

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

TOPS HOLDING II CORPORATION, *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 18-22279 (RDD)
)

) (Joint Administration Requested)
)

**INTERIM ORDER (I) AUTHORIZING POSTPETITION FINANCING,
(II) AUTHORIZING USE OF CASH COLLATERAL, (III) GRANTING LIENS AND
PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS,
(IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

Upon the motion, dated February 21, 2018 (the “DIP Motion”) of Tops Markets, LLC and Tops PT, LLC (together, the “Borrowers”), and Tops Holding LLC (“Tops Holding”), Tops Holding II Corporation, Tops Markets II Corporation (“Tops Markets II”), Tops MBO Corporation, TM1, LLC, Tops Gift Card Company, LLC, and Erie Logistics LLC (collectively, the “Guarantors”), each as a debtor and debtor in possession (collectively, the “Debtors”) in the above-captioned Chapter 11 cases (collectively, the “Cases”), seeking entry of an interim order (as modified, this “Interim Order”) and a final order pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), and 507 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 4001-2 of the Local Rules for the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Tops Holding II Corporation (3709), Tops MBO Corporation (4249), Tops Holding LLC (2536), Tops Markets, LLC (2810), Tops Markets II Corporation (6401), Tops PT, LLC (2050), Tops Gift Card Company, LLC (6105), Erie Logistics LLC (9381), and TM1, LLC (2409).

United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), *inter alia*:

(i) authorizing the Debtors to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of up to \$140,000,000 (the “DIP ABL Facility,” which will include a \$75,000,000 sublimit for the issuance of letters of credit (all amounts extended under the DIP ABL Facility, the “DIP ABL Loans”), pursuant to the terms and conditions of that certain *Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement*, (as the same may be amended, restated, supplemented, waived, or otherwise modified from time to time, including as provided at the Interim Hearing (defined below), the “DIP ABL Agreement”), by and among the Borrowers, the Guarantors, and Bank of America, N.A., as administrative agent and collateral agent (in such capacity, the “DIP ABL Agent”), for and on behalf of itself and the other lenders party thereto (collectively, including the DIP ABL Agent, the “DIP ABL Lenders”), substantially in the form of **Exhibit C**, attached to the DIP Motion;²

(ii) authorizing the Debtors to execute and deliver the DIP ABL Agreement and any other agreements, instruments, pledge agreements, guarantees, control agreements and other Loan Documents (as defined in the DIP ABL Agreement) and documents related thereto (including any security agreements, intellectual property security agreements, control agreements, or notes) (as amended, restated, supplemented, waived, and/or modified from time to time, including as provided at the Interim Hearing, and collectively, with the DIP ABL

² Upon entry of this Interim Order, all Prepetition ABL Obligations (other than the Prepetition ABL FILO Loan) (each as defined herein), shall be refinanced by the DIP ABL Facility and shall constitute DIP ABL Obligations hereunder. The Prepetition ABL FILO Loan and all accrued interest, expenses, fees and other sums payable in respect thereof shall remain outstanding until entry of the Final Order.

Agreement, the “DIP ABL Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP ABL Documents;

(iii) granting the DIP ABL Facility and all obligations owing thereunder and under, or secured by, the DIP ABL Documents to the DIP ABL Agent and the DIP ABL Lenders (collectively, and including all “Obligations” as described in the DIP ABL Agreement, the “DIP ABL Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases (as defined herein);

(iv) authorizing the Debtors to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of up to \$125,000,000 (the “DIP Term Loan Facility,” and the loans thereunder, the “DIP Term Loans,” and the DIP Term Loan Facility together with the DIP ABL Facility, the “DIP Facilities”), consisting of (a) \$62,500,000, which shall be made available to the Debtors immediately following entry of this Interim Order, and (b) \$62,500,000, which shall be made available to the Debtors immediately following entry of the Final Order, pursuant to the terms and conditions of that certain *Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement* (as the same may be amended, restated, supplemented, or otherwise modified from time to time, including as provided at the Interim Hearing, the “DIP Term Loan Agreement,” and together with the DIP ABL Agreement, the “DIP Agreements”), by and among Tops Market, LLC, the Guarantors, and Cortland Capital Market Services LLC (in its separate capacities as administrative agent and collateral agent, the “DIP Term Loan Agent,” and, together with the DIP ABL Agent, the “DIP Agents”) for and on behalf of itself and the other lenders party thereto (collectively, including the DIP Term Loan Agent, the “DIP Term Loan Lenders,” and, together with the DIP ABL Lenders, the “DIP Lenders”), substantially in the form of **Exhibit D**, attached to the DIP Motion;

(v) authorizing the Debtors to execute and deliver the DIP Term Loan Agreement and any other agreements, instruments, pledge agreements, guarantees, control agreements, and other Loan Documents (as defined in the DIP Term Loan Agreement) and documents related thereto (as amended, restated, supplemented, waived, and/or modified from time to time, including as provided at the Interim Hearing, collectively, with the DIP Term Loan Agreement, the “DIP Term Loan Documents,” and together with the DIP ABL Documents, including the Budget and the Intercreditor Acknowledgment (each as defined herein), the “DIP Documents”), and to perform such other acts as may be necessary or desirable in connection with the DIP Term Loan Documents;

(vi) granting the DIP Term Loan Facility and all obligations owing thereunder and under, or secured by, the DIP Term Loan Documents to the DIP Term Loan Agent and DIP Term Loan Lenders (collectively, and including all “Obligations” as described in the DIP Term Loan Agreement, the “DIP Term Loan Obligations,” and together with the DIP ABL Obligations, the “DIP Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases (as defined herein);

(vii) granting to each of (a) the DIP ABL Agent, for the benefit of itself and the DIP ABL Lenders and each other Credit Party (as defined in the DIP ABL Agreement) under the applicable DIP Documents and (b) the DIP Term Loan Agent, for the benefit of itself and the DIP Term Loan Lenders and each other Secured Party (as defined in the DIP Term Loan Agreement) under the applicable DIP Documents, automatically perfected security interests in and liens on all of the DIP Collateral (as defined herein), including all property constituting “cash collateral” as defined in section 363(a) of the Bankruptcy Code (“Cash Collateral”), which liens shall be subject to the priorities set forth herein;

(viii) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due and payable, including letter of credit fees (including issuance and other related charges), continuing commitment fees, closing fees, audit fees, appraisal fees, valuation fees, liquidator fees, structuring fees, administrative agent's fees, collateral agent's fees, and the reasonable fees and disbursements of the DIP Agents' and the DIP Lender Group's (as defined herein) respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the DIP Documents;

(ix) authorizing the Debtors to use the Prepetition Collateral (as defined herein), including the Cash Collateral of the Prepetition ABL Parties under the Prepetition ABL Documents and the Prepetition Secured Notes Parties under the Prepetition Secured Notes Documents (each as defined herein), and providing adequate protection to the Prepetition ABL Parties and Prepetition Secured Notes Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) resulting from the imposition of the automatic stay, the Debtors' use, sale, or lease of the Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral), including by the Carve Out ("Diminution in Value");

(x) vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and this Interim Order; and

(xi) scheduling a final hearing (the "Final Hearing") within forty (40) days of the Petition Date to consider the relief requested in the DIP Motion and approving the form of notice with respect to the Final Hearing.

The Court having considered the DIP Motion, the exhibits attached thereto, the DIP Documents, the *Declaration of Stephen Goldstein in Support of Debtors' Motion for Interim and Final Orders (I) Authorizing Obtaining Postpetition Financing; (II) Authorizing Use of Cash Collateral; (III) Granting Liens and Providing Superpriority Administrative Expense Status; (IV) Granting Adequate Protection; (V) Modifying Automatic Stay; (VI) Scheduling Final Hearing; and (VII) Granting Related Relief* (the "Goldstein Declaration"), the *Declaration of Michael Buenzow Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York* (the "Buenzow Declaration"), and the evidence submitted and arguments and representations made at the interim hearing held on February 22, 2018 (the "Interim Hearing"); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections to the interim relief requested in the DIP Motion having been withdrawn, resolved as provided herein or, to the extent remaining, overruled by the Court; and it appearing that approval of the interim relief requested in the DIP Motion and granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing and otherwise is fair and reasonable and in the best interests of the Debtors, their estates and all parties-in-interest, and is essential for the continued operation of the Debtors' businesses and the preservation of the value of the Debtors' assets; and it appearing that the Debtors' entry into the DIP Agreements is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

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

A. **Petition Date.** On February 21, 2018 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the “Court”).

B. **Debtors in Possession.** The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

C. **Jurisdiction and Venue.** This Court has jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. Venue for the Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. **Committee Formation.** As of the date hereof, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) has not yet appointed an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code (a “Committee”).

E. **Notice.** The Interim Hearing was held pursuant to Bankruptcy Rule 4001(c)(2). Notice of the DIP Motion has been provided as set forth herein. Under the

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

circumstances, the notice provided was the best available and complies with Bankruptcy Rule 4001(b) and (c) and Local Rule 4001-2, and no further notice of the relief sought at the Interim Hearing is necessary or required.

F. **Debtors' Stipulations.** After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties-in-interest as set forth in paragraph 42 herein, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree as follows (paragraphs F(i) through F(ix) below are referred to herein, collectively, as the "Debtors' Stipulations"):

(i) *Prepetition ABL Facility.* Pursuant to that certain Second Amended and Restated Loan Agreement dated as of December 30, 2016 (as amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition ABL Agreement," and collectively with the Loan Documents (as defined in the Prepetition ABL Agreement) and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, waived or otherwise modified from time to time, the "Prepetition ABL Documents"), among (a) the Borrowers, (b) the guarantors party thereto, (c) Bank of America, N.A., as administrative agent (in such capacity, the "Prepetition ABL Agent," and (d) the lenders party thereto (including the Prepetition ABL Agent, the "Prepetition ABL Lenders," and collectively with the Prepetition ABL Agent, the "Prepetition ABL Parties"), the Prepetition ABL Lenders provided revolving credit and other financial accommodations to, and issued letters of credit for the account of, the Borrowers pursuant to the Prepetition ABL Documents (the "Prepetition ABL Facility").

(ii) *Prepetition ABL Obligations.* The Prepetition ABL Facility provided the Borrowers with, among other things, (x) \$140,000,000 in aggregate revolving

commitments, including letters of credit and swingline loan commitments (the loans and letters of credit extended thereunder the “Prepetition ABL Revolving Loans”) and (y) \$10,000,000 in a non-revolving first-in last-out term loan facility (the “Prepetition ABL FILO Loan”). As of the Petition Date, the aggregate principal amount of Prepetition ABL Revolving Loans and the Prepetition ABL FILO Loan outstanding under the Prepetition ABL Facility was not less than \$112,272,183, including: (a) \$68,018,312 in outstanding principal amount of Prepetition ABL Revolving Loans (including \$34,254,871 in letters of credit), and (b) \$10,000,000 in outstanding principal amount of the Prepetition ABL FILO Loan (collectively, together with accrued and unpaid interest, outstanding letters of credit and bankers’ acceptances, any reimbursement obligations (contingent or otherwise) in respect of letters of credit and bankers’ acceptances, any fees, expenses and disbursements (including attorneys’ fees, accountants’ fees, auditor fees, appraisers’ fees and financial advisors’ fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Borrowers’ and the obligations of certain Guarantors pursuant to, or secured by, the Prepetition ABL Documents, including all “Obligations” as defined in the Prepetition ABL Agreement, and all interest, fees (including amendment fees), costs and other charges allowable under section 506(b) of the Bankruptcy Code, the “Prepetition ABL Obligations”).

(iii) *Prepetition ABL Liens and Prepetition ABL Priority Collateral.*

As more fully set forth in the Prepetition ABL Documents, prior to the Petition Date, the Borrowers and the Guarantors granted to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Lenders, a security interest in and continuing lien on (the “Prepetition ABL

Liens”) substantially all of their assets and property, including, (a) a first priority security interest in and continuing lien on the ABL Priority Collateral (as defined in that certain Intercreditor Agreement referred to below) (which, for the avoidance of doubt, includes Cash Collateral) and all proceeds, products, accessions, rents, and profits thereof, in each case whether then owned or existing or thereafter acquired or arising (collectively, the “Prepetition ABL Priority Collateral”), and (b) a second priority security interest in and continuing lien on the Notes Priority Collateral (as defined in that certain Intercreditor Agreement referred to below) and all proceeds, products, accessions, rents, and profits thereof, in each case whether then owned or existing or thereafter acquired or arising (collectively, the “Prepetition Notes Priority Collateral,” and together with the Prepetition ABL Priority Collateral, the “Prepetition Collateral”), subject only to the liens of the Secured Notes Indenture Trustee on the Prepetition Notes Priority Collateral and Prepetition ABL Permitted Prior Liens (as defined herein); *provided* that the Prepetition ABL Liens do not include real property of the Debtors, including leasehold interests or proceeds therefrom.

(iv) *Prepetition Secured Notes.* Pursuant to that certain Indenture dated as of June 10, 2015 (as amended, restated, supplemented, waived or otherwise modified from time to time, the “Secured Notes Indenture,” and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, waived or otherwise modified from time to time, the “Prepetition Secured Notes Documents,” and together with the Prepetition ABL Documents, the “Prepetition Documents”), among (a) Tops Holding and Tops Markets II, as issuers (the “Issuers”), (b) U.S. Bank National Association, as trustee (in such capacity, the “Secured Notes Indenture Trustee”), and (c) the guarantors party thereto (the “Secured Notes Guarantors”), the Issuers incurred indebtedness to the holders (collectively, the “Prepetition Secured Noteholders,” and together with the

Prepetition Secured Notes Indenture Trustee, the “Prepetition Secured Notes Parties,” and together with the Prepetition ABL Parties, the “Prepetition Secured Parties”) of senior secured notes (collectively, the “Prepetition Secured Notes”).

(v) *Prepetition Secured Notes Obligations.* Pursuant to the Secured Notes Indenture, the Company issued \$560,000,000 in aggregate principal amount of Prepetition Secured Notes. As of the Petition Date, the aggregate principal amount outstanding under the Prepetition Secured Notes was \$560,000,000 (collectively, together with accrued and unpaid interest, any fees, expenses and disbursements (including attorneys’ fees, accountants’ fees, appraisers’ fees, and financial advisors’ fees and related expenses and disbursements), indemnification obligations, and other charges, amounts, and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Issuers’ and the Secured Notes Guarantors’ obligations pursuant to the Prepetition Secured Notes and the Prepetition Secured Notes Documents, the “Prepetition Secured Notes Obligations,” and together with the Prepetition ABL Obligations, the “Prepetition Secured Obligations”).

(vi) *Prepetition Secured Notes Liens and Prepetition Notes Priority Collateral.* As more fully set forth in the Prepetition Secured Notes Documents, prior to the Petition Date, the Issuers and the Secured Note Guarantors granted to the Secured Notes Indenture Trustee, for the benefit of itself and the Prepetition Secured Notes Parties, a security interest in and continuing lien on (the “Prepetition Secured Notes Liens,” and together with the Prepetition ABL Liens, the “Prepetition Liens”) substantially all of their assets and property, including, (a) a first priority security interest in and continuing lien on the Prepetition Notes Priority Collateral, which, for the avoidance of doubt, includes mortgages on the Debtors’

warehouse distribution facility in Lancaster, NY and the Debtors' retail facility located in Fayetteville, NY, but does not include a lien on any leasehold interests, and (b) a second priority security interest in and continuing lien on the Prepetition ABL Priority Collateral, subject only to the liens of the Prepetition ABL Agent on the Prepetition ABL Priority Collateral and the Prepetition Secured Notes Permitted Prior Liens (as defined herein).

(vii) *Priority of Prepetition Liens; Intercreditor Agreement.* The Prepetition ABL Agent, the Secured Notes Indenture Trustee and others entered into that certain Intercreditor Agreement dated as of December 20, 2012 (as amended by that certain Intercreditor Agreement Joinder, dated as of June 10, 2015, and that certain First Amendment to Intercreditor Agreement dated as of December 30, 2016, and as may be further amended, restated, supplemented, or otherwise modified in accordance with its terms, the "Intercreditor Agreement"), which governs the respective rights, interests, obligations, priority, and positions of the Prepetition Secured Parties with respect to the assets and properties of the Debtors and other obligors. Each of the Debtors has acknowledged and agreed to, and is bound by, the Intercreditor Agreement.

(viii) *Validity, Perfection and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that as of the Petition Date (a) the Prepetition ABL Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Parties for fair consideration and reasonably equivalent value (save that no party held properly perfected leasehold mortgages); (b) the Prepetition ABL Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to (1) the Prepetition Secured Notes Liens on the Prepetition Notes Priority Collateral, and (2) certain liens senior by operation of law

or otherwise permitted by the Prepetition ABL Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition ABL Liens as of the Petition Date, the “Prepetition ABL Permitted Prior Liens”); (c) the Prepetition ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors enforceable in accordance with the terms of the applicable Prepetition ABL Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition ABL Liens or Prepetition ABL Obligations exist, and no portion of the Prepetition ABL Liens or Prepetition ABL Obligations is subject to any challenge or defense including, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law (save that no party held properly perfected leasehold mortgages); (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition ABL Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition ABL Facility (save that no party held properly perfected leasehold mortgages); (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition ABL Obligations, the priority of the Debtors’ obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition ABL Obligations; and (g) the Prepetition ABL Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code.

(ix) *Validity, Perfection and Priority of Prepetition Secured Notes*

Liens and Prepetition Secured Notes Obligations. The Debtors further acknowledge and agree that, as of the Petition Date, (a) the Prepetition Secured Notes Liens on the Prepetition Collateral (including mortgages on certain of the Debtors' real estate assets) were valid, binding, enforceable, non-avoidable, and properly perfected and were granted to, or for the benefit of, the Prepetition Secured Notes Parties for fair consideration and reasonably equivalent value (save that no party held properly perfected leasehold mortgages); (b) the Prepetition Secured Notes Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to (1) the Prepetition ABL Liens on the Prepetition ABL Priority Collateral, and (2) certain liens senior by operation of law or otherwise permitted by the Prepetition Secured Notes Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable, and senior in priority to the Prepetition Secured Notes Liens as of the Petition Date, the "Prepetition Secured Notes Permitted Prior Liens" and, together with the Prepetition ABL Permitted Prior Liens, the "Permitted Prior Liens");⁴ (c) the Prepetition Secured Notes Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors enforceable in accordance with the terms of the applicable Prepetition Secured Notes Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition Secured Notes Liens or Prepetition Secured Notes Obligations exist, and no portion of the Prepetition Secured Notes Liens or Prepetition Secured Notes Obligations is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors

⁴ For the avoidance of doubt, as used in this Interim Order, no reference to the Prepetition ABL Permitted Prior Liens, the Prepetition Secured Notes Permitted Prior Liens, or the Permitted Prior Liens shall refer to or include the Prepetition ABL Liens or the Prepetition Secured Notes Liens.

and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Notes Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon or related to the Secured Notes Indenture; (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Secured Notes Obligations, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition Secured Notes Obligations; and (g) the Prepetition Secured Notes Obligations constitute allowed, secured claims within the meaning of sections 502 of the Bankruptcy Code.

G. **Permitted Prior Liens.** Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the DIP Agents, the Prepetition Secured Parties, or a Committee (if appointed), to challenge the validity, priority, enforceability, seniority, avoidability, perfection, or extent of any alleged Permitted Prior Lien and/or security interests.

H. **Continuation of Prepetition Liens.** In light of the integrated nature of the DIP Facilities, the DIP Documents and the Prepetition Documents, the Prepetition Liens, and the DIP Liens that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens.

I. **Cash Collateral.** All of the Debtors' cash, including any cash in all deposit accounts of the Debtors, other than the cash in the DIP Term Loan Proceeds Account (as defined herein), constitutes Cash Collateral of the Prepetition Secured Parties.

J. **Findings Regarding Corporate Authority.** As set forth in the Buenzow Declaration, each Debtor has all requisite corporate power and authority to execute and deliver the DIP Documents to which it is a party and to perform its obligations thereunder.

K. **Intercreditor Agreement.** Pursuant to section 510 of the Bankruptcy Code, but subject to the terms of this Interim Order and the Intercreditor Acknowledgment (as defined herein), the Intercreditor Agreement and any other applicable intercreditor or subordination provisions contained in any of the Prepetition Documents (i) shall remain in full force and effect, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition Secured Parties (including the relative priorities, rights and remedies of such parties with respect to the replacement liens and administrative expense claims and superpriority administrative expense claims granted, or amounts payable, by the Debtors under this Interim Order or otherwise and the modification of the automatic stay), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Interim Order or the DIP Documents, unless expressly set forth herein or therein. The parties to the Intercreditor Agreement stipulate, and the Court hereby finds, that the DIP ABL Facility is a “Refinancing” of the Prepetition ABL Facility as that term is used in the Intercreditor Agreement, and, solely for the purposes of interpreting the Intercreditor Agreement, any repayment or replacement of the Prepetition ABL Obligations pursuant to this Interim Order shall not be deemed to constitute a “Discharge of ABL Obligations” (as defined in the Intercreditor Agreement). In connection with the execution of the DIP Documents, the Prepetition ABL Agent, the Secured Notes Indenture Trustee, the DIP ABL Agent, and the DIP Term Loan Agent will enter into that certain Acknowledgment and Agreement (the “Intercreditor Acknowledgment”), a copy of which is attached hereto as **Exhibit 1**, and which will be acknowledged and agreed to by the Debtors.

L. **Findings Regarding Postpetition Financing**

(i) *Request for Postpetition Financing.* The Debtors seek authority to (a) enter into the DIP Facilities on the terms described herein and in the DIP Documents, and (b) use Cash Collateral on the terms described herein to administer their Cases and fund their operations. At the Final Hearing, the Debtors will seek final approval of the proposed postpetition financing and use of Cash Collateral arrangements pursuant to a proposed final order (the “Final Order”), which shall be in form and substance acceptable to the DIP Agents and to the DIP Lenders. Notice of the Final Hearing and Final Order will be provided in accordance with this Interim Order.

(ii) *Consensual Priming of the Prepetition Liens.* The priming of the Prepetition Liens of the Prepetition Secured Parties on the Prepetition Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Facilities and as further described below, is consented to by the Prepetition ABL Agent and the Secured Notes Indenture Trustee on behalf of the Prepetition Secured Noteholders, and will enable the Debtors to obtain the DIP Facilities and to continue to operate their businesses to the benefit of their estates and creditors. The Prepetition Secured Parties are each entitled to receive adequate protection as set forth in this Interim Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any Diminution in Value of each of their respective interests in the Prepetition Collateral (including Cash Collateral).

(iii) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have an immediate and critical need to use Cash Collateral on an interim basis and to obtain credit on an interim basis pursuant to the DIP Facilities in order to, among other things, enable the orderly continuation of their operations and to administer and preserve the value of

their estates. The ability of the Debtors to maintain business relationships with their vendors, suppliers, and customers, to pay their employees, and otherwise finance their operations requires the availability of working capital from the DIP Facilities and the use of Cash Collateral, the absence of either of which would immediately and irreparably harm the Debtors, their estates, and parties-in-interest. The Debtors do not have sufficient available sources of working capital and financing to operate their businesses or maintain their properties in the ordinary course of business in the interim period without the DIP Facilities and authorized use of Cash Collateral.

(iv) *No Credit Available on More Favorable Terms.* As set forth in the Goldstein Declaration, given the Debtors' current financial condition, financing arrangements, and capital structure, the Debtors have been and continue to be unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the DIP Facilities. The Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors have also been unable to obtain: (a) unsecured credit having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a) and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien. Financing on a postpetition basis on better terms is not otherwise available without granting the DIP Agents, for the benefit of themselves and the DIP Lenders: (1) perfected security interests in and liens on (each as provided herein) all of the Debtors' existing and after-acquired assets with the priorities set forth in paragraph 6 hereof; (2) superpriority claims and liens; and (3) the other protections set forth in this Interim Order.

(v) *Use of Proceeds of the DIP Facilities.* As a condition to entry into

the DIP Agreements, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties require, and the Debtors have agreed, that proceeds of the DIP Facilities shall be used, in each case in a manner consistent with the terms and conditions of this Interim Order and the DIP Documents and in accordance with the budget (as the same may be modified from time to time consistent with the terms of the DIP Documents and subject to such variances as permitted in the DIP Agreements, and as set forth in paragraphs 20-21 hereof, the “Budget”),⁵ solely for: (a) working capital and letters of credit, (b) permitted payment of costs of administering the Cases; (c) payment of such prepetition expenses that are approved by the Court and permitted by the Budget or otherwise approved by the DIP Agent in accordance with the DIP Documents; (d) payment of other general corporate purposes of the Debtors permitted by the Budget and the DIP Documents; (e) payment of interest, fees, expenses and other amounts (including legal and other professionals’ fees and expenses of the DIP Agents and the DIP Lender Group (as defined herein)) owed under the DIP Documents; (f) payment of certain adequate protection amounts to the Prepetition Secured Parties, as set forth in paragraphs 16-17 hereof; (g) the repayment of the Prepetition ABL Obligations (other than the Prepetition ABL FILO Loan) by the DIP ABL Loans and the reduction thereof in accordance with paragraph 24 of this Interim Order, subject to the rights preserved in paragraph 42 of this Interim Order; (h) the repayment of the Prepetition ABL FILO Loan from the proceeds of the DIP Term Loan Facility, subject to the rights preserved in paragraph 42 of this Interim Order; (i) payment of obligations arising from or related to the Carve Out, and making disbursements therefrom; and (j) such other uses set forth in the Budget. For the avoidance of doubt, solely with respect to the DIP ABL Obligations, any

⁵ A copy of the initial Budget is attached hereto as **Exhibit 2**.

provision of this Interim Order or any DIP Documents requiring compliance with the Budget shall apply only to the extent that at such time the Budget Test Condition (as defined in the DIP ABL Agreement) is satisfied.

(vi) *Application of Proceeds of Collateral.* As a condition to entry into the DIP Agreements, the extension of credit under the DIP Facilities and authorization to use Cash Collateral, the Debtors, the DIP Agents, the DIP Lenders and the Prepetition Secured Parties have agreed that as of and commencing on the date of the Interim Hearing, the Debtors shall apply the proceeds of DIP Collateral in accordance with this Interim Order and the DIP Documents.

(vii) *Repayment of Prepetition ABL Obligations.* Upon entry of this Interim Order, without any further action by the Debtors or any other party, all of the Prepetition ABL Obligations (other than the Prepetition ABL FILO Loan) shall be repaid by the DIP ABL Loans (the “DIP ABL Repayment Loans”). At the final hearing, the Debtors will seek authority to pay the Prepetition ABL FILO Loan, and all accrued interest, expenses, fees and other sums payable in respect thereof shall be repaid in full in cash from the proceeds of the DIP Term Loan Facility. The repayment of the DIP ABL Repayment Loans by DIP ABL Loans shall be authorized as compensation for, in consideration for, and solely on account of, the agreement of the Prepetition ABL Lenders to fund amounts under the DIP ABL Facility and not as payments under, adequate protection for, or otherwise on account of, the Prepetition ABL Obligations. The Prepetition ABL Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens to the DIP Liens, and the DIP ABL Agent and the DIP ABL Lenders would not be willing to provide the DIP ABL Facility or extend credit to the Debtors thereunder without the inclusion of the DIP ABL Repayment Loans in the DIP ABL Obligations.

Moreover, the repayment of all outstanding Prepetition ABL Obligations by DIP ABL Loans will create availability under the DIP ABL Facility and will result in interest savings to the Debtors and their estates. Because the DIP ABL Repayment Loans are subject to the reservation of rights in paragraph 42 below, they will not prejudice the right of any party in interest.

L. **Adequate Protection.** The Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Parties, and the Secured Notes Indenture Trustee, for the benefit of itself and the Prepetition Secured Notes Parties, are each entitled to receive adequate protection to the extent of any Diminution in Value of their respective interests in the Prepetition Collateral. Pursuant to sections 361, 363 and 507(b) of the Bankruptcy Code, as adequate protection: (i) the Prepetition ABL Parties will receive (a) adequate protection liens and superpriority claims, as more fully set forth in this Interim Order, (b) current payment of interest, fees and expenses (including legal and other professionals' fees and expenses of the Prepetition ABL Agent whether arising before or after the Petition Date) as more fully set forth in paragraph 16 herein, and (c) the Prepetition ABL Indemnity Reserve; and (ii) the Prepetition Secured Notes Parties will receive (a) adequate protection liens and superpriority claims, as more fully set forth in this Interim Order, (b) current payment of expenses (including legal and other professionals' fees and expenses of the Secured Notes Indenture Trustee, the Prepetition Secured Noteholders and the Ad Hoc Committee (as defined herein) whether arising before or after the Petition Date) as more fully set forth in paragraph 17 herein; and (c) the Prepetition Secured Notes Indemnity Reserve.

M. **Sections 506(c) and 552(b).** In light of (i) the DIP Agents' and the DIP Lenders' agreement that their liens and superpriority claims shall be subject to the Carve Out; (ii) the Prepetition ABL Parties' agreement that their liens shall be subject to the Carve Out and

subordinate to the DIP ABL Liens, and in the case of the Prepetition Notes Priority Collateral, subordinate to the DIP Term Loan Liens, the Prepetition Secured Note Adequate Protection Liens, and the Prepetition Secured Notes Liens; (iii) the Prepetition Secured Notes Parties' agreement that their liens shall be subject to the Carve Out and subordinate to the DIP Term Loan Liens, and in the case of the Prepetition ABL Priority Collateral, subordinate to the DIP ABL Liens, the Prepetition ABL Adequate Protection Liens, and the Prepetition ABL Liens; and (iv) the payment of expenses as set forth in the Budget, in accordance with and subject to the terms and conditions of this Interim Order and the DIP Documents, (a) at the Final Hearing, the Prepetition ABL Parties and Prepetition Secured Notes Parties shall each seek a waiver of any "equities of the case" exception under section 552(b) of the Bankruptcy Code, and (b) at the Final Hearing, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall each seek a waiver of the provisions of section 506(c) of the Bankruptcy Code.

N. **Good Faith of the DIP Agents and DIP Lenders.**

(i) *Willingness to Provide Financing.* The DIP Lenders have indicated a willingness to provide financing to the Debtors subject to: (a) entry of this Interim Order and the Final Order; (b) approval of the terms and conditions of the DIP Facilities and the DIP Documents; (c) satisfaction of the closing conditions set forth in the DIP Documents; and (d) findings by this Court that the DIP Facilities are essential to the Debtors' estates, that the DIP Agents and DIP Lenders are extending credit to the Debtors pursuant to the DIP Documents in good faith, and that the DIP Agents' and DIP Lenders' claims, superpriority claims, security interests and liens and other protections granted pursuant to this Interim Order and the DIP Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(ii) *Business Judgment and Good Faith Pursuant to Section 364(e).*

The terms and conditions of the DIP Facilities and the DIP Documents, and the fees paid and to be paid thereunder, are fair, reasonable, and the best available to the Debtors under the circumstances, are ordinary and appropriate for secured financing to debtors in possession, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration. The terms and conditions of the DIP Facilities and the use of Cash Collateral were negotiated in good faith and at arms' length among the Debtors, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties, with the assistance and counsel of their respective advisors. Use of Cash Collateral and credit to be extended under the DIP Facilities shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties within the meaning of section 364(e) of the Bankruptcy Code.

O. **Immediate Entry.** Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2).

P. **Compliance with Local Rule 4001-2.** The DIP Motion and this Interim Order comply with the requirements of Local Rule 4001-2.

Q. **Interim Hearing.** Notice of the Interim Hearing and the relief requested in the DIP Motion has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier or hand delivery, to certain parties-in-interest, including: (i) the U.S. Trustee, (ii) those entities or individuals included on the Debtors' list of 20 largest unsecured creditors on a consolidated basis, (iii) counsel to the DIP ABL Agent and the Prepetition ABL Agent, (iv) counsel to the Secured Notes Indenture Trustee; (v) counsel to the DIP Term Loan Agent, (vi) counsel to the DIP Lender Group and Ad Hoc Committee; and (vii) all other parties entitled to notice under the Local Rules. The Debtors have made reasonable efforts to afford the best notice

possible under the circumstances and no other notice is required in connection with the relief set forth in this Interim Order.

Based upon the foregoing findings and conclusions, the DIP Motion and the record before the Court with respect to the DIP Motion, and after due consideration and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. Interim Financing Approved. The DIP Motion is granted, the Interim Financing (as defined herein) is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case, subject to the terms and conditions set forth in this Interim Order and the DIP Documents. All objections to this Interim Order to the extent not withdrawn, waived, settled or resolved are hereby denied and overruled.

DIP Facilities Authorization

2. Authorization of the DIP Facilities. The Debtors are expressly and immediately authorized and empowered to execute and deliver the DIP Documents, and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Interim Order and the DIP Documents, and to deliver all instruments, certificates, agreements, and documents which may be required or necessary for the performance by the Debtors under the DIP Facilities and the creation and perfection of the DIP Liens (as defined herein) described in and provided for by this Interim Order and the DIP Documents, including each of the Guarantors providing its joint and several guarantee of all of the DIP Obligations and such acts as shall be necessary or desirable in order to effect the repayment of all of the Prepetition ABL Obligations (other than the Prepetition ABL FILO Loan) by DIP ABL Loans. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees,

payments, expenses, and other amounts described in the DIP Documents as such amounts become due and payable without need to obtain further Court approval, including closing fees, letter of credit fees (including issuance, fronting, and other related charges), unused facility fees, amendment fees, prepayment premiums, if any, continuing commitment fees, backstop fees, servicing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, collateral agent's fees, and the reasonable fees and disbursements of the DIP Agents' and the DIP Lender Group's respective attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Documents. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Interim Order and the DIP Documents. Upon execution and delivery, the DIP Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms.

3. Authorization to Borrow. To prevent immediate and irreparable harm to the Debtors' estates, from the entry of this Interim Order through and including the earliest to occur of (i) entry of the Final Order and (ii) the Termination Declaration (as defined herein), subject to the terms, conditions, limitations on availability and reserves (as applicable) set forth in the DIP Documents and this Interim Order, the Debtors are hereby authorized to request extensions of credit (in the form of loans and letters of credit) up to an aggregate outstanding principal amount of not greater than (a) \$140,000,000 at any one time outstanding under the DIP

ABL Facility, and (b) \$62,500,000 at any one time outstanding under the DIP Term Loan Facility (together, the “Interim Financing”).

4. DIP Obligations. The DIP Documents and this Interim Order shall constitute and evidence the validity and binding effect of the Debtors’ DIP Obligations, which shall be enforceable against the Debtors, their estates and any successors thereto, including any trustee appointed in the Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Cases (collectively, the “Successor Cases”). Upon entry of this Interim Order, the DIP Obligations will include all loans, letter of credit reimbursement obligations, and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Agents or any of the DIP Lenders, in each case, under, or secured by, the DIP Documents or this Interim Order, including all principal, accrued interest, costs, fees, expenses and other amounts under the DIP Documents. Without limiting the foregoing, the DIP ABL Obligations shall also include cash management and bank product exposure and derivative and swap exposure and obligations to the extent described in, or secured by, the Prepetition ABL Documents and the DIP ABL Documents, including all Other Liabilities (as defined in the DIP ABL Agreement). Upon entry of this Interim Order, all letters of credit issued for the account of the Debtors under the Prepetition ABL Agreement shall continue in place and all obligations under or in connection with such letters of credit shall be subject to the DIP ABL Agreement and shall constitute DIP ABL Obligations. The Debtors shall be jointly and severally liable for the DIP Obligations. The DIP Obligations shall be due and payable, without notice or demand, and the use of Cash Collateral shall automatically cease on the DIP Termination Date (as defined herein), except as provided in paragraph 31 herein. Subject to paragraph 42, no obligation, payment, transfer, or grant of collateral security hereunder or under

the DIP Documents (including any DIP Obligation or DIP Liens (as defined herein), and including in connection with any adequate protection provided to the Prepetition Secured Parties hereunder) shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaim, cross-claim, defense, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

5. DIP Liens. To secure the DIP Obligations, effective immediately upon entry of this Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, and subject to the priorities set forth in this Interim Order and in the Intercreditor Acknowledgment, the DIP Agents, for the benefit of themselves and the DIP Lenders, are hereby granted, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the “DIP Liens”) all personal property and, solely with respect to the DIP Term Loan Facility, all fee owned and leased real property to the extent already subject to a mortgage in favor of the Secured Notes Indenture Trustee (for the avoidance of doubt, the DIP ABL Liens (as defined herein) and the DIP Collateral (as defined herein) solely with respect to the DIP ABL Agent and DIP ABL Lenders exclude fee owned and leased real property of the Debtors), whether now existing or hereafter arising and wherever located, tangible and intangible, of each of the Debtors (the “DIP Collateral”), including: (a) all cash, cash equivalents, deposit accounts, securities

accounts, accounts, other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment (including documents of title), goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, license rights, intellectual property, general intangibles (including payment intangibles), rights to the payment of money (including tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action, and all substitutions, indemnification rights, all present and future intercompany debt, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds; (b) all proceeds of leaseholds, subleaseholds and similar agreements in respect of real property interests that are not subject to a valid and perfected Lien in favor of either or both of the Prepetition Secured Parties (for the avoidance of doubt, DIP ABL Liens and the DIP Collateral of the DIP ABL Agent and DIP ABL Lenders excludes real property of the Debtors but includes proceeds of the Debtors' leased real property); (c) actions brought under section 549 of the Bankruptcy Code to recover any post-petition transfer of DIP Collateral and all proceeds of any such action; (d) if authorized in the Final Order, the proceeds of any avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code or applicable state law equivalents (other than actions brought pursuant to section 549 of the Bankruptcy Code) and the Debtors' rights under section 550 of the Bankruptcy Code; (e) if authorized in the Final Order, the Debtors' rights under section 506(c) of the Bankruptcy Code and the proceeds thereof; and (f) all DIP Collateral that was not otherwise subject to valid, perfected, enforceable, and unavoidable liens on the Petition Date. Notwithstanding the foregoing, DIP Collateral shall not include (x) the

Debtors' real property leases that prohibit the granting of a lien thereon or security interest therein or otherwise prohibit hypothecation of the leasehold interests (unless already subject to a mortgage in favor of the Secured Notes Indenture Trustee), but shall include all proceeds of such leases and (y) (1) the voting Equity Interests (as defined in the DIP Agreements) of Foreign Subsidiaries (as defined in the DIP Documents) in excess of 65% of the voting rights of all such Equity Interests in each such Foreign Subsidiary and (2) any Equity Interests of a person that is not Debtor or a wholly-owned Subsidiary (as defined in the DIP Agreements) of a Debtor (other than proceeds thereof) to the extent that a pledge of such Equity Interests is prohibited by such person's organization documents (which prohibition is not excused by operation of the Bankruptcy Code). DIP Collateral that is (i) of a type that would be ABL Priority Collateral (as defined in the Intercreditor Agreement, other than the DIP Term Loan Priority Accounts (as defined herein); (ii) of a type that would be ABL Priority Collateral, but that was not otherwise subject to valid, perfected, enforceable, and unavoidable liens on the Petition Date; and (iii) if authorized in the Final Order, the Debtors' rights under section 506(c) of the Bankruptcy Code, shall, in each case, constitute "DIP ABL Priority Collateral." DIP Collateral that is (i) of a type that would be Term Priority Collateral; (ii) of a type that would be Term Priority Collateral but that was not otherwise subject to valid, perfected, enforceable, and unavoidable liens on the Petition Date; (iii) the Debtors' owned or leased real property to the extent subject to an existing mortgage, including the proceeds thereof, and the proceeds of the Debtors' real property leases; (iv) if authorized in the Final Order, the proceeds of avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code or applicable state law equivalents and the Debtors' rights under section 550 of the Bankruptcy Code; and (v) the DIP Term Loan Priority Accounts and any other segregated account established by the DIP Term Loan Agreement, shall, in each case,

constitute “DIP Term Loan Priority Collateral.”

6. DIP Lien Priority. The DIP Liens securing the DIP ABL Obligations (the “DIP ABL Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out as set forth in this Interim Order and shall otherwise be junior only to: (i) as to the DIP ABL Priority Collateral, Prepetition ABL Permitted Prior Liens; and (ii) as to the DIP Term Loan Priority Collateral, (A) Prepetition Secured Notes Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined herein); (C) the Prepetition Secured Notes Liens; and (D) the Prepetition Secured Notes Adequate Protection Liens (as defined herein). The DIP Liens securing the DIP Term Loan Obligations (the “DIP Term Loan Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP Term Loan Liens shall be subject to the Carve Out as set forth in this Interim Order and shall otherwise be junior only to: (i) as to the DIP Term Loan Priority Collateral, Prepetition Secured Notes Permitted Prior Liens; and (ii) as to the DIP ABL Priority Collateral, (A) Prepetition ABL Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition ABL Liens; and (D) the Prepetition ABL Adequate Protection Liens (as defined herein). Other than as set forth herein or in the DIP Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Cases or any Successor Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy Code, and/or upon the dismissal of any of the Cases or Successor Cases. The DIP Liens shall not be subject to section 510, 549 or 550 of the Bankruptcy Code, subject to the

reservation of rights set forth in paragraph 42 of this Interim Order. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens.

7. Superpriority Claims. Upon entry of this Interim Order, the DIP Agents on behalf of themselves and the DIP Lenders are each hereby granted, pursuant to section 364(c)(1) of the Bankruptcy Code, allowed superpriority administrative expense claims in each of the Cases and any Successor Cases (collectively, the “DIP Superpriority Claims”) for all DIP Obligations: (a) except as set forth herein, with priority over any and all administrative expense claims and unsecured claims against the Debtors or their estates in any of the Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code; and (b) which shall at all times be senior to the rights of the Debtors and their estates, and any successor trustee or other estate representative to the extent permitted by law; *provided*, that the DIP Superpriority Claims shall be *pari passu* with each other, without otherwise impairing the lien priorities as set forth herein, and shall be subject to the Carve Out and senior to the Adequate Protection Superpriority Claims (as defined herein).

8. No Obligation to Extend Credit. Except as required to fund the Carve Out as set forth in this Interim Order, the DIP Agents and DIP Lenders shall have no obligation to make any loan or advance, or to issue, amend, renew or extend any letters of credit or bankers’ acceptance under the DIP Documents, unless all of the conditions precedent to the making of such extension of credit or the issuance, amendment, renewal or extension of such letter of credit

or bankers' acceptance under the DIP Documents and this Interim Order have been satisfied in full or waived by the DIP ABL Agent or the DIP Term Loan Agent, as applicable, each in its sole discretion, and in accordance with the terms of the DIP ABL Agreement and the DIP Term Loan Agreement, as applicable.

9. Use of Proceeds of DIP Facilities. From and after the Petition Date, the Debtors shall use advances of credit under the DIP Facilities in compliance with the terms and conditions in this Interim Order and the DIP Documents.

10. Repayment of Prepetition ABL Obligations. Upon entry of this Interim Order, as a condition to the provision of liquidity under the DIP ABL Facility, without any further action by the Debtors or any other party, the DIP ABL Repayment Loans shall constitute DIP ABL Obligations. The authorization of the DIP ABL Repayment Loans shall be subject to the reservation of rights set forth in paragraph 42 of this Interim Order.

Authorization to Use Cash Collateral

11. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Facilities and the DIP Documents and in accordance with the terms and conditions therein, the Debtors are authorized to use Cash Collateral until the DIP Termination Date (as defined herein); *provided*, that during the Remedies Notice Period (as defined herein) the Debtors may use Cash Collateral solely to meet payroll obligations and pay other expenses that the DIP Agents, each in their sole discretion, approve as critical to keep the business of the Debtors operating in accordance with the Budget, and as otherwise agreed by the DIP Agents in their sole discretion. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their estates outside the ordinary course of business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in

this Interim Order, the DIP Facilities, the DIP Documents.

12. Adequate Protection Liens.

(i) *Prepetition ABL Adequate Protection Liens.* Pursuant to sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition ABL Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, and solely to the extent of such Diminution of Value, the Debtors hereby grant to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Parties, continuing, valid, binding, enforceable, and perfected postpetition security interests in and liens on the DIP Collateral (the “Prepetition ABL Adequate Protection Liens”).

(ii) *Prepetition Secured Notes Adequate Protection Liens.* Pursuant to sections 361, 363(e) and 364(d) of the Bankruptcy Code, solely as adequate protection of the interests of the Prepetition Secured Notes Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, and solely to the extent of such Diminution of Value, the Debtors hereby grant to the Secured Notes Indenture Trustee, for the benefit of itself and the Prepetition Secured Notes Parties, continuing, valid, binding, enforceable, and perfected postpetition security interests in and liens on the DIP Collateral (the “Prepetition Secured Notes Adequate Protection Liens,” and together with the Prepetition ABL Adequate Protection Liens, the “Adequate Protection Liens”).

13. Priority of Adequate Protection Liens.

(i) Notwithstanding anything to the contrary herein, the Prepetition ABL Adequate Protection Liens shall be subject to the Carve Out as set forth in this Interim Order and shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral—(1) Prepetition ABL Permitted Prior Liens; (2) the DIP ABL Liens; and (3) the

Prepetition ABL Liens; and (b) with respect to the DIP Term Loan Priority Collateral—(1) Prepetition Secured Notes Permitted Prior Liens; (2) the DIP Term Loan Liens; (3) the Prepetition Secured Notes Liens; (4) the Prepetition Secured Notes Adequate Protection Liens; (5) the DIP ABL Liens; and (6) the Prepetition ABL Liens. The Prepetition ABL Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP Collateral.

(ii) Notwithstanding anything to the contrary herein, the Prepetition Secured Notes Adequate Protection Liens shall be subject to the Carve Out as set forth in this Interim Order and shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral—(1) Prepetition ABL Permitted Prior Liens; (2) the DIP ABL Liens; (3) the Prepetition ABL Liens; (4) the Prepetition ABL Adequate Protection Liens; (5) the DIP Term Loan Liens; and (6) the Prepetition Secured Notes Liens; and (b) with respect to the DIP Term Loan Priority Collateral—(1) Prepetition Secured Notes Permitted Prior Liens; (2) the DIP Term Loan Liens; and (3) the Prepetition Secured Notes Liens. The Prepetition Secured Notes Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP Collateral.

(iii) Except as provided herein or as permitted under the DIP Documents, the Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Cases or any Successor Cases, or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the

Bankruptcy Code shall be *pari passu* with or senior to the Prepetition Liens or the Adequate Protection Liens.

14. Adequate Protection Superpriority Claims.

(i) *Prepetition ABL Superpriority Claim.* As further adequate protection of the interests of the Prepetition ABL Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, and solely to the extent of such Diminution of Value, the Prepetition ABL Agent, on behalf of itself and the Prepetition ABL Parties, is hereby granted as and to the extent provided by sections 503 and 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the “Prepetition ABL Superpriority Claim”).

(ii) *Prepetition Secured Notes Superpriority Claim.* As further adequate protection of the interests of the Prepetition Secured Notes Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, and solely to the extent of such Diminution of Value, the Secured Notes Indenture Trustee, on behalf of itself and the Prepetition Secured Notes Parties, is hereby granted as and to the extent provided by sections 503 and 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the “Prepetition Secured Notes Superpriority Claim,” and together with the Prepetition ABL Superpriority Claim, the “Adequate Protection Superpriority Claims”).

15. Priority of the Adequate Protection Superpriority Claims. Except as set forth herein, the Adequate Protection Superpriority Claims shall have priority over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including administrative expenses

of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 506(c) (if authorized in the Final Order), 507(b), 546(c), 546(d), 726, 1113, and 1114 of the Bankruptcy Code; *provided*, that the Adequate Protection Superpriority Claims shall be *pari passu* with each other, without otherwise impairing the lien priorities as set forth herein, and subject to the Carve Out as set forth in this Interim Order and junior to the DIP Superpriority Claims.

16. Adequate Protection Payments and Protections for Prepetition ABL Parties. As further adequate protection (the “Prepetition ABL Adequate Protection Payments”), the Debtors are authorized and directed to provide adequate protection to the Prepetition ABL Parties in the form of payment in cash (and as to fees and expenses, without the need for the filing of a formal fee application) of (i) until the repayment in cash of the Prepetition ABL FILO Loan, interest (at the default rate) and principal due under the Prepetition ABL Documents, subject to the rights preserved in paragraph 42 below, (ii) immediately upon entry of this Interim Order, payment of the reasonable fees, expenses, and disbursements (including the fees, expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants and other vendors) incurred by the Prepetition ABL Agent arising prior to the Petition Date, and (iii) the reasonable fees, expenses, and disbursements (including the fees, expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants and other vendors) incurred by the Prepetition ABL Agent arising subsequent to the Petition Date; *provided*, that during the continuance of an Event of Default, any such payments to the Prepetition ABL Agent shall be made solely from DIP ABL Priority Collateral. Upon the earlier to occur of (a) the Termination Date or (b) delivery of the Carve Out Trigger Notice (as defined herein), the Debtors shall pay to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Parties,

\$250,000 into a non-interest bearing account maintained at Bank of America, N.A. (the “Prepetition ABL Indemnity Reserve”) to secure contingent indemnification, reimbursement or similar continuing obligations arising under or related to the Prepetition ABL Documents (the “Prepetition ABL Indemnity Obligations”); *provided*, that the Debtors shall not be required to fund the Prepetition ABL Indemnity Reserve if, at the time of the occurrence of the Termination Date or the delivery of the Carve Out Trigger Notice (x) the Prepetition ABL Agent and the Prepetition ABL Lenders have received releases and discharges of claims and liabilities in form and substance satisfactory to the Prepetition ABL Agent and the Prepetition ABL Lenders in their sole discretion, or (y) the Challenge Deadline has passed without the commencement of a Challenge (each as defined herein). The Prepetition ABL Indemnity Reserve shall secure all costs, expenses, and other amounts (including reasonable and documented attorneys’ fees) incurred by the Prepetition ABL Agent and the Prepetition ABL Lenders in connection with or responding to any Challenge against the Prepetition ABL Agent or Prepetition ABL Lenders related to the Prepetition ABL Documents, the Prepetition ABL Obligations, or the Prepetition ABL Liens granted to the Prepetition ABL Agent, as applicable, whether in these Cases or independently in another forum, court, or venue. The Prepetition ABL Indemnity Obligations shall be secured by a first lien on the Prepetition ABL Indemnity Reserve and the funds therein and by a lien on the Prepetition Collateral (subject in all respects to the Intercreditor Agreement). Subject to paragraph 35 below, the Prepetition ABL Agent may apply amounts in the Prepetition ABL Indemnity Reserve against the Prepetition ABL Indemnity Obligations as and when they arise, without further notice to or consent from the Debtors, a Committee (if appointed), or any other parties in interest and without further order of this Court. The Prepetition ABL Agent (for itself and on behalf of the Prepetition ABL Parties) shall retain and maintain the Prepetition ABL

Liens granted to the Prepetition ABL Agent as security for the amount of any Prepetition ABL Indemnity Obligations not capable of being satisfied from application of the funds on deposit in the Prepetition ABL Indemnity Reserve; *provided*, that (i) any such indemnification claims shall be subject to the terms of the Prepetition ABL Documents (including with respect to application of proceeds), (ii) the rights of parties in interest with requisite standing to object to any such indemnification claim(s) are hereby reserved in accordance with paragraph 42 hereof, and (iii) the Court shall reserve jurisdiction to hear and determine any such disputed indemnification claim(s). The Prepetition ABL Indemnity Reserve shall be subject to the DIP Liens and the Adequate Protection Liens, subject to the priority set forth herein. The Prepetition ABL Indemnity Reserve shall be released and the funds applied in accordance with paragraph 24 of this Interim Order upon the earlier to occur of (a) receipt by the Prepetition ABL Agent and the Prepetition ABL Lenders of releases and discharges of claims and liabilities in form and substance satisfactory to the Prepetition ABL Agent and the Prepetition ABL Lenders in their sole discretion, or (b) the expiration of the Challenge Deadline without the commencement of a Challenge.

17. Adequate Protection Payments and Protections for Prepetition Secured Notes Parties. As further adequate protection (the “Prepetition Secured Notes Adequate Protection Payments,” and together with the Prepetition ABL Adequate Protection Payments, the “Adequate Protection Payments”), the Debtors are authorized and directed to provide adequate protection to the Prepetition Secured Note Parties in the form of payment in cash, without the need for the filing of formal fee applications: (i) immediately upon entry of this Interim Order, the reasonable fees, expenses, and disbursements (including the fees, expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants and other vendors)

incurred by the Secured Notes Indenture Trustee and the informal committee of Prepetition Secured Noteholders (the “Ad Hoc Committee”)⁶, including the fees, expenses, and disbursements of (I) Paul, Weiss, Rifkind, Wharton & Garrison, LLP, as counsel to the Ad Hoc Committee, and (II) Lazard Freres & Co. LLC, as financial advisor to the Ad Hoc Committee, in each case arising prior to the Petition Date; and (ii) the reasonable fees, expenses, and disbursements (including the fees, expenses, and disbursements of counsel, financial advisors, auditors, third-party consultants and other vendors) incurred by the Secured Notes Indenture Trustee and the Ad Hoc Committee, including the fees, expenses, and disbursements of (I) Paul, Weiss, Rifkind, Wharton & Garrison, LLP, as counsel to the Ad Hoc Committee, and (II) Lazard Freres & Co. LLC, as financial advisor to the Ad Hoc Committee, in each case arising subsequent to the Petition Date; *provided, however*, that during the continuance of an Event of Default, any such payments to the Prepetition Secured Notes Parties shall be made solely from the DIP Term Loan Priority Collateral unless and until the DIP ABL Obligations have been indefeasibly paid in full in cash or cash collateralized in full. Upon the earlier to occur of (a) the Termination Date or (b) delivery of the Carve Out Trigger Notice, the Debtors shall pay to the Secured Notes Indenture Trustee, for the benefit of the Prepetition Secured Notes Parties, \$250,000 into a non-interest bearing account (the “Prepetition Secured Notes Indemnity Reserve” and together with the Prepetition ABL Indemnity Reserve, the “Indemnity Reserves”) to secure contingent indemnification, reimbursement or similar continuing obligations arising hereunder or under or related to the Prepetition Secured Notes Documents (the “Prepetition Secured Notes Indemnity Obligations”); *provided* that the Debtors shall not be required to fund the Prepetition Secured Notes Indemnity Reserve if, at the time of the occurrence of the

⁶ Certain members of the Ad Hoc Committee are DIP Term Loan Lenders (in such capacity, collectively, the “DIP Lender Group”).

Termination Date or the delivery of the Carve Out Trigger Notice (x) the Secured Notes Indenture Trustee and the Prepetition Secured Noteholders have received releases and discharges of claims and liabilities in form and substance satisfactory to the Secured Notes Indenture Trustee and the Prepetition Secured Noteholders in their sole discretion, or (y) the Challenge Period has passed without the commencement of a Challenge. The Prepetition Secured Notes Indemnity Obligations shall be secured by a first lien on the Prepetition Secured Notes Indemnity Reserve and the funds therein and by a lien on the Prepetition Collateral (subject in all respects to the Intercreditor Agreement). Subject to paragraph 35 below, the Prepetition Secured Notes Indemnity Reserve shall be held until the DIP Termination Date, and thereafter the Secured Notes Indenture Trustee and Prepetition Secured Noteholders may apply amounts in the Prepetition Secured Notes Indemnity Reserve against the Prepetition Secured Notes Indemnity Obligations as and when they arise, without further notice to or consent from the Debtors, a Committee (if appointed), or any other parties in interest and without further order of this Court. The Secured Notes Indenture Trustee (for itself and on behalf of the Prepetition Secured Noteholders) shall retain and maintain the Prepetition Secured Notes Liens granted to the Secured Notes Indenture Trustee as security for the amount of any Prepetition Secured Notes Indemnity Obligations not capable of being satisfied from application of the funds on deposit in the Prepetition Secured Notes Indemnity Reserve; *provided*, that (i) any such indemnification claims shall be subject to the terms of the Prepetition Secured Notes Documents (including with respect to application of proceeds), (ii) the rights of parties in interest with requisite standing to object to any such indemnification claim(s) are hereby reserved in accordance with paragraph 42 hereof, and (iii) the Court shall reserve jurisdiction to hear and determine any such disputed indemnification claim(s). The Prepetition Secured Notes Indemnity Reserve shall be subject to

the DIP Liens and the Adequate Protection Liens, subject to the priority set forth herein. The Prepetition Secured Notes Indemnity Reserve shall be released and the funds applied in accordance with paragraph 24 of this Interim Order upon the earlier to occur of (a) receipt by the Secured Notes Indenture Trustee and the Prepetition Secured Noteholders of releases and discharges of claims and liabilities in form and substance satisfactory to the Secured Notes Indenture Trustee and the Prepetition Secured Noteholders in their sole discretion, or (b) the expiration of the Challenge Deadline without the commencement of a Challenge.

18. Adequate Protection Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Cases or any Successor Cases. The receipt by the Prepetition Secured Parties of the adequate protection provided herein shall not be deemed an admission that the interests of the Prepetition Secured Parties are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.

**Provisions Common to DIP Financing
and Use of Cash Collateral**

19. Amendment of the DIP Documents. The DIP Documents may from time to time be amended, modified, or supplemented by the parties thereto without further order of the Court if the amendment, modification, or supplement is (a) non-material or non-adverse to the Debtors and (b) in accordance with the DIP Documents. In the case of a material amendment, modification, or supplement to the DIP Documents that is adverse to the Debtors' estates, the Debtors shall provide notice (which shall be provided through electronic mail) to counsel to a

Committee (if appointed), the U.S. Trustee, counsel to the Ad Hoc Committee, and the DIP Agent that is not party to such amendment, modification, or supplement (collectively, the “Notice Parties”), each of whom shall have five (5) days from the date of such notice to object in writing to such amendment, modification or supplement. If all Notice Parties indicate that they have no objection to the amendment, modification or supplement (or if no objections are timely received), the Debtors may proceed to execute the amendment, modification or supplement, which shall become effective immediately upon execution. If a Notice Party timely objects to such amendment, modification or supplement, approval of the Court (which may be sought on an expedited basis) will be necessary to effectuate the amendment, modification or supplement; *provided* that such amendment, modification or supplement shall be without prejudice to the right of any party in interest to be heard. Any modification, amendment or supplement that becomes effective in accordance with this paragraph 19 shall be filed with the Court.

20. Budget Maintenance. The use of borrowings and letters of credit under the DIP Facilities and the use of Cash Collateral shall be subject to, and in accordance with, the terms and conditions of the DIP Documents. Each Budget delivered to the DIP Agents and the Required Lenders shall be accompanied by such supporting documentation as reasonably requested by the DIP Agents and/or the Required Lenders. Each Budget shall be prepared in good faith based upon assumptions that the Debtors believe to be reasonable. A copy of any Budget (or updated Budget) shall be delivered to counsel for a Committee (if appointed) and the U.S. Trustee after it has been approved in accordance with the DIP Documents.

21. Budget Compliance. The Debtors shall comply with the Budget as and when required under the DIP Agreements (subject to the variances set forth therein). The Debtors shall provide all reports and other information as required in the DIP Agreements

(subject to the grace periods provided therein). The Debtors' failure to comply with the Budget (including the variances set forth in the DIP Agreements) or to provide the reports and other information required in the DIP Agreements shall constitute an Event of Default (as defined herein), following the expiration of any applicable grace period set forth in the DIP Agreements.

22. Modification of Automatic Stay. The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agents, the DIP Lenders, the Prepetition ABL Agent, or the Secured Notes Indenture Trustee each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP Agents, the DIP Lenders and the Prepetition Secured Parties under the DIP Documents, the DIP Facilities and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order.

23. Perfection of DIP Liens and Adequate Protection Liens. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement or mortgage) to validate or perfect (in accordance with

applicable non-bankruptcy law) the DIP Liens, the Adequate Protection Liens, or to entitle the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to the priorities granted herein. Notwithstanding the foregoing, each of the DIP ABL Agent, the DIP Term Loan Agent, the Prepetition ABL Agent and the Secured Notes Indenture Trustee, as applicable, is authorized to file, as it in its sole discretion deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens, and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, and all such financing statements, mortgages, notices, and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens, or the Adequate Protection Liens. The Debtors are authorized and directed to execute and deliver promptly upon demand to the DIP ABL Agent, the DIP Term Loan Agent, the Prepetition ABL Agent and the Secured Notes Indenture Trustee, as applicable, all such financing statements, mortgages, notices, and other documents as the DIP ABL Agent, the DIP Term Loan Agent, the Prepetition ABL Agent or the Secured Notes Indenture Trustee, as applicable, may reasonably request. Each of the DIP ABL Agent, the DIP Term Loan Agent, the Prepetition ABL Agent and the Secured Notes Indenture Trustee, as applicable, in its discretion, may file a copy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar instrument. To the extent that the Prepetition ABL Agent is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other Prepetition Documents or is listed as loss payee or additional insured

under any of the Debtors' insurance policies, the DIP ABL Agent shall also be deemed to be the secured party under such documents or to be the loss payee or additional insured, as applicable. The Prepetition ABL Agent shall serve as agent for the DIP ABL Agent for purposes of perfecting the DIP ABL Agent's and the DIP Term Loan Agent's liens on all DIP Collateral that, without giving effect to the Bankruptcy Code and this Interim Order, is of a type such that perfection of a lien therein may be accomplished only by possession or control by a secured party, bailee or consignee.

24. Application of Proceeds of Collateral. As a condition to the effectiveness of the DIP Documents, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the Debtors have agreed that from the Closing Date and through the date of entry of the Final Order, the Debtors shall apply all (a) net cash proceeds of the DIP Term Loan Facility, (b) net proceeds of DIP ABL Priority Collateral received by the DIP ABL Agent or any other Credit Party or Secured Party, and (c) all proceeds realized from the Debtors on account of the DIP ABL Priority Collateral (whether pursuant to cash dominion or arising from realization on DIP Collateral, setoff or otherwise) as follows: (i) first, to costs and expenses of the DIP ABL Agent; and (ii) second, to reduce the DIP ABL Obligations as determined by the DIP ABL Agent in a manner consistent with the DIP ABL Agreement.

25. Protections of Rights of DIP Agents, DIP Lenders and Prepetition Secured Parties.

(i) Unless the DIP Agents, the Prepetition ABL Agent and the Secured Notes Indenture Trustee shall have provided their prior written consent or all DIP Obligations and all Prepetition Secured Obligations (excluding contingent indemnification obligations for which no claim has been asserted) have been indefeasibly paid in full in cash and

the lending commitments under the DIP Facilities have terminated, there shall not be entered in any of these Cases or any Successor Cases any order (including any order confirming any plan of reorganization or liquidation) that authorizes any of the following: (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral or Prepetition Collateral and/or that is entitled to administrative priority status, in each case that is superior to or *pari passu* with the DIP Liens, the DIP Superpriority Claims, the Prepetition Liens, the Prepetition Adequate Protection Liens, and/or the Adequate Protection Superpriority Claims except as expressly set forth in this Interim Order or the DIP Documents; (ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iii) except as set forth in the DIP Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor; or (iv) any modification of any of the DIP Agents', DIP Lenders', or the Prepetition Secured Parties' rights under this Interim Order, the DIP Documents or the Prepetition Documents with respect any DIP Obligations or Prepetition Secured Obligations.

(ii) Until the DIP Obligations (excluding contingent indemnification obligations for which no claim has been asserted) have been indefeasibly paid in full in cash, the Debtors (and/or their legal and financial advisors in the case of clauses (ii) through (iv) below) shall (i) maintain books, records, and accounts to the extent and as required by the DIP Documents (and subject to the applicable grace periods set forth therein); (ii) reasonably cooperate with, consult with, and provide to the DIP Agents, the DIP Lender Group, and the Ad Hoc Committee all such information and documents that any or all of the Debtors are obligated (including upon reasonable request by such parties) to provide under the DIP Documents or the

provisions of this Interim Order; (iii) upon reasonable advance notice, permit, the DIP Agents, the DIP Lender Group, the Ad Hoc Committee, the Prepetition ABL Agent, the Secured Notes Indenture Trustee, and their respective advisors to visit and inspect any of the Debtors' respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations, and accounts with their respective officers, employees, independent public accountants and other professional advisors (other than legal counsel) as and to the extent required by the DIP Documents and/or the Prepetition Documents; (iv) permit the DIP Agents, the DIP Lender Group, the Ad Hoc Committee, the Prepetition ABL Agent, the Secured Notes Indenture Trustee, and their respective advisors to consult with the Debtors' management and advisors on matters concerning the Debtors' businesses, financial condition, operations and assets; and (v) upon reasonable advance notice, permit the DIP Agents, the DIP Lender Group, the Ad Hoc Committee, the Prepetition ABL Agent and the Secured Notes Indenture Trustee to conduct, at their discretion and at the Debtors' cost and expense, field audits, collateral examinations, liquidation valuations and inventory appraisals at reasonable times in respect of any or all of the DIP Collateral and the Prepetition Collateral in accordance with the DIP Documents and the Prepetition Documents.

26. Credit Bidding. At the Final Hearing, the Debtors shall seek an order from the Court holding that, in connection with any sale process authorized by the Court the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties may credit bid up to the full amount of the applicable outstanding DIP Obligations or Prepetition Secured Obligations (as applicable), in each case including any accrued interest and expenses (each a "Credit Bid") in

any sale of any DIP Collateral or Prepetition Collateral, as applicable, whether such sale is effectuated through section 363 or section 1129 of the Bankruptcy Code, by a Chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, subject in each case to the rights and duties of the parties under the DIP Documents, the Intercreditor Agreement, the Intercreditor Acknowledgment and the Prepetition Documents, and to the provision of consideration sufficient to pay in full in cash any senior liens on the collateral that is subject to the Credit Bid. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall each be considered a “Qualified Bidder” with respect to its rights to acquire all or any of the assets by Credit Bid.

27. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c), or 364(d) or in violation of the DIP Documents at any time prior to the indefeasible repayment in full of all DIP Obligations and Prepetition Secured Obligations (to the extent such remain outstanding), and the termination of the DIP Agents’ and the DIP Lenders’ obligation to extend credit under the DIP Facilities, including subsequent to the confirmation of any chapter 11 plan of reorganization with respect to any or all of the Debtors and the Debtors’ estates, and such facilities are secured by any DIP Collateral, then all the cash proceeds derived from such credit or debt shall immediately be turned over to the DIP ABL Agent or the DIP Term Loan Agent, as applicable, to be applied in accordance with this Interim Order and the DIP Documents.

28. Cash Collection.

(i) From and after the date of the entry of this Interim Order, all collections and proceeds of any DIP ABL Priority Collateral or Prepetition ABL Priority

Collateral and all Cash Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall be promptly deposited in the same lock-box and/or deposit accounts into which the collections and proceeds of the Prepetition ABL Priority Collateral were deposited under the Prepetition Documents (or in such other accounts as are designated by the DIP ABL Agent from time to time) (collectively, the “Cash Collection Accounts”), which accounts shall be subject to the sole dominion and control of the DIP ABL Agent. It is understood and agreed by the Debtors and the DIP ABL Agent that, unless an “Event of Default” under the DIP ABL Agreement has occurred and is continuing, for so long as there are no DIP ABL Loans outstanding, proceeds in the Cash Collection Accounts shall be returned to the Debtors and the Debtors shall be authorized to use such Cash Collateral in accordance with paragraph 11 of this Interim Order; *provided* that during the period starting on the Petition Date and ending on the date on which the initial funding of the DIP Term Loan Facility occurs, the Prepetition ABL Agent or the DIP ABL Agent, as applicable, shall not sweep any funds from the Cash Collection Accounts. All proceeds and other amounts in the Cash Collection Accounts shall be remitted to the DIP ABL Agent for application in accordance with the DIP ABL Documents and this Interim Order. Unless otherwise agreed to in writing by the DIP Agents and the Prepetition ABL Agent or as set forth in this Interim Order, the Debtors shall maintain no accounts except those identified in any cash management order entered by the Court (a “Cash Management Order”), which accounts, for the avoidance of doubt, shall include the DIP Term Loan Priority Accounts. The Debtors and the financial institutions where the Debtors’ Cash Collection Accounts are maintained (including those accounts identified in any Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such Cash Collection Accounts, but not in the DIP Term

Loan Priority Accounts, upon receipt of any direction to that effect from the DIP ABL Agent.

(ii) Notwithstanding anything in this Interim Order or any of the DIP Documents, any proceeds of the DIP Term Loan Facility remaining after the repayment of the DIP ABL Obligations in accordance with paragraph 22 of this Interim Order shall be deposited into a segregated deposit account furnished by a depository bank acceptable to the DIP Term Loan Agent and subject to the sole dominion and control of the DIP Term Loan Agent (such account, the “DIP Term Loan Proceeds Account”). The DIP Term Loan Proceeds Account shall not be subject to a security interest or a lien in favor of the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties and shall constitute DIP Term Loan Priority Collateral. The Debtors’ use of the proceeds in the DIP Term Loan Proceeds Account shall be subject to this Interim Order and the DIP Term Loan Documents.

(iii) Notwithstanding anything in this Interim Order or any of the DIP Documents, from and after the date of the entry of this Interim Order, all collections and proceeds of any DIP Term Loan Priority Collateral or Prepetition Notes Priority Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall promptly be deposited into a segregated account furnished by a depository bank acceptable to the DIP Term Loan Agent and such account shall be in the name of the DIP Term Loan Agent and subject to the sole dominion and control of the DIP Term Loan Agent (such account, the “DIP Term Loan Collateral Account,” and together with the DIP Term Loan Proceeds Account, the “DIP Term Loan Priority Accounts”). The DIP Term Loan Collateral Account shall not be subject to a security interest or a lien in favor of the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties, but shall constitute DIP Term Loan Priority Collateral and Prepetition Notes Priority Collateral. The

Debtors' use of the proceeds in the DIP Term Loan Collateral Account shall be subject to this Interim Order and the DIP Term Loan Documents.

29. Maintenance of DIP Collateral. Until the indefeasible payment in full of all DIP Obligations, all Prepetition Secured Obligations, and the termination of the DIP Agents' and the DIP Lenders' obligation to extend credit under the DIP Facilities, the Debtors shall: (a) insure the DIP Collateral as required under the DIP Facilities or the Prepetition Documents, as applicable; and (b) maintain the cash management system in effect as of the Petition Date, as modified by any Cash Management Order that has first been agreed to by the DIP Agents or as otherwise required by the DIP Documents or this Interim Order.

30. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP ABL Priority Collateral or Prepetition ABL Priority Collateral other than in the ordinary course of business or as permitted under the DIP Documents without the prior written consent of the DIP ABL Agent and the Prepetition ABL Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP ABL Agent, the DIP ABL Lenders, or the Prepetition ABL Parties, or from any order of this Court), except as otherwise provided for in the DIP ABL Documents or otherwise ordered by the Court, and subject to the Intercreditor Agreement. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Term Loan Priority Collateral or Prepetition Notes Priority Collateral other than in the ordinary course of business or as permitted under the DIP Documents without the prior written consent of the DIP Term Loan Agent and the Secured Notes Indenture Trustee (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Term Loan Agent, the DIP Term Loan Lenders, or the Prepetition Secured Notes Parties, or from any order of this Court),

except as otherwise provided for in the DIP Term Loan Documents, and subject to the Intercreditor Agreement and the Intercreditor Acknowledgment.

31. DIP Termination Date. On the applicable DIP Termination Date (as defined herein), (a) all applicable DIP Obligations shall be immediately due and payable, all commitments to extend credit under the applicable DIP Facilities will terminate, other than as required in paragraph 39 with respect to the Carve Out, all treasury and cash management, hedging obligations and bank product obligations constituting Obligations (as defined in the DIP ABL Agreement) shall be cash collateralized, and all letters of credit and bankers' acceptances outstanding shall be cash collateralized in an amount equal to 105% of the face amount thereof, and (b) all authority to use Cash Collateral shall cease, *provided*, that during the Remedies Notice Period (as defined herein), the Debtors may use Cash Collateral solely to meet payroll obligations and pay other expenses that the DIP Agents, each in their sole discretion, approve as critical to keep the business of the Debtors operating in accordance with the Budget, and as otherwise agreed by the DIP Agents in their sole discretion, and (c) upon the expiration of the Remedies Notice Period, the DIP Agents shall be entitled to exercise rights and remedies under the DIP Documents in accordance with this Interim Order, subject to the terms of the Intercreditor Agreement and the Intercreditor Acknowledgment. For the purposes of this Interim Order, the "DIP Termination Date" shall mean the "Termination Date" as defined in the DIP ABL Agreement and the "Termination Date" as defined in the DIP Term Loan Agreement, as applicable.

32. Events of Default. The occurrence of any of the following events, unless waived by the DIP ABL Agent and the DIP Term Loan Agent in writing and in accordance with the terms of the DIP ABL Agreement and the DIP Term Loan Agreement, as applicable, shall

constitute an event of default (collectively, the “Events of Default”): (a) the failure of the Debtors to perform, in any respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order, or (b) the occurrence of an “Event of Default” under either of the DIP Agreements.

33. Rights and Remedies upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default under the applicable DIP Documents, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order (including the Remedies Notice Period provision), (a) the DIP ABL Agent and/or the DIP Term Loan Agent, as applicable, may declare (any such declaration shall be referred to herein as a “Termination Declaration”) (i) all DIP Obligations owing under the respective DIP Documents to be immediately due and payable, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the respective DIP Facilities, (iii) termination of the respective DIP Credit Facilities and the respective DIP Documents as to any future liability or obligation of the applicable DIP Agents and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (iv) that the application of the Carve Out has occurred through the delivery of the Carve Out Trigger Notice to the Debtors as provided herein; and (b) either the DIP ABL Agent (in the case of Cash Collateral resulting from proceeds of the DIP ABL Priority Collateral) or the DIP Term Loan Agent (in the case of Cash Collateral resulting from proceeds of the DIP Term Loan Priority Collateral) may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of (a) any date on which a Termination Declaration is delivered and (b) the DIP Termination Date shall be

referred to herein as the “Termination Date”). The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the DIP ABL Agent (if delivered by the DIP Term Loan Agent), counsel to the DIP Term Loan Agent and the DIP Lender Group (if delivered by the DIP ABL Agent), counsel to a Committee (if appointed), and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) business days after the date a Termination Declaration is delivered (the “Remedies Notice Period”): (A) the applicable DIP Agent and the applicable DIP Lenders shall be entitled to exercise their rights and remedies, subject to the Intercreditor Agreement and in accordance with the respective DIP Documents and this Interim Order, to satisfy the relevant DIP Obligations, the DIP Superpriority Claim and the DIP Liens, subject to the Carve Out, (B) the Prepetition ABL Parties or the Prepetition Secured Notes Parties, as applicable, shall be entitled to exercise their rights and remedies, subject to the Intercreditor Agreement and in accordance with the applicable Prepetition Documents and this Interim Order, to satisfy the relevant Prepetition Secured Obligations, the Adequate Prepetition Superpriority Claims and the Prepetition Adequate Protection Liens, subject to the Carve Out. During the Remedies Notice Period, the Debtors and/or a Committee (if appointed) shall be entitled to seek an emergency hearing within the Remedies Notice Period; *provided* that the sole issues that the Debtors may bring before the Court at any such emergency hearing are (a) whether an Event of Default has occurred and/or is continuing and (b) whether the Debtors shall have the ability to use Cash Collateral on a non-consensual basis, and the Debtors hereby waive their right to and shall not be entitled to seek relief to the extent that such relief would in any way impair or restrict the rights and remedies of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties. Unless the Court orders

otherwise, the automatic stay, as to the DIP Agents, the DIP Lenders, and, following repayment of the DIP ABL Obligations or the DIP Term Loan Obligations, as applicable, the Prepetition ABL Parties or the Prepetition Secured Notes Parties, as applicable, shall automatically be terminated at the end of the Remedies Notice Period without further notice or order. Upon expiration of the Remedies Notice Period, the DIP Agents, the DIP Lenders, and, following repayment of the DIP ABL Obligations or the DIP Term Loan Obligations, as applicable, the Prepetition ABL Parties or the Prepetition Secured Notes Parties, as applicable, shall be permitted to exercise all remedies set forth herein, in the DIP Documents, the Prepetition Documents, and as otherwise available at law without further order of or application or motion to the Court consistent with the Intercreditor Agreement and the applicable provisions of the DIP Agreements. In addition, if authorized in the Final Order, if a Specified Sale Process Default (as defined in the DIP ABL Agreement) occurs and is continuing, subject to the Remedies Notice Period (and the Purchase Option described below), the DIP ABL Agent may direct the Debtors to commence a sale of the Debtors' assets constituting DIP ABL Priority Collateral (the "Sale") on the following timeline (or such other timeline as may be agreed to by the Debtors and the DIP ABL Agent in consultation with the DIP Term Loan Agent): (a) within one (1) business day after the Remedies Notice Period expires, the Debtors must obtain entry of an order from the Court, in form and substance approved by the DIP ABL Agent, either (x) designating a liquidating stalking horse bidder consented to by the DIP ABL Agent and approving bidding and sales procedures with respect to the Sale or (y) determining that a Specified Sale Process Default has not occurred and/or is not continuing; (b) within three (3) business days after the Remedies Notice Period expires, complete an auction for the Sale and declare a "successful bidder" for the Sale on terms and conditions consented to by the DIP ABL Agent; (c) within five (5) business

days after the Remedies Notice Period expires, obtain entry of a final order from the Court, in form and substance acceptable to the DIP ABL Agent, approving the Sale; and (d) within seven (7) business days after the Remedies Notice Period expires, execute an agency agreement approved by the DIP ABL Agent in connection with the Sale and commence the Sale pursuant to the approved agency agreement and the applicable Court order; *provided*, that the DIP ABL Agent shall only be entitled to direct the Debtors to commence the Sale if at the time of such Specified Sale Process Default, the Specified Test Condition has been satisfied; *provided further*, that in the event the DIP ABL Agent directs the Debtors to commence the Sale, the DIP Term Loan Agent and the DIP Term Loan Lenders shall have the right to purchase the DIP ABL Obligations from the DIP ABL Agent and the DIP ABL Lenders pursuant to the Purchase Option (as defined in the Intercreditor Acknowledgment and within the timeframe set forth therein). Until such time as Sale is complete and the proceeds of DIP ABL Priority Collateral have been remitted to the DIP ABL Agent for the benefit of the DIP ABL Lenders and the proceeds of DIP Term Loan Priority Collateral have been remitted to the DIP Term Loan Agent and the DIP Term Loan Lenders, any exercise of remedies by the DIP Term Loan Agent and the DIP Term Loan Lenders shall be in accordance with the Intercreditor Agreement and paragraph 30 of this Interim Order. Upon the occurrence and during the continuation of an Event of Default, the DIP ABL Agent and any liquidator or other professional will have, in consultation with the DIP Term Loan Agent, the right to access and utilize, at no cost or expense, any trade names, trademarks, copyrights or other intellectual property and any warehouse, distribution centers, store or other locations to the extent necessary or appropriate in order to sell, lease or otherwise dispose of any of the DIP ABL Priority Collateral, including pursuant to any Court approved sale process.

34. Good Faith under Section 364(e) of the Bankruptcy Code; No

Modification or Stay of this Interim Order. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties have acted in good faith in connection with this Interim Order and are entitled to rely upon the protections granted herein and by section 364(e) of the Bankruptcy Code. Based on the findings set forth in this Interim Order and the record made during the Interim Hearing, and in accordance with section 364(e) of the Bankruptcy Code, in the event any or all of the provisions of this Interim Order are hereafter reargued, reconsidered, reversed, modified, amended, or vacated by a subsequent order of this Court or any other court, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties are entitled to the protections provided in section 364(e) of the Bankruptcy Code to the maximum extent set forth therein.

35. DIP and Other Expenses. The Debtors are authorized and directed to pay all reasonable and documented prepetition and postpetition fees and expenses of the DIP ABL Agent, the DIP Term Loan Agent (including the fees, expenses, and disbursements of Arnold & Porter Kaye Scholer LLP, as counsel to the DIP Term Loan Agent), the DIP Lender Group, and the DIP Lenders in connection with the DIP Facilities, as provided in the DIP Documents, or, if requested by the Debtors, incurred with a proposed conversion of the DIP Facilities into exit financing (including the preparation and negotiation of the documentation relating to the exit facility), whether or not the transactions contemplated hereby are consummated, including attorneys' fees (limited to one primary counsel representing all DIP ABL Lenders (absent a conflict of interest, in which case the DIP ABL Lenders may engage and be reimbursed for one additional counsel) and one primary counsel representing all DIP Term Loan Lenders (absent a conflict of interest, in which case the DIP Term Loan Lenders may engage and be reimbursed for one additional counsel)), monitoring and appraisal fees, financial advisory fees, fees and expenses of other consultants, and indemnification and reimbursement of fees and expenses.

Payment of all such fees and expenses shall not be subject to allowance by the Court. Professionals for the DIP Agents, the DIP Lenders, the DIP Lender Group, the Prepetition Secured Parties and the Ad Hoc Committee shall not be required to comply with the U.S. Trustee fee guidelines; however, any time that such professionals seek payment of fees and expenses from the Debtors, each professional shall provide summary copies of its invoices to the U.S. Trustee and counsel for a Committee (if appointed) contemporaneously with the delivery of such invoices to the Debtors (it being understood that the professionals for the DIP Lender Group and the Ad Hoc Committee shall not be required to submit separate invoices). Any objections raised by the Debtors, the U.S. Trustee or a Committee (if appointed) with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) days of the receipt of such invoice; if after ten (10) days such objection remains unresolved, it will be subject to resolution by the Court. Pending such resolution, the undisputed portion of any such invoice will be paid promptly by the Debtors. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date all reasonable and documented fees, costs, and out-of-pocket expenses of the DIP Agents, the DIP Lender Group, the DIP Lenders, the Prepetition Secured Parties and the Ad Hoc Committee incurred on or prior to such date without the need for any professional engaged by such parties to first deliver a copy of its invoice or other supporting documentation. No attorney or advisor to the DIP Agents, the DIP Lender Group, the DIP Lenders, the Ad Hoc Committee, or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Agents, the DIP Lender Group or the DIP Lenders in connection with or with respect to the DIP Facilities, and (ii) Prepetition

Secured Parties or the Ad Hoc Committee in connection with or with respect to these matters, are hereby approved in full and shall not be subject to avoidance, disgorgement or any similar form of recovery by the Debtors or any other person.

36. Indemnification. The Debtors shall indemnify and hold harmless the DIP Agents and the DIP Lenders in accordance with the terms and conditions of the DIP Agreements. Upon the earlier of (A) payment in full in cash of the DIP ABL Obligations or (B) conclusion of the Remedies Notice Period, the Debtors shall pay \$500,000 from proceeds of the DIP Collateral into an indemnity account (the “DIP ABL Indemnity Account”) subject to first priority liens of the DIP ABL Agent, for the benefit of the DIP ABL Lenders; *provided* that if the Debtors confirm a chapter 11 plan of reorganization that provides for (a) indefeasible repayment in full in cash on the plan’s effective date of all outstanding DIP ABL Obligations and (b) releases and discharges for the DIP ABL Agent and DIP ABL Lenders of claims and liabilities (which releases and discharges shall be in form and substance satisfactory to the DIP ABL Agent and the DIP ABL Lenders in their sole discretion) the Debtors shall not be required to fund the DIP ABL Indemnity Account. The DIP ABL Indemnity Account shall secure contingent indemnification obligations and other contingent claims arising under the DIP ABL Agreement, the other DIP ABL Documents or otherwise in respect of the DIP ABL Obligations until such time as the DIP ABL Agent and the DIP ABL Lenders receive releases and discharges of claims and liabilities in form and substance satisfactory to the DIP ABL Agent and the DIP ABL Lenders in their sole discretion. Upon the earlier of (A) payment in full in cash of the DIP Term Loan Obligations or (B) conclusion of the Remedies Notice Period, the Debtors shall pay \$500,000 from proceeds of the DIP Collateral into an indemnity account (the “DIP Term Loan Indemnity Account”) subject to first priority liens of the DIP Term Loan Agent, for the benefit of

the DIP Term Loan Lenders *provided* that if the Debtors confirm a chapter 11 plan of reorganization that provides for (a) indefeasible repayment in full in cash on the plan's effective date of all outstanding DIP Term Loan Obligations and (b) releases and discharges for the DIP Term Loan Agent and DIP Term Loan Lenders of claims and liabilities (which releases and discharges shall be in form and substance satisfactory to the DIP Term Loan Agent and the DIP Term Loan Lenders in their sole discretion) the Debtors shall not be required to fund the DIP Term Loan Indemnity Account. The DIP Term Loan Indemnity Account shall secure contingent indemnification obligations and other contingent claims arising under the DIP Term Loan Agreement, the other DIP Term Loan Documents or otherwise in respect of the DIP Term Loan obligations until such time as the DIP Term Loan Agent and the DIP Term Loan Lenders receive releases and discharges of claims and liabilities in form and substance satisfactory to the DIP Term Loan Agent and the DIP Term Loan Lenders in their sole discretion.

37. Proofs of Claim. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties will not be required to file proofs of claim in any of the Cases or Successor Cases for any claim allowed herein. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases to the contrary, each of (a) the Prepetition ABL Agent on behalf of itself and the Prepetition ABL Parties and (b) the Secured Notes Indenture Trustee on behalf of itself and the Prepetition Secured Notes Parties is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a proof of claim and/or aggregate proofs of claim in each of the Cases or Successor Cases for any claim allowed herein. Any proof of claim filed by the Prepetition ABL Agent or Secured Notes Indenture Trustee shall be deemed to be in addition to and not in lieu of any other proof of claim that may be filed by any of the Prepetition ABL Parties or

Prepetition Secured Notes Parties, respectively. Any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases shall not apply to any claim of the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties.

38. Rights of Access and Information. Without limiting the rights of access and information afforded the DIP Agents and the DIP Lenders under the DIP Documents, the Debtors shall be, and hereby are, required to afford representatives, agents and/or employees of the DIP Agents, the DIP Lender Group, the Ad Hoc Committee, the Prepetition ABL Agent and the Secured Notes Indenture Trustee reasonable access to the Debtors' premises and their books and records in accordance with the DIP Documents and the Prepetition Documents, as applicable, and shall reasonably cooperate, consult with, and provide to such persons all such information as may be reasonably requested. In addition, the Debtors authorize their independent certified public accountants, financial advisors, investment bankers and consultants, including (i) Evercore Group, L.L.C. ("Evercore") and (ii) FTI Consulting, Inc. to cooperate, consult with, and provide to the DIP Agents, the Prepetition ABL Agent, the DIP Lender Group, the Ad Hoc Committee, the Secured Notes Indenture Trustee and their respective advisors all such information as may be reasonably requested with respect to the business, results of operations and financial condition of any of the Borrowers or Guarantors (as defined in the DIP Documents).

39. Carve Out.

(i) As used in this Interim Order, the "Carve Out" means, subject, in each case, to application of any retainers that may be held by the applicable professionals, without duplication: (a) the payment of all unpaid professional fees and disbursements incurred by the Debtors (other than the fees of professionals retained in the ordinary course of business)

and any statutory committees appointed in the Cases pursuant to sections 327 and 1103 of the Bankruptcy Code (the “Case Professionals”) at any time prior to the delivery of the Carve Out Trigger Notice (as defined herein) to the extent allowed by this Court before or after the issuance of the Carve Out Trigger Notice (the “Allowed Professional Fees”), in an aggregate amount not to exceed the Professional Fee Carve Out Cap (defined herein) and which amounts are reflected as a reserve for estimated professional fees and disbursements in the most recent borrowing base report delivered to the DIP Agents by the Debtors prior to the delivery of a Carve Out Trigger Notice; (b) any success or transaction fees payable to Case Professionals, solely to the extent (1) such success or transaction fee is earned and payable pursuant to an engagement letter between the Debtors and the Case Professional that has been consented to by the DIP Term Loan Agent and approved by the Court, and (2) any such success or transaction fees are reflected as a reserve in the most recent Borrowing Base Certificate delivered to the DIP Agents by the Debtors prior to the delivery of a Carve Out Trigger Notice (the “Success Fees”); (c) after delivery of a notice by the DIP ABL Agent or the DIP Term Loan Agent to the Debtors that an Event of Default has occurred and is continuing and such DIP Agent has delivered notice to the Debtors to the effect that the application of the Carve Out has occurred (the “Carve Out Trigger Notice”), the payment of allowed and unpaid professional fees and disbursements incurred by the Case Professionals following the delivery of the Carve Out Trigger Notice in an aggregate amount not in excess of \$1,000,000 (the “Wind-Down Carve Out Amount”); and (d) the payment of (1) fees pursuant to 28 U.S.C. § 1930(a) plus interest pursuant to 31 U.S.C. § 3717; (2) all reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code in an aggregate amount not to exceed \$100,000 and (3) any fees required to be paid to the Clerk of the Court, which fees shall not be limited to amounts that may be set forth in the Budget (the “Statutory

Fees”). Notwithstanding anything to the contrary in this paragraph (i), (A) the fact that a Carve Out Trigger Notice has been delivered shall not be used directly or indirectly to terminate or otherwise alter any rights under a Debtors’ Case Professional’s engagement; and (B) if a Success Fee has been earned by a Debtors’ Case Professional after a Carve Out Trigger Notice has been delivered in accordance with the terms and conditions of an engagement letter between the Debtors and such Debtors’ Case Professional that has been consented to by the DIP Term Loan Agent and the Required Lenders (as defined in the DIP Term Loan Agreement and which consent shall occur at the time of Court approval of such Case Professional’s retention in these chapter 11 cases) and approved by the Court, such Success Fee when due shall be afforded the benefits of the Carve Out, but such amounts shall not be funded into the Carve Out Account (as defined herein); *provided* that the DIP ABL Agent reserves the right to include the Success Fees as part of the Carve Out Reserve (as defined herein) regardless of whether a Success Fee is funded into the Carve Out Account.

(ii) Not later than 5:00 p.m. New York time on the last Business Day of each other week starting with the fourth week following the Petition Date, each Case Professional shall deliver to the Debtors and the DIP Agents a statement setting forth a good faith estimate the amount of the fees and expenses (collectively, “Professional Fees”) incurred during the preceding two weeks (or since the Petition Date in the case of the first such statement) by such Case Professional (through Saturday of such week, the “Calculation Date”), along with a cumulative total of the amount of such fees and expenses which have been paid to date by the Debtors (each such statement, a “Fee Statement”); *provided* that within three (3) business days of the occurrence of the Termination Declaration Date (as defined herein), each Case Professional shall deliver an additional Fee Statement (the “Final Fee Statement”) setting forth the amount

and a description of the fees and expenses incurred during the period commencing on the calendar day after the prior Calculation Date and concluding on the Termination Declaration Date; *provided further* that if any Case Professional fails to deliver a Fee Statement within three (3) business days after such Fee Statement is due hereunder, such Case Professional's entitlement to the Carve Out with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Case Professional failed to deliver a Fee Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Budget for the period from the Calculation Date of the most recent Fee Statement delivered hereunder through the Termination Declaration Date. The Carve Out under paragraph (i)(a) above shall be limited to the sum of (I) the greater of (1) the aggregate unpaid amount of Allowed Professional Fees included in such Fee Statements timely received by the DIP Agents prior to the Termination Declaration Date and (2) the aggregate unpaid amount of Allowed Professional Fees included the Budget as of the Calculation Date prior to the Termination Declaration Date, *plus* (II) the Budgeted Cushion Amount (defined below) (such amount, the "Professional Fee Carve Out Cap"). For the avoidance of doubt, the DIP ABL Agent shall be entitled to maintain, as part of the Reserve (as defined in the DIP ABL Agreement), and the Debtors shall reflect in each borrowing base report delivered to the DIP Agents by the Debtors, a reserve in an amount not less than the sum of (a) the Professional Fee Carve Out Cap, *plus* (b) the Success Fees, *plus* (c) the Wind-Down Carve Out Amount, *plus* (d) the Statutory Fees (the "Carve Out Reserve"), which shall be reflected as a reserve for professional fees and disbursements in each borrowing base report delivered to the DIP Agents by the Debtors. The DIP Liens, the Prepetition Liens, the DIP Superpriority Claims, the Adequate Protection Liens, and the Adequate Protection Superpriority Claims shall only be

subject and subordinate to the Carve Out up to amount of the Carve Out Reserve. The term “Budgeted Cushion Amount” means an amount equal to the amount of Professional Fees set forth in the Budget for the then current week occurring after the most recent Calculation Date and the two weeks succeeding such current week.

(iii) Notwithstanding the foregoing, so long as no Carve Out Trigger Notice has been issued by the DIP ABL Agent or the DIP Term Loan Agent, the Debtors shall be permitted to pay compensation and reimbursement of expenses allowed and payable under sections 328, 330 and 331 of the Bankruptcy Code but solely to the extent the same are reflected as estimated professional fees and disbursements in the most recent borrowing base report delivered to the DIP Agents by the Debtors prior to the delivery of a Carve Out Trigger Notice, as the same may be due and payable and otherwise allowed and payable by order of the Court, and the same shall not reduce the Wind-Down Carve Out Amount. The Carve Out shall not be deemed increased if actual fees of Case Professionals are higher in fact than the estimates provided on a borrowing base report. No portion of the Carve-Out may be used in contravention of the restrictions or the limitations on the use of the Carve-Out set forth in this Interim Order. At any time before or after the delivery of the Carve Out Trigger Notice, the Debtors shall be allowed to transfer an amount equal to the Carve Out Reserve into a segregated account at the DIP ABL Agent in trust exclusively to pay amounts due under this paragraph 39.

(iv) *No Direct Obligation to Pay Professional Fees.* The DIP Agents, the DIP Lenders and the Prepetition Secured Parties shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any Case Professionals incurred in connection with the Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agents, the DIP

Lenders or the Prepetition Secured Parties, in any way to pay compensation to or to reimburse expenses of any Case Professional, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(v) *Funding of Carve Out Following Delivery of Carve Out Trigger Notice.* Delivery of the Carve Out Trigger Notice by the DIP ABL Agent or the DIP Term Loan Agent to the Debtors shall be deemed a draw request and notice of borrowing by the Debtors for DIP ABL Loans under the DIP ABL Agreement in an amount equal to the sum of (a) the Professional Fee Carve Out Cap, *plus* (b) the Success Fees, *plus* (c) the Wind Down Carve Out Amount, *plus* (d) the Statutory Fees. To the extent the amounts contemplated in the immediately preceding sentence are reflected as a reserve for professional fees and disbursements in the most recent borrowing base report delivered to the DIP Agents by the Debtors prior to delivery of a Carve Out Trigger Notice, the DIP ABL Agent shall make available to the Debtors such amounts; *provided* that if the Debtors have previously transferred amounts to a segregated account pursuant to paragraph (iii) above, the DIP ABL Agent shall only be required to make available the difference, if any, between the amount previously transferred and the amount due as of the date of delivery of the Carve Out Trigger Notice. The Debtors shall deposit and hold such amounts in a segregated account (the “Carve Out Account”) at the DIP ABL Agent in trust exclusively to pay the amounts describe in this paragraph (v). Notwithstanding anything in the DIP Credit Agreement to the contrary, each DIP ABL Lender shall make available to the DIP ABL Agent such DIP Lenders’ *pro rata* share of such DIP ABL Loans.

(vi) *Payment of Carve Out After Carve Out Trigger Notice.* Any payment or reimbursement made on or after the delivery of the Carve Out Trigger Notice in respect of any Allowed Professional Fees shall permanently reduce the Wind-Down Carve Out

Amount on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to and made a part of the DIP ABL Obligations and secured by the DIP Collateral and otherwise entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code and applicable law.

40. Limitations on Use of DIP Proceeds, Cash Collateral and Carve Out. The DIP Facilities, the DIP Collateral, the Prepetition Collateral, the Cash Collateral and the Carve Out may not be used in connection with: (a) preventing, hindering, or delaying any of the DIP Agents', the DIP Lenders', or the Prepetition Secured Parties' enforcement or realization upon any of the DIP Collateral or the Prepetition Collateral; (b) using or seeking to use Cash Collateral or selling or otherwise disposing of DIP Collateral without the consent of the DIP Agents; (c) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP Agents; (d) incurring Indebtedness (as defined in the DIP ABL Agreement or the DIP Term Loan Agreement) without the prior consent of the applicable DIP Agent, except to the extent permitted under the applicable DIP Agreements (e) seeking to amend or modify any of the rights granted to the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order, the Final Order, the DIP Documents, or the Prepetition Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (f) objecting to or challenging in any way the DIP Liens, the DIP Obligations, the Prepetition Liens, the Prepetition Secured Obligations, the DIP Collateral (including Cash Collateral) or, as the case may be, the Prepetition Collateral, or any other claims or liens, held by or on behalf of any of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties, respectively; (g) asserting, commencing, or prosecuting any claims or causes of action whatsoever, including any actions under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions to recover

or disgorge payments, against any of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees; (h) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Liens, the Prepetition Secured Obligations or any other rights or interests of any of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties; or (i) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations or the Prepetition Secured Obligations; *provided, however*, that the Carve Out and such collateral proceeds and loans under the DIP Documents may be used for allowed fees and expenses, in an amount not to exceed \$50,000 in the aggregate (the “Investigation Budget”), incurred solely by a Committee (if appointed), in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition Liens within sixty (60) calendar days from entry of the Final Order.

41. Payment of Compensation. Nothing herein shall be construed as a consent to the allowance of any professional fees or expenses of any Case Professional or shall affect the right of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties to object to the allowance and payment of such fees and expenses. So long as an unwaived Event of Default has not occurred, the Debtors shall be permitted to pay fees and expenses allowed and payable by final order (that has not been vacated or stayed, unless the stay has been vacated) under sections 328, 330, 331, and 363 of the Bankruptcy Code, as the same may be due and payable, as reflected in the most recent Budget provided by the Debtors to the DIP Agents.

42. Effect of Stipulations on Third Parties.

(i) *Generally.* The admissions, stipulations, agreements, releases, and

waivers set forth in paragraph F of this Interim Order (collectively, the “Prepetition Lien and Claim Stipulations”) are and shall be binding on the Debtors. In addition, the Prepetition Lien and Claim Stipulations shall be binding on any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including a Committee (if appointed), unless, and solely to the extent that, a party in interest with requisite standing and authority (other than the Debtors, as to which any Challenge (as defined below) is irrevocably waived and relinquished) (i) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 42) challenging the Prepetition Lien and Claim Stipulations (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a “Challenge”) by no later than (a) in the case of a Committee (if appointed), sixty (60) days from the date of entry of the Final Order, or (b) in the case that no Committee is appointed, seventy-five (75) days from the date of entry of the Final Order (the “Challenge Deadline”), *provided*, that the “Challenge Deadline” for matters solely relating to the value of the Prepetition Collateral shall be extended to such time as may be agreed by the parties or further ordered by the Court. The Challenge Deadline may otherwise only be extended in writing from time to time in the sole discretion of the Prepetition ABL Agent (with respect to the Prepetition ABL Documents) and the Secured Notes Indenture Trustee (with respect to the Prepetition Secured Notes Documents), or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any

such judgment has become a final judgment that is not subject to any further review or appeal.

(ii) *Binding Effect.* To the extent no Challenge is timely and properly commenced by the Challenge Deadline, or to the extent such proceeding does not result in a final and non-appealable judgment or order of this Court that is inconsistent with the Prepetition Lien and Claim Stipulations, then, without further notice, motion, or application to, order of, or hearing before, this Court and without the need or requirement to file any proof of claim, the Prepetition Lien and Claim Stipulations shall, pursuant to this Interim Order, become binding, conclusive, and final on any person, entity, or party in interest in the Cases, and their successors and assigns, and in any Successor Case for all purposes and shall not be subject to challenge or objection by any party in interest, including a trustee, responsible individual, examiner with expanded powers, or other representative of the Debtors' estates. Notwithstanding anything to the contrary herein, if any such proceeding is properly and timely commenced, the Prepetition Lien and Claim Stipulations shall nonetheless remain binding on all other parties in interest and preclusive as provided in subparagraph (a) above except to the extent that any of such Prepetition Lien and Claim Stipulations is expressly the subject of a timely and properly filed Challenge, which Challenge is successful as set forth in a final judgment as provided in subparagraph (a) above, and only as to plaintiffs or movants that have complied with the terms hereof. To the extent any such Challenge proceeding is timely and properly commenced, the Prepetition Secured Parties shall be entitled to payment of the related costs and expenses, including, but not limited to, reasonable attorneys' fees, incurred under the Prepetition Documents in defending themselves in any such proceeding as adequate protection. Upon a successful Challenge brought pursuant to this paragraph 42, the Court may fashion any appropriate remedy.

(iii) Nothing in this order is intended to contradict or abridge the rights

reserved on behalf of the Court as set forth in Local Bankruptcy Rule 4001-2(g)(5).

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

44. Reservation of Debtors' Rights. Notwithstanding anything to the contrary herein, upon the occurrence of a DIP Termination Date, the Debtors may seek authority from the Court to use Cash Collateral on a non-consensual basis; *provided*, that the DIP Agents and the DIP Lenders reserve all rights to object to such request.

45. Section 506(c) Claims. At the Final Hearing, the DIP Agents, the DIP Lenders and the Prepetition Secured Parties shall seek an order from the Court that no costs or expenses of administration which have been or may be incurred in the Cases at any time shall be charged against the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, or any of their respective claims, the DIP Collateral, or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties, as applicable, and that no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders.

46. No Marshaling/Applications of Proceeds. At the Final Hearing, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall seek an order from the Court that none of the DIP Agents, DIP Lenders or Prepetition Secure Parties are be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral, as the case may be, and that proceeds shall be received and applied pursuant to the Final Order and the DIP Documents notwithstanding any other

agreement or provision to the contrary.

47. Section 552(b). At the Final Hearing, the Prepetition Secured Parties shall seek an order from the Court that each Prepetition Secured Party is entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and that the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties, with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.

48. Access to DIP Collateral. Notwithstanding anything contained herein to the contrary (but subject to the last sentence of this paragraph 48, which shall control in the event of any conflict) and without limiting any other rights or remedies of the DIP ABL Agent or the DIP Term Loan Agent exercisable on behalf of the DIP ABL Lenders or the DIP Term Loan Lenders, respectively, contained in this Interim Order, the DIP Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Documents, upon written notice to the landlord of any leased premises that an Event of Default or the Termination Date has occurred and is continuing, the DIP ABL Agent or the DIP Term Loan Agent, as applicable, may, subject to the applicable notice provisions, if any, in this Interim Order and any separate applicable agreement by and between such landlord and the DIP ABL Agent or the DIP Term Loan Agent, enter upon any leased premises of the Debtors for the purpose of exercising any remedy with respect to DIP Collateral located thereon and shall be entitled to all of the Debtors’ rights, privileges and responsibilities as lessee under such lease without interference from the landlords thereunder, *provided* that the DIP ABL Agent and/or the DIP Term Loan Agent shall be obligated only to (i) pay rent and related monthly obligations of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such occupancy by the DIP ABL Agent and/or the DIP Term Loan Agent, as applicable, calculated on a daily per

diem basis, and (ii) maintain insurance for the leased premises as required under the applicable lease and any amendments thereto. Nothing herein shall require the DIP ABL Agent or the DIP Term Loan Agent to assume any lease as a condition to the rights afforded in this paragraph. For the avoidance of doubt, subject to (and without waiver of) the rights of the DIP ABL Agent, the DIP Term Loan Agent and/or the DIP Lenders under applicable nonbankruptcy law, the DIP ABL Agent, the DIP Term Loan Agent and/or the DIP Lenders can only enter upon a leased premises after an Event of Default in accordance with (i) a separate agreement with the landlord at the applicable leased premises, or (ii) upon entry of an order of this Court obtained by motion of the DIP ABL Agent, the DIP Term Loan Agent and/or the DIP Lenders on such notice to the landlord as shall be required by this Court.

49. Limits on Lender Liability. At the Final Hearing, the Debtors shall seek an order from the Court that nothing in the Final Order, any of the DIP Documents, or any other documents related thereto shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agents, the DIP Lenders or the Prepetition Secured Parties of any liability for any claims arising from any activities by the Debtors in the operation of their businesses or in connection with the administration of these Cases. The DIP Agents, the DIP Lenders and the Prepetition Secured Parties shall not, solely by reason of having made loans under the DIP Facilities, be deemed in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, as amended, or any similar federal or state statute). Nothing in this Interim Order or the DIP Documents, shall in any way be construed or interpreted to impose or allow the imposition upon

the DIP Agents, the DIP Lenders, or any of the Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

50. Insurance Proceeds and Policies. Upon entry of this Interim Order and to the fullest extent provided by applicable law, the DIP ABL Agent (on behalf of the DIP ABL Lenders), the DIP Term Loan Agent (on behalf of the DIP Term Loan Lenders), the Prepetition ABL Agent (on behalf of the Prepetition ABL Lenders), and the Secured Notes Indenture Trustee (on behalf of the Prepetition Secured Noteholders), shall be, and shall be deemed to be, without any further action or notice, named as additional insured and loss payee on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral.

51. Joint and Several Liability. Nothing in this Interim Order shall be construed to constitute a substantive consolidation of any of the Debtors' estates, it being understood, however, that the Debtors shall be jointly and severally liable for the obligations hereunder and all DIP Obligations in accordance with the terms hereof and of the DIP Facilities and the DIP Documents.

52. Rights Preserved. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, subject to the Prepetition Documents and the Intercreditor Agreement: (a) the DIP Agents', the DIP Lenders', and the Prepetition Secured Parties' right to seek any other or supplemental relief in respect of the Debtors; (b) any of the rights of any of the DIP Agents, the DIP Lenders, and/or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including the right to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases or Successor Cases, conversion of any of the Cases to cases under Chapter 7, or appointment of a Chapter 11 trustee

or examiner with expanded powers, or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a Chapter 11 plan or plans; or (c) any other rights, claims or privileges (whether legal, equitable or otherwise) of any of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the Debtors', a Committee's (if appointed), or any party in interest's right to oppose any of the relief requested in accordance with the immediately preceding sentence except as expressly set forth in this Interim Order. Entry of this Interim Order is without prejudice to any and all rights of any party in interest with respect to the terms and approval of the Final Order.

53. No Waiver by Failure to Seek Relief. The failure of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Documents, the Prepetition Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, a Committee (if appointed), or any party in interest.

54. Binding Effect of Interim Order. Immediately upon execution by this Court, the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, all other creditors of any of the Debtors, any Committee (or any other court appointed committee) appointed in the Cases, and all other parties-in-interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Cases, any Successor Cases, or upon dismissal of any Case or Successor Case.

55. No Modification of Interim Order. Until and unless the DIP Obligations

and the Prepetition Secured Obligations (other than contingent obligations with respect to then unasserted claims) have been indefeasibly paid in full in cash, and all letters of credit under the DIP Facilities shall have been cancelled, backed, or cash collateralized in accordance with the terms thereof (such payment being without prejudice to any terms or provisions contained in the DIP Facilities which survive such discharge by their terms), and all commitments to extend credit under the DIP Facilities have been terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly: (a) without the prior written consent of the DIP Agents (or the Prepetition ABL Agent and the Secured Notes Indenture Trustee), (i) any modification, stay, vacatur or amendment to this Interim Order; or (ii) a priority claim for any administrative expense or unsecured claim against the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including any administrative expense of the kind specified in sections 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code) in any of the Cases or Successor Cases, equal or superior to the DIP Superpriority Claims or Adequate Protection Superpriority Claims, other than the Carve Out; (b) without the prior written consent of the DIP Agents (or the Prepetition ABL Agent and the Secured Notes Indenture Trustee) for any order allowing use of Cash Collateral (other than as permitted during the Remedies Notice Period) resulting from DIP Collateral or Prepetition Collateral; (c) without the prior written consent of the DIP Agents, any lien on any of the DIP Collateral with priority equal or superior to the DIP Liens, except as specifically provided in the DIP Documents; or (d) without the prior written consent of the Prepetition ABL Agent and the Secured Notes Indenture Trustee, any lien on any of the DIP Collateral with priority equal or superior to the Prepetition Liens or Adequate Protection Liens. The Debtors irrevocably waive any right to seek any amendment, modification or extension of this Interim Order without the prior written consent, as provided in the foregoing,

of the DIP Agents (or the Prepetition ABL Agent and the Secured Notes Indenture Trustee), and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agents, the Prepetition ABL Agent, or the Secured Notes Indenture Trustee.

56. Continuing Effect of Intercreditor Agreement. The Debtors, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties each shall be bound by, and in all respects of the DIP Facilities, the Prepetition ABL Facility and the Secured Notes Indenture shall be governed by, and be subject to all the terms, provisions and restrictions of the Intercreditor Agreement and the Intercreditor Acknowledgment.

57. Interim Order Controls. In the event of any inconsistency between the terms and conditions of the DIP Documents and of this Interim Order, the provisions of this Interim Order shall govern and control.

58. Discharge. The DIP ABL Obligations, the DIP Term Loan Obligations, and the obligations of the Debtors with respect to the adequate protection provided herein shall not be discharged by the entry of an order confirming any plan of reorganization in any of the Cases, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash (other than contingent indemnification obligations for which no claim has been asserted), on or before the effective date of such confirmed plan of reorganization, or each of the DIP ABL Agent, the DIP Term Loan Agent, the DIP Lenders, the Prepetition ABL Agent and the Secured Notes Indenture Trustee, as applicable, has otherwise agreed in writing.

59. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Cases; (b) converting any of the Cases to a case under Chapter 7

of the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Cases or Successor Cases. The terms and provisions of this Interim Order, including the claims, liens, security interests, and other protections granted to the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties granted pursuant to this Interim Order and/or the DIP Documents, notwithstanding the entry of any orders described in (a)-(d), above, shall continue in the Cases, in any Successor Cases, or following dismissal of the Cases or any Successor Cases, and shall maintain their priority as provided by this Interim Order until: (i) in respect of the DIP ABL Facility, all the DIP ABL Obligations, pursuant to the DIP ABL Documents and this Interim Order, have been indefeasibly paid in full in cash (other than contingent indemnification obligations for which no claim has been asserted) and all letters of credit under the DIP ABL Facility shall have been cancelled or cash collateralized in accordance with the terms thereof (such payment being without prejudice to any terms or provisions contained in the DIP ABL Facility which survive such discharge by their terms), and all commitments to extend credit under the DIP ABL Facility are terminated; (ii) in respect of the Prepetition ABL Facility, all of the Prepetition ABL Obligations pursuant to the Prepetition ABL Documents and this Interim Order, have been indefeasibly paid in full in cash (other than contingent indemnification obligations for which not claim has been asserted); (iii) in respect of the DIP Term Loan Facility, all the DIP Term Loan Obligations, pursuant to the DIP Term Loan Documents and this Interim Order, have been indefeasibly paid in full in cash (other than contingent indemnification obligations for which no claim has been asserted); and (iv) in respect of the Secured Notes Indenture, all of the Prepetition Secured Notes Obligations pursuant to the Prepetition Secured Notes Documents and this Interim Order have been indefeasibly paid in full in cash (other than contingent indemnification obligations for which no

claim has been asserted). The terms and provisions concerning the indemnification of the DIP Agents and the DIP Lenders shall continue in the Cases, in any Successor Cases, following dismissal of the Cases or any Successor Cases, following termination of the DIP Documents and/or the indefeasible repayment of the DIP Obligations.

60. Final Hearing. The Final Hearing to consider entry of the Final Order and final, approval of the DIP Facilities is scheduled for **March 20, 2018, at 2:00 p.m. (ET)** before the Honorable Robert D. Drain, United States Bankruptcy Judge at the United States Bankruptcy Court for the Southern District of New York. On or before February 27, 2018, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the "Final Hearing Notice"), together with copies of this Interim Order and the DIP Motion, on: (a) the parties having been given notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; (c) counsel for a Committee (if appointed); (d) the Securities and Exchange Commission; and (e) the Internal Revenue Service. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than on **March 13, 2018, at 4:00 p.m. (ET)**, which objections shall be served so as to be received on or before such date by: (i) counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153 Attn: Ray C. Schrock, P.C. and Sunny Singh; (ii) counsel to the DIP ABL Agent and the Prepetition ABL Agent, Morgan, Lewis & Bockius LLP, One Federal Street, Boston, MA, 02110-1726, Attn: Julia Frost-Davies and Amelia C. Joiner, and 101 Park Avenue, New York, New York 10178-0060, Attn: Matthew C. Ziegler; (iii) counsel to the DIP Term Loan Agent, Arnold & Porter, 70 W. Madison St., Suite 4200, Chicago, Illinois 60602, Attn: D. Tyler Nurnberg and Alan Glantz; (iv) counsel to the DIP Lender Group and Ad

Hoc Committee, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Alan W. Kornberg, Lauren Shumejda and Diane Meyers; and (iv) counsel to a Committee (if appointed), with a copy to the Court's chambers.

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

62. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce the terms of, any and all matters arising from or related to the DIP Facilities, and/or this Interim Order.

Dated: White Plains, New York
February 23, 2018

/s/Robert D. Drain

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Intercreditor Agreement

ACKNOWLEDGMENT AND AGREEMENT

February ~~22~~23, 2018

Reference is made to that certain **INTERCREDITOR AGREEMENT**, dated as of December 20, 2012 (as modified by that certain Intercreditor Agreement Joinder, dated as of June 10, 2015, as amended by that certain First Amendment to Intercreditor Agreement, dated as of December 30, 2016, as further modified hereby and as may be further amended, restated, amended and restated, supplemented, modified, or otherwise in effect from time to time, the **“Intercreditor Agreement,”** capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms in the Intercreditor Agreement, as modified hereby) and entered into by and among **BANK OF AMERICA, N.A. (“Bank of America”)**, in its capacity as agent (together with its successors and assigns in such capacity, the **“ABL Agent”**) under the Existing ABL Credit Agreement (as hereinafter defined), and **U.S. BANK NATIONAL ASSOCIATION**, in its capacities as trustee and collateral agent (together with its successors and assigns in such capacities, the **“Notes Agent”**) under the Existing Indenture (as hereinafter defined).

RECITALS

Tops Markets, LLC, a New York limited liability company (the **“Lead Borrower”**), Tops Holding LLC, a Delaware limited liability company (the **“Company”**), Tops PT, LLC, a New York limited liability company (**“Tops PT”**) (together with the Lead Borrower, the **“Borrowers”**), and the other Company Subsidiaries (as defined in the Intercreditor Agreement), the ABL Lenders and the ABL Agent have entered into: (i) that certain Second Amended and Restated Credit Agreement, dated as of December 30, 2016, providing for credit facilities to the Borrowers (as amended and in effect immediately prior to the effectiveness of this Acknowledgment and Agreement, the **“Existing ABL Credit Agreement”**), (ii) the “Security Documents” (as defined in the Existing ABL Credit Agreement, the **“Existing ABL Security Documents”**), and (iii) the other “Loan Documents” (as defined in the Existing ABL Credit Agreement, the **“Existing ABL Loan Documents”**);

The Company, Tops Markets II Corporation, a Delaware corporation (**“Tops Markets II”**) (together with the Company, the **“Issuers”**), and the Notes Agent have entered into: (i) that certain Indenture, dated as of June 10, 2015, pursuant to which the Issuers have issued the 8.000% senior secured notes due June 15, 2022 (as amended and in effect immediately prior to the effectiveness of this Acknowledgment and Agreement, collectively, the **“Existing Indenture”**), (ii) the “Security Documents” (as defined in the Existing Indenture, the **“Existing Note Security Documents”**), and (iii) the “Guarantees” and the “Notes” (each as defined in the Existing Indenture, together with the Existing Note Security Documents, the **“Existing Note Loan Documents”**);

On February ~~21~~23, 2018 (the **“Petition Date”**), (i) the Borrowers, (ii) the Company, (iii) Tops Markets II, (iv) Tops Gift Card Company, LLC, a Virginia limited liability company, (v) Erie Logistics LLC, a Delaware limited liability company, (vi) Tops Holding II Corporation, a Delaware corporation (**“Tops Holding II”**), (vii) Tops MBO Corporation, a Delaware corporation (**“Tops MBO”**) and (viii) TM1, LLC, a Delaware limited liability company

(“**TM1**”)(such entities, collectively, the “**Debtors**” and each individually, a “**Debtor**”), commenced Chapter 11 Case Nos. 18-22277 through 18-22285, as administratively consolidated at Chapter 11 Case No. 18-22279 (collectively, the “**Chapter 11 Cases**” and each individually, a “**Chapter 11 Case**”) with the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code and have requested that: (i) the DIP ABL Agent (as hereinafter defined) and the DIP ABL Lenders (as hereinafter defined) provide debtor-in-possession financing to the Debtors and (ii) the DIP Term Loan Agent (as hereinafter defined) and the DIP Term Loan Lenders (as hereinafter defined) provide debtor-in-possession financing to the Debtors;

It is anticipated that, on or after the Petition Date, the Court will enter an order in the Chapter 11 Cases approving, among other things, the Debtors’ entry into the DIP ABL Facility (as hereinafter defined) and the DIP Term Loan Facility (as hereinafter defined) on an interim basis (such order, the “**Interim Order**”), and, following a final hearing, on a final basis (such order, the “**Final Order**,” and together with the Interim Order, collectively, the “**DIP Orders**” and each individually, a “**DIP Order**”); and

In order to induce (i) Bank of America, as administrative agent and collateral agent (in such capacities, the “**DIP ABL Agent**”) and those certain lenders (the “**DIP ABL Lenders**,” together with the DIP ABL Agent, the “**DIP ABL Secured Party**”) to enter into that certain Senior Secured, Super-Priority Debtor-In-Possession Credit Agreement, dated as of the date hereof (as the same may be amended, restated, amended and restated, supplemented, modified or otherwise in effect from time to time, the “**DIP ABL Credit Agreement**,” and the revolving facility made thereunder, including the issuance of letters of credit, the “**DIP ABL Facility**”), the “**Security Documents**” (as defined in the DIP ABL Credit Agreement, the “**DIP ABL Security Documents**”), and the other “**Loan Documents**” (as defined in the DIP ABL Loan Agreement, the “**DIP ABL Loan Documents**”) and (ii) Cortland Capital Market Services LLC, as administrative agent and collateral agent (in such capacities, the “**DIP Term Loan Agent**”) and those certain lenders (the “**DIP Term Loan Lenders**,” together with the DIP Term Loan Agent, the “**DIP Term Loan Secured Party**”) to enter into that certain Senior Secured, Super-Priority Debtor-In-Possession Term Loan Agreement, dated as of the date hereof (as may be amended, restated, amended and restated, supplemented, modified or otherwise in effect from time to time, the “**DIP Term Loan Agreement**,” and the term loan facility made thereunder, the “**DIP Term Loan Facility**”), the “**Security Documents**” (as defined in the DIP Term Loan Agreement, the “**DIP Term Loan Security Documents**”), and the other “**Loan Documents**” (as defined in the DIP Term Loan Agreement, the “**DIP Term Loan Documents**”), the parties hereto have agreed to the relative priority of their respective Liens on the Collateral and certain other rights, priorities and interests as set forth in this Acknowledgment and Agreement (this “**Acknowledgment**”).

AGREEMENT

In consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. The parties agree that (i) the DIP ABL Credit Agreement and the Existing ABL Credit Agreement shall each and collectively constitute the “ABL Credit Agreement” for purposes of the Intercreditor Agreement, (ii) the DIP ABL Security Documents and the Existing ABL Security Documents shall each and collectively constitute the “ABL Security Documents” for purposes of the Intercreditor Agreement, and (iii) the DIP ABL Loan Documents and the Existing ABL Loan Documents shall each and collectively constitute the “ABL Loan Documents” for purposes of the Intercreditor Agreement. The “Obligations” and the “Pre-Petition Obligations” under and as defined in the DIP ABL Credit Agreement and the “Obligations” under and as defined in the ABL Credit Agreement shall each and collectively constitute “ABL Obligations” for purposes of the Intercreditor Agreement and no Discharge of ABL Obligations shall be deemed to have occurred under the Intercreditor Agreement as a result of the entry into the DIP ABL Credit Agreement and the DIP ABL Loan Documents or any refinancing or roll-up of the “Pre-Petition Obligations” (as defined in the DIP ABL Credit Agreement) thereunder or pursuant to any order of the Court authorizing such financing. Notwithstanding anything to the contrary contained in the Intercreditor Agreement or in the Existing Note Loan Documents, the Notes Agent consents to the DIP ABL Credit Agreement, DIP ABL Security Documents, and DIP ABL Loan Documents.

2. The parties agree that solely for purposes of defining the relative rights and obligations under the Intercreditor Agreement with respect to the priorities of liens and other related rights and obligations with respect to the DIP ABL Credit Agreement and the Existing ABL Credit Agreement, on the one hand, and the DIP Term Loan Agreement and the Existing Indenture, on the other: (i) the DIP Term Loan Agreement and the Existing Indenture shall each and collectively constitute the “Indenture” solely for purposes of the Intercreditor Agreement, (ii) the DIP Term Loan Security Documents and the Existing Note Security Documents shall each and collectively constitute the “Note Security Documents” solely for purposes of the Intercreditor Agreement, (iii) the DIP Term Loan Documents and the Existing Note Loan Documents shall each and collectively constitute the “Note Documents” solely for purposes of the Intercreditor Agreement and (iv) the “Obligations” under and as defined in the DIP Term Loan Agreement (the “**DIP Term Loan Obligations**”) and the “Indenture Obligations” under and as defined in the Existing Indenture shall each and collectively constitute the “Note Obligations” solely for purposes of the Intercreditor Agreement; *provided* that for the avoidance of doubt, the ~~DIP Term Loan Obligations and the~~ Liens securing the DIP Term Loan Obligations shall be senior in all respects to the ~~Note Obligations and the~~ Liens securing the Note Obligations, ~~respectively~~, including any adequate protection ~~claims and~~ liens in respect thereof, ~~in each case~~, as provided in the DIP Orders; and *provided further* that nothing herein shall impose any obligation on any DIP Term Loan Secured Party with respect to the Existing Note Loan Documents or be construed that any DIP Term Loan Secured Party, in such capacity, is a party to any of the Existing Note Loan Documents. Notwithstanding anything to the contrary contained in the Intercreditor Agreement or in the Existing ABL Loan Documents, the ABL Agent consents to the DIP Term Loan Agreement, DIP Term Loan Security Documents, and the DIP Term Loan Documents.

In addition, notwithstanding anything to the contrary contained herein or in the Intercreditor Agreement, (i) all references to “Notes Agent” in the Intercreditor Agreement (other than (x) in the recitals or opening paragraph thereof or (y) to the extent followed by the words

“on behalf of each Note Claimholder”, “on behalf of the Note Claimholders”, “for the benefit of the Note Claimholders” or similar language) shall be deemed to be a reference to the “Notes Agent and the DIP Term Loan Agent”, (ii) all references to “Notes Agent, on behalf of each Note Claimholder”, “Notes Agent, on behalf of the Note Claimholders”, “Notes Agent, for the benefit of the Note Claimholders” or similar language in the Intercreditor Agreement shall be deemed to be a reference to “the Notes Agent, on behalf of itself and the Noteholders, and the DIP Term Loan Agent, on behalf of the DIP Term Loan Secured Parties”, and (iii) it is acknowledged and agreed to by each of the parties hereto that the DIP Term Loan Agent (x) is acting under the Intercreditor Agreement solely on behalf of the DIP Term Loan Secured Parties, and is not (and shall not be deemed to be) an agent or other representative of the Notes Agent, the Noteholders or any other Person (other than the DIP Term Loan Secured Parties), (y) shall not have any duties or responsibilities to the Notes Agent, the Noteholders or any other Note Claimholder (other than the DIP Term Loan Secured Parties) and (z) shall not be liable or responsible for any action taken or omitted to be taken by the Notes Agent or any of the Noteholders.

3. Notwithstanding anything to the contrary in the Intercreditor Agreement, including, without limitation, the definitions of “ABL Priority Collateral” or “Notes Priority Collateral,” the parties acknowledge and agree that:

(i) notwithstanding the commencement of the Chapter 11 Cases, the inspection, use, and access rights set forth in Section 3.3 of the Intercreditor Agreement shall apply with respect to the DIP ABL Credit Agreement and the DIP Term Loan Agreement;

(ii) the ABL Priority Collateral includes, without limitation, all of the following assets, in each case, whether arising before or after the Petition Date and whether or not included in the “Borrowing Base” (as defined in the DIP ABL Credit Agreement) as a result of the reporting thereof by any of the Borrowers or application of any eligibility criteria therein and/or the exercise of any discretion of the ABL Agent with respect thereto: all Inventory, Accounts, Prescription Lists, Payment Intangibles consisting of amounts owing from credit card and debit card issuers and processors, the “DIP ABL Indemnity Account” (as defined in the then-effective DIP Order), and all proceeds of the foregoing and any other Collateral identified as ABL Priority Collateral in the Intercreditor Agreement, as modified hereby; *provided* that the “DIP Term Loan Proceeds Account,” the “DIP Term Collateral Account” (each as defined in the then-effective DIP Order) and the contents thereof, and any Real Estate Assets (excluding, for clarity, any proceeds of the Debtors’ real property leases (the “**Lease Proceeds**”)) shall not be subject to a Lien in favor of the DIP ABL Agent or the ABL Agent and shall not secure the ABL Obligations or the Pre-Petition Obligations, including any adequate protection with respect thereto as provided in the DIP Orders; *provided further* that the DIP Term Loan Agent and the Notes Agent shall have a Lien junior only to the DIP ABL Agent and the ABL Agent on the “DIP ABL Indemnity Account” (as defined in the then-effective DIP Order) and the contents thereof;

(iii) the Notes Priority Collateral includes, without limitation, all of the following assets, in each case, whether arising before or after the Petition Date: all Equipment, Fixtures, Real Estate Assets, Intellectual Property (other than Prescription Lists), Notes Trust Monies, Lease Proceeds, Notes Collateral Account, including, without limitation, the “DIP Term Loan Proceeds Account,” the “DIP Term Loan Indemnity Account,” and the “DIP Term Loan Collateral Account” (each as defined in the then-effective DIP Order) and the contents and all

identifiable proceeds of the foregoing and any other Collateral identified as Notes Priority Collateral in the Intercreditor Agreement, as modified hereby; *provided* that the DIP ABL Agent and the ABL Agent shall have a Lien junior only to the DIP Term Loan Agent and the Notes Agent on the “DIP Term Loan Indemnity Account” (as defined in the then-effective DIP Order) and the contents thereof, and the Lease Proceeds;

(iv) the Debtors’ rights under section 506(c) of the Bankruptcy Code are, and shall be treated as, ABL Priority Collateral under the Intercreditor Agreement;

(v) the proceeds of avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code or applicable state law equivalents are, and shall be treated as, Notes Priority Collateral under the Intercreditor Agreement;

(vi) the net cash proceeds of any payment, refund or return of funds in respect of the withdrawal arbitration between, among others, Erie Logistics, LLC and the New York State Teamsters Conference Pension and Retirement Fund (the “**Fund**”) (net of any contribution payments the Debtors will be required to make on account of historical pension obligations to the Fund) are, and shall be treated as, Notes Priority Collateral under the Intercreditor Agreement;

(vii) any extraordinary receipts, including tax refunds and pension plan reversions, are, and shall be treated as, Notes Priority Collateral under the Intercreditor Agreement; and

(viii) all other “DIP Collateral” (as defined in the then-effective DIP Order (other than as set forth in clauses (iv) through (vii) above)) that was not otherwise subject to valid, perfected, enforceable, and unavoidable liens on the Petition Date: (a) that is of a type that would be ABL Priority Collateral and the proceeds and products thereof is, and shall be treated as, ABL Priority Collateral for the purposes of the Intercreditor Agreement and the DIP Orders, and (b) that is of a type that would be Notes Priority Collateral and the proceeds and products thereof is, and shall be treated as, Notes Priority Collateral for the purposes of the Intercreditor Agreement and the DIP Orders. For the avoidance of doubt, other than as provided in clause (iv) above, all property or assets of the Debtors that are not of a type that would be ABL Priority Collateral are, and shall be treated as, Notes Priority Collateral.

4. With respect to the enforcement of remedies upon a Termination Declaration (as defined in the then-effective DIP Order), the then-effective DIP Order shall control, other than as expressly modified below:

(i) without prejudice to the enforcement of the DIP ABL Secured Parties’ rights and remedies, the DIP ABL Agent agrees, on behalf of the DIP ABL Secured Parties, that following the delivery of a Termination Declaration, but prior to the conclusion of the Remedies Notice Period (such event, an “**ABL Obligations Purchase Option Event**”), then all or a portion of the DIP Term Loan Lenders, acting as a single group, shall have the option to purchase all of the ABL Obligations from the DIP ABL Secured Parties by delivery of written notice of their intent to purchase the ABL Obligations to the DIP ABL Agent within five (5) Business Days

of the ABL Obligations Purchase Option Event. Such notice from such DIP Term Loan Lenders to the DIP ABL Agent shall be irrevocable;

(ii) on the date specified by the relevant DIP Term Loan Lenders in the notice contemplated by Section 4(ii) above (which shall not be more than five (5) Business Days after the receipt by the DIP ABL Agent of the notice of the relevant DIP Term Loan Lenders' election to exercise such option) (the "**Purchase Option Notice**"), the DIP ABL Lenders shall sell to the relevant DIP Term Loan Lenders, and the relevant DIP Term Loan Lenders shall purchase from the DIP ABL Lenders, the ABL Obligations, provided that, the DIP ABL Agent and the DIP ABL Secured Parties shall retain all rights to be indemnified or held harmless by the Debtors in accordance with the terms of the DIP ABL Credit Agreement and the other DIP ABL Loan Documents but shall not retain any rights to the security therefor;

(iii) upon the date of such purchase and sale:

(A) (x) the relevant DIP Term Loan Lenders shall pay to the DIP ABL Agent for the benefit of the DIP ABL Lenders, as a portion of the purchase price for the ABL Obligations, the full amount of the principal and interest then outstanding and unpaid under the ABL Obligations, and (y) the Debtors shall pay to the DIP ABL Agent for the benefit of the DIP ABL Lenders, as the remaining portion of the purchase price for the ABL Obligations, all fees and expenses (including reasonable attorneys' fees and legal expenses) then outstanding and unpaid under the ABL Obligations;

(B) the relevant DIP Term Loan Lenders shall furnish cash collateral to the DIP ABL Agent in a manner and in such amounts as the DIP ABL Agent determines is reasonably necessary to secure the DIP ABL Agent, the DIP ABL Secured Parties, letter of credit issuing banks and applicable affiliates in connection with any L/C Obligations (as defined in the DIP ABL Credit Agreement) secured by the DIP ABL Security Documents and other DIP ABL Loan Documents; *provided* that in no event shall such cash collateral exceed 105% of the then available face amount of such L/C Obligations;

(C) the Debtors shall remain liable for all Swap Obligations and obligations with respect to Bank Products and Cash Management (each as defined in the DIP ABL Credit Agreement); *provided* that an indemnity reserve in an amount reasonably acceptable to the DIP ABL Agent shall be established on the purchase date to cover any Bank Products and Cash Management obligations that arise or relate to periods prior to the purchase date and any Swap Obligations relating to any then existing contracts shall remain subject to the DIP ABL Liens (as defined in the then-effective DIP Order) on the terms set forth in the DIP ABL Credit Agreement (or upon the termination of the DIP ABL Credit Agreement, the DIP Liens (as defined in the then-effective DIP Order) established under the DIP Orders on a pari passu basis with the DIP Term Loan Obligations).

(D) the Debtors shall reimburse the DIP ABL Agent, the DIP ABL Secured Parties and letter of credit issuing banks for any loss, cost, damage or

expense (including reasonable attorneys' fees and legal expenses) in connection with any commissions, fees, costs or expenses related to any issued and outstanding letters of credit as described above and any checks or other payments provisionally credited to the ABL Obligations, and/or as to which the DIP ABL Agent has not yet received final payment;

(E) the relevant DIP Term Loan Lenders shall, in the event the Debtors have not funded the DIP ABL Indemnity Account (as defined in the then-effective DIP Order), direct the Debtors to promptly fund such account pursuant to the terms of the DIP Orders; and

(F) the parties hereto shall execute such assignments, transfers, and other documentation, and take (or refrain from taking) such actions, as may be necessary or advisable in furtherance of the foregoing.

(iv) such purchase shall be expressly made without representation or warranty of any kind by any selling party (or the DIