section 506(b) of the Bankruptcy Code.

6. Protections for Additional Secured Parties. The Indenture Trustee (solely in its capacities as trustee and collateral agent for the Additional Noteholders) and the Additional Noteholders (together the “Prepetition Additional Secured Parties”) are hereby granted the following protections (collectively, the “Prepetition Additional Party Protection”), pursuant to sections 361, 507, and 363(e) of the Bankruptcy Code or otherwise, with respect to their prepetition security interests in the Prepetition Collateral for the consent of such Prepetition Additional Secured Parties to the use of their Prepetition Collateral (including Cash Collateral) and as adequate protection for the Diminution in Value of their Existing Liens, whether or not such Diminution in Value results from the sale, lease or use by the Debtors of the Prepetition Collateral (including, without limitation, Cash Collateral), the priming of the Existing Liens or the stay of enforcement of any prepetition security interest arising from section 362 of the Bankruptcy Code, or otherwise ((a) through (c) below shall be referred to collectively as the “Additional Protection Obligations” and together with the Initial Adequate Protection Obligations, the “Protection Obligations”):

(a) Additional Protection Liens. The Indenture Trustee on behalf of the Additional Noteholders, shall be granted, solely to the extent of any Diminution in Value, effective and perfected as of the date of this Interim Order and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements, valid, perfected, postpetition security interests in and liens on all of the Collateral of the Debtors and their estates

(together, the “Additional Protection Liens” and together with the Initial Protection Liens, the “Protection Liens”) as follows:

- i. first priority, perfected security interest in, and lien, under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all of the Collateral of each Debtor and of each Debtor’s estate that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens;
- ii. a junior lien, under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all of the Collateral of each Debtor and of each Debtor’s estate that is, as of the Petition Date subject to valid, perfected, and non-avoidable liens in favor of third parties except as set forth in subparagraph (iii) below; and
- iii. a first priority, perfected priming security interest in and lien under sections 361(2) and 363(c)(2) of the Bankruptcy Code upon all Collateral that also constitutes Prepetition Collateral, in all cases senior to the Existing Liens as well as all other liens and obligations secured by the Prepetition Collateral on a *pari passu* or junior basis to the Existing Liens.

(b) Administrative Expense Claim. The Indenture Trustee on behalf of the Prepetition Additional Secured Parties, shall be granted, for the reasons set forth above in this paragraph 6, solely to the extent of any Diminution in Value, subject to the Carve-Out, a superpriority administrative expense claim (the “Additional Notes Superpriority Claim” and together with the Initial Notes Superpriority Claim, the “Superpriority Claims”) pursuant to section 507(b) of the Bankruptcy Code, having priority over any and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113, and 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which

allowed claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof. Except as expressly set forth herein, no other superpriority claims shall be granted or allowed in these Chapter 11 Cases. The Additional Notes Superpriority Claim shall be waived upon the occurrence of the Effective Date (as defined in the Prepackaged Plan).

(c) As further compensation for the consensual use of the Prepetition Collateral (including Cash Collateral) by the Debtors for the reasons set forth above in this paragraph 6, and in accordance with sections 361 and 363 of the Bankruptcy Code and the Debtors' obligations under the Restructuring Support Agreement, the Indenture Trustee or the respective professional identified below shall receive from the Debtors current cash payments of all reasonable and documented fees and disbursements (whether incurred before or subsequent to the Petition Date) of (a) professionals retained by the Indenture Trustee and (b) professionals retained by the Additional Noteholder Ad Hoc Group (as defined in the Prepackaged Plan), including, without limitation (i) Ropes & Gray LLP, (ii) Houlihan Lokey, and (iii) any local or foreign counsel (including those advising on security or collateral matters), in each case promptly upon receipt of summary form invoices and without the need for such professional to file any fee statement or application with the Bankruptcy Court or provide detailed time entries to the Debtors or any other party.

(d) Reservation of Rights. Notwithstanding any other provision hereof to the contrary, the grant of Additional Protection Obligations to the Additional Secured Parties pursuant hereto is without prejudice to the right of the Prepetition Additional Secured Parties to seek different or additional adequate protection,

including without limitation the current payment of post-petition interest (at the applicable default rate) and to seek payments under section 506(b) of the Bankruptcy Code when this Interim Order or the Final Order, as applicable, is no longer in effect. Except as expressly provided herein, nothing contained in this Interim Order (including without limitation, the authorization to use any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to the Prepetition Additional Secured Parties. Nothing in this Interim Order shall constitute an admission that the Prepetition Additional Secured Parties are not entitled to payment under section 506(b) of the Bankruptcy Code.

7. Additional Provisions Regarding Protection Obligations.

(a) The Protection Liens shall cover all property and assets of the Debtors and their estates (now or hereafter acquired and all proceeds thereof), including property or assets that do not secure the Prepetition Obligations, except as otherwise agreed to by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement).

(b) Except as provided in this Interim Order (including paragraph 7(f), the Protection Liens shall not at any time be (i) made subject or subordinated to, or made *pari passu* with any other lien, security interest or claim existing as of the Petition Date, or created under sections 363 or 364(d) of the Bankruptcy Code or otherwise or (ii) subject to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

(c) Any provision of any lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other

instrument or agreement that requires the consent or approval of one or more landlords, licensors, or other parties, or requires the payment of any fees or obligations to any governmental entity, non-governmental entity or any other person, in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other collateral, shall have no force or effect with respect to the transactions granting the Indenture Trustee for the benefit of the Protection Parties, a priority security interest in such fee, leasehold or other interest or other collateral or the proceeds of any assignment, sale or other transfer thereof, by any of the Debtors.

(d) Unless expressly provided otherwise herein, the Protection Liens, Superpriority Claims, and other rights, benefits, and remedies granted under this Interim Order to the Protection Parties, shall continue in these Chapter 11 Cases, in any superseding case or cases under the Bankruptcy Code (including without limitation any case for any Obligor under chapter 7 of the Bankruptcy Code) (a “Superseding Case”), and following any dismissal of the Chapter 11 Cases, and such liens and claims shall maintain their priority as provided in this Interim Order until all Protection Obligations been indefeasibly paid in full in cash and completely satisfied.

(e) All reasonable and documented fees paid and payable, and costs and/or expenses reimbursed or reimbursable by the Debtors to the Protection Parties are hereby approved. The Debtors are hereby authorized and directed to promptly pay all such reasonable and documented fees, costs, and out-of-pocket expenses on demand, without the necessity of any further application with the Court for approval

or payment of such fees, costs or expenses. Notwithstanding anything to the contrary herein, the reasonable and documented fees, costs and out-of-pocket expenses of the Protection Parties, whether incurred prior to or after the Petition Date, shall be deemed fully earned, non-refundable, irrevocable, and non-avoidable as of the date of this Interim Order. All unpaid fees, costs, and expenses shall be included and constitute part of the Superpriority Claims and be secured by the Protection Liens.

(f) Notwithstanding anything in paragraphs 5 or 6 to the contrary: (i) if no Noteholder Reservation of Rights Date has occurred, (a) the Initial Protection Liens and the Additional Protection Liens shall be *pari passu* and senior to the Existing Initial Liens and the Existing Additional Liens and (b) the Initial Superpriority Claim and the Additional Superpriority Claim shall be *pari passu*; and (ii) if the Noteholder Reservation of Rights Date has occurred, (x) this Interim Order shall not determine the relative priorities of the Initial Protection Liens, the Additional Protection Liens, the Existing Initial Liens, the Existing Additional Liens, the Initial Superpriority Claims, the Additional Superpriority Claims, the Initial Notes Claims, or the Additional Notes Claims and (y) one or more Initial Noteholder, one or more Additional Noteholder, or the Indenture Trustee may seek a determination of this Court (or any other court with appropriate jurisdiction, including, without limitation the court in the N.Y. Litigation Proceedings) as to the relative priority of such liens and claims.

8. Perfection of Protection Liens.

(a) The Indenture Trustee is hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder, in each case without the necessity to pay any mortgage recording fee or similar fee or tax. Whether or not the Indenture Trustee on behalf of the Protection Parties shall, in its sole discretion, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to it hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge dispute or subordination (except as specified herein), at the time and on the date of entry of this Interim Order. The Debtors shall, if requested, execute and deliver to the Indenture Trustee all such agreements, financing statements, instruments and other documents as the Indenture Trustee may reasonably request to more fully evidence, confirm, validate, perfect, preserve, and enforce the Protection Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(b) A certified copy of this Interim Order may, in the discretion of Indenture Trustee, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar

instruments, and all filing offices are hereby directed to accept such certified copy of this Interim Order for filing and recording.

9. Termination Events.

(a) The occurrence and continuance of any of the following events, unless waived by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) shall constitute a termination event with respect to the Debtors' right to use the Cash Collateral pursuant to this Interim Order (the events set forth in clauses (i) through (xv) below are collectively referred to herein as the "Termination Events"):

- i. the Final Order has not been entered by this Court within forty-five (45) days after the Petition Date, unless such period has been extended by mutual agreement of the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) and the Debtors;
- ii. failure of the Debtors to make any payment required under this Interim Order after such payment becomes due under the terms hereof;
- iii. failure of the Debtors to comply in any material respect with any covenant, agreement, or provision of this Interim Order;
- iv. the Debtors shall create, incur, or suffer to exist any postpetition liens or security interests other than: (i) those granted pursuant to this Interim Order; (ii) those imposed by law for taxes that are not yet due or are being contested in good faith by appropriate proceedings; (iii) carriers', mechanics', operator's, warehousemen's, materialmen's, landlord's, repairmen's or other similar liens arising in the ordinary course of business; (iv) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation or regulations; (v) deposits to secure the payment of any post-petition statutory obligations, performance bonds, trade contracts, leases, surety and appeal bonds, the performance of bids and other obligations of a like nature incurred in the ordinary course of business; and (vi) any other liens or security interests that the Debtors are permitted to incur under the Prepetition Notes

Documents (including Permitted Liens (as defined in the Prepetition Notes Documents));

- v. an order is entered reversing, amending, supplementing, staying, vacating or otherwise modifying this Interim Order without the consent of the Required Consenting Noteholders (as defined in the Restructuring Support Agreement);
- vi. the Debtors shall create, incur, or suffer any other claim which is *pari passu* with or senior to the Superpriority Claims;
- vii. this Court (or any court of competent jurisdiction) enters an order dismissing any of the Cases;
- viii. this Court (or any court of competent jurisdiction) enters an order converting any of the Cases to a case under chapter 7 of the Bankruptcy Code;
- ix. this Court (or any court of competent jurisdiction) enters an order appointing a chapter 11 trustee, responsible officer, or any examiner with enlarged powers relating to the operation of the businesses in the Cases;
- x. a filing by any Debtor of any motion, pleading, application or adversary proceeding challenging the validity, enforceability, perfection or priority of the liens securing the Prepetition Obligations or asserting any other cause of action against and/or with respect to the Prepetition Notes Documents or the Prepetition Collateral securing the Prepetition Obligations (or if any Debtor supports any such motion, pleading, application or adversary proceeding commenced by any third party);
- xi. any Debtor uses Cash Collateral to fund any material payments in respect of prepetition claims other than (i) as permitted under this Interim Order (ii) in accordance with, and to the extent authorized by, a “first day” or “second day” order that is consistent with the draft of such order provided to the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) prior to the Petition Date, or (iii) as otherwise expressly contemplated by a 13-Week Budget or an order consented to by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement);
- xii. this Court (or any court of competent jurisdiction) enters an order terminating the use of Cash Collateral;
- xiii. the termination of the Restructuring Support Agreement; or

xiv. any Variance Report delivered hereunder shows a Non-Permitted Variance.

(b) Remedies upon the Cash Collateral Termination Date. The Debtors shall promptly provide notice to each party to the Restructuring Support Agreement (with a copy to counsel for the U.S. Trustee) of the occurrence of any Termination Event. The Debtors' right to use Cash Collateral pursuant to this Interim Order shall terminate on the date that is the seventh (7th) day following the delivery of a written notice (any such notice, a "Cash Collateral Termination Notice," any such seven-day period of time following delivery of a Cash Collateral Termination Notice, the "Default Notice Period," and the date following the Default Notice Period, the "Cash Collateral Termination Date") by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) to the Debtors and the counsel for the U.S. Trustee of the occurrence of any Termination Event unless such occurrence is cured by the Debtors prior to the expiration of the Default Notice Period with respect to such clause or such occurrence is waived by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) in their reasonable discretion, *provided further* that, (X) during the Default Notice Period, the Debtors shall be entitled to continue to use the Cash Collateral in accordance with the terms of this Interim Order and (Y) nothing contained herein shall prohibit or restrict the Debtors from seeking further relief from this Court regarding the use of Cash Collateral following the delivery of any Cash Collateral Termination Notice. Upon the Cash Collateral Termination Date: (a) the Debtors' right to use Cash Collateral (other than the Carve-Out in accordance with paragraph 4 hereof) shall terminate, (b) the Protection Obligations,

if any, shall become immediately due and payable, (c) the Prepetition Notes Indenture Trustee may, five (5) days after occurrence of the Cash Collateral Termination Date and in each case subject to the Carve-Out, exercise the rights and remedies available under the Prepetition Notes Documents, this Interim Order or applicable law, including without limitation, foreclosing upon and selling all or a portion of the Prepetition Collateral or Collateral in order to collect the Protection Obligations, provided that the Indenture Trustee shall retain any proceeds so collected pending entry of a final non-appealable order of this Court, or another court of competent jurisdiction, establishing the relative priorities of the Protection Parties in such proceeds; and (d) the parties to the N.Y. Litigation Proceedings may resume prosecuting such proceedings with respect to all parties. The automatic stay under Bankruptcy Code section 362 is hereby deemed modified and vacated to the extent necessary to permit such actions. In no event shall any of the Protection Parties be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition Collateral, the Collateral, or otherwise. Notwithstanding the occurrence of the Cash Collateral Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Protection Parties under this Interim Order shall, subject to the Noteholder Reservation of Rights and the provisions of paragraph 7 of this Interim Order, survive the Cash Collateral Termination Date.

10. Subsequent Reversal or Modification. If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, that action will not affect (i) the validity of any obligation, indebtedness or liability incurred hereunder by any of the Debtors to the

Indenture Trustee or the Prepetition Noteholders prior to the date of receipt by the Indenture Trustee and counsel to the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) of written notice of the effective date of such action or (ii) the validity and enforceability of any lien, claim, or priority authorized or created under this Interim Order. Notwithstanding any such reversal, stay, modification, or vacatur, any postpetition indebtedness, obligation or liability incurred by any of the Debtors to the Indenture Trustee or the Prepetition Noteholders prior to written notice to the Indenture Trustee and counsel to the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) of the effective date of such action, shall be governed in all respects by the original provisions of this Interim Order), and the Indenture Trustee and the Prepetition Noteholders shall be entitled to all the rights, remedies, privileges, and benefits granted herein with respect to all such indebtedness, obligations or liability, subject in each case to the Noteholder Reservation of Rights.

11. Restriction on Use of Funds. Notwithstanding anything herein to the contrary, no Collateral, proceeds thereof, Cash Collateral, Prepetition Collateral, proceeds thereof, or any portion of the Carve-Out may be used by any of the Debtors, their estates, any affiliate of the Debtors, any Creditors' Committee, any trustee or examiner appointed in these Chapter 11 Cases or any chapter 7 trustee, or any other person, party or entity to, in any jurisdiction anywhere in the world, directly or indirectly (a) request authorization to obtain postpetition financing (whether equity or debt) or other financial accommodations pursuant to section 364(c) or (d) of Bankruptcy Code, or otherwise; (b) assert, join, commence, support, investigate, or prosecute any action for any claim, counter-claim, action, cause of action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief against, or adverse to the interests of, in any capacity, the Releasees, with respect to any transaction,

occurrence, omission, or action, including, without limitation, (i) any action arising under the Bankruptcy Code; (ii) any so-called “lender liability” claims and causes of action; (iii) any action with respect to the validity and extent of the Protection Obligations or the Prepetition Obligations, or the validity, extent, perfection, and priority of the Existing Initial Liens, the Existing Additional Liens or the Protection Liens; (iv) any action seeking to invalidate, set aside, avoid, reduce, set off, offset, recharacterize, subordinate (whether equitable, contractual, or otherwise), recoup against, disallow, impair, raise any defenses, cross-claims, or counter claims or raise any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation against or with respect to the Existing Initial Liens, the Existing Additional Liens, the Prepetition Obligations, the Initial Notes Superpriority Claims, the Additional Notes Superpriority Claims, or the Protection Liens in whole or in part; (v) appeal or otherwise challenge this Interim Order, the Final Order, or any of the transactions contemplated herein or therein; and/or (vi) any action that has the effect of preventing, hindering, or delaying (whether directly or indirectly) the Protection Parties in respect of their liens and security interests in the Collateral or the Prepetition Collateral or any of their rights, powers, or benefits hereunder or in the Prepetition Notes Documents anywhere in the world; and/or (c) pay any claim of a prepetition creditor except in accordance with the 13-Week Budgets; provided, however, that the Creditors’ Committee, if any, may use (in accordance with the 13-Week Budget) up to \$60,000 (the “Investigation Fund”) to investigate the liens and claims of and claims against the Protection Parties, but may not use the Investigation Fund to initiate, assert, join, commence, support, or prosecute any actions or discovery with respect thereto. Any claim incurred in connection with any activities described in this paragraph 11 shall not constitute an allowed administrative expense claim for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

12. Claims Stipulation Investigation Period Reservation of Rights. Except as expressly set forth below in the immediately following sentence and subject in all cases to the Noteholder Reservation of Rights, the stipulations set forth in paragraph E hereof (together the “Claims Stipulation”) and all of the terms and conditions hereof shall be immediately and irrevocably binding on all persons and entities. Notwithstanding anything herein to the contrary, until the earlier of (a) the effective date under a confirmed plan of reorganization and (b) the day that is 60 days from the date of the entry of the Final Order (as such date may be extended by the Required Consenting Noteholders (as defined in the Restructuring Support Agreement) or by the Court for cause shown, the “Investigation Termination Date”) ⁴, the Creditors’ Committee, if any, shall be entitled to investigate the accuracy of the Claims Stipulation (but solely with respect to the Debtors and their estates) against the Protection Parties; ⁵ provided, however, that nothing contained in this paragraph shall alter the restrictions contained in paragraph 11 hereof. Any assertion of claims or causes of action of the Debtors or their estates against any of the Protection Parties must be made by commencing an adversary proceeding on or before the Investigation Termination Date, and each Claim Stipulation shall remain binding and in full force and effect until a final order has been entered invalidating such Claim Stipulation, and following the entry of such a final order, such Claim Stipulation shall be invalidated only to the extent provided for in such final order. If no such action is filed on or before the Investigation Termination Date, all persons and entities shall be forever barred from bringing or taking such action and the Claims Stipulations shall be permanently and irrevocably binding upon all persons and entities. Any Claim Stipulation that is

⁴ If the Final Order is not entered, the Investigation Termination Date shall be the sixtieth (60th) day from the entry of this Interim Order.

⁵ Nothing herein shall be interpreted as conferring on any person or entity standing to pursue any claim, cause of action or take any action on behalf of the Debtors or their respective estates.

not expressly challenged in an adversary proceeding before the Investigation Termination Date shall remain in full force and effect and shall permanently and irrevocably bind all entities and persons, despite the filing of any other adversary proceeding in accordance with this paragraph.

13. Prohibition on Additional Liens. Except as provided in this Interim Order, the Debtors shall be enjoined and prohibited from, at any time during the Chapter 11 Cases, granting liens on the Collateral or any portion thereof to any other entities, pursuant to section 364(d) of the Bankruptcy Code or otherwise, which liens are senior to, *pari passu* with or junior to the Protection Liens, or the Existing Liens, except in accordance with this Interim Order.

14. No Waiver. This Interim Order shall not be construed in any way as a waiver or relinquishment of any rights that the Protection Parties may have to bring or be heard on any matter brought before this Court.

15. [Reserved].

16. Priority of Terms. To the extent of any conflict between or among (a) the express terms or provisions of any of the Motion, any other order of this Court, or any other agreements, on the one hand, and (b) the terms and provisions of this Interim Order, on the other hand, unless such term or provision herein is phrased in terms of “as defined in” or “as more fully described in” such other document, the terms and provisions of this Interim Order shall govern.

17. No Third Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third party, any creditor or any direct, indirect or incidental beneficiary.

18. Headings. Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Interim Order.

19. Final Hearing Date. Unless the Effective Date (as defined in the Prepackaged Plan) has occurred, the Final Hearing to consider the entry of the Final Order approving the relief sought in the Motion shall be held on January __, 2018 at [____] [a.m./p.m.] before the Honorable Robert D. Drain at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, NY 10601.

20. No Consent. Subject to entry of the Final Order, no action (or inaction) of the Protection Parties shall be deemed to be or shall be considered as evidence of any alleged consent by the Protection Parties to a charge against the Collateral (or a limitation of any of the Existing Liens, or the Protection Liens) pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code. Subject to entry of the Final Order, the Protection Parties shall not be subject in any way whatsoever to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral.

21. Waiver. Subject to entry of the Final Order, no person or entity shall be entitled, directly or indirectly, to (a) except as expressly provided by paragraph 4 of this Interim Order, charge or recover from the Carve-Out or the Collateral, whether by operation of section 105 or 506(c) of the Bankruptcy Code or otherwise, (b) direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of Collateral or Prepetition Collateral after a Termination Event, or (c) seek to apply the “equities of the case” exception to section 552(b) of the Bankruptcy Code.

22. Adequate Notice. The notice given by the Debtors of the Interim Hearing was given in accordance with Bankruptcy Rules 2002 and 4001(b)(3), and the Local Bankruptcy Rules, and was adequate and sufficient. Under the circumstances, no further notice of the request for the relief granted at the Interim Hearing is required. The Debtors shall promptly mail copies of this Interim

Order and notice of the Final Hearing to the Notice Parties, any known entity effected by the terms of the Final Order, and any other entity requesting notice after the entry of this Interim Order. Any objection to the relief sought at the Final Hearing shall be made in writing setting forth with particularity the grounds thereof, and filed with the Court and served so as to be actually received no later than seven (7) days prior to the Final Hearing by the following: (i) the Debtors, Global A&T Electronics Ltd., 11 Maritime Avenue, 12th Floor, White Plains, NY 10606, Attn: Michael Foreman; (ii) proposed counsel to the Debtors, Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, IL 60654, Attn: Patrick J. Nash, P.C. (patrick.nash@kirkland.com), Greg F. Pesce (gregory.pesce@kirkland.com), and Laura Krucks (laura.krucks@kirkland.com); (iii) counsel to the Milbank Initial Ad Hoc Noteholder Group, Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY 10005, Attn: Dennis F. Dunne (ddunne@milbank.com), Abhilash M. Raval (araval@milbank.com), Brian Kinney (bkinney@milbank.com), and Michael Price (mprice@milbank.com); (iv) counsel to the Dechert Initial Noteholder Ad Hoc Group, Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036, Attn: Michael J. Sage (michael.sage@dechert.com), Brian E. Greer (brian.greer@dechert.com), and Janet M. Doherty (janet.doherty@dechert.com); (v) counsel to the Additional Noteholder Ad Hoc Group, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036-8704, Attn: Gregg Galardi (Gregg.galardi@ropesgray.com), Stephen Moeller-Sally (ssally@ropesgray.com), Daniel Anderson (daniel.anderson@ropesgray.com); (vi) counsel to TPG, Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, NY 10006, Attn: James Bromley (jbromley@cgsh.com) and Benjamin Beller (bbeller@cgsh.com); (vii) counsel to Affinity, Baker & McKenzie LLP, 300 East Randolph Street, Chicago, IL 60601, Attn: David Heroy (david.heroy@bakermckenzie.com); counsel to the Indenture Trustee; (viii) the Office of the

United States Trustee for Southern District of New York, Region 2, 201 Varick Street, Room 1006, New York, NY 10014, Attn: Susan A. Arbeit (susan.arbeit@usdoj.gov); and (ix) any party that has requested notice pursuant to Bankruptcy Rule 2002, and shall be filed with the Clerk of the Court.

23. Binding Effect; Successors and Assigns. Except as expressly provided herein, the provisions of this Interim Order, including all findings herein, shall be binding upon all parties-in-interest in these Chapter 11 Cases, including, without limitation, the Indenture Trustee, the Protection Parties, any Creditors' Committee or examiner appointed in these Chapter 11 Cases, and the Debtors, and their respective successors and assigns (including any trustee or fiduciary hereinafter appointed as a legal representative of any Debtor or with respect to the property of the estate of any Debtor) whether in these Chapter 11 Cases, in any Successor Cases, or upon any dismissal of any such chapter 11 or chapter 7 case and shall inure to the benefit of the Protection Parties and their respective successors and assigns, provided, however, that the Protection Parties to permit the use of Cash Collateral shall terminate upon the appointment of any chapter 7 or 11 trustee, examiner with expanded powers, or similar responsible person appointed for the estates of the Debtors. In determining to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order, the Protection Parties shall not be deemed to be in control of the operations of the Debtors, nor shall they owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates. Each stipulation, admission and agreement contained in this Interim Order shall also be binding upon all other parties in interest, including, any Creditors' Committee, under all circumstances and for all purposes. To the extent UGS Europe, LLC (the "Swiss Subsidiary") is not a Debtor in the Chapter 11 Cases, this Interim Order shall not limit or be deemed to limit the ability of the Debtors to transfer Cash Collateral to

the Swiss Subsidiary, or engage in intercompany transactions with the Swiss Subsidiary, in the ordinary course of business on a postpetition basis, consistent with prepetition practices; *provided* that the Debtors shall maintain accurate and detailed records of all such transfers and transactions.

24. Retention of Jurisdiction. This Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

White Plains, New York
Dated: _____, 2017

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE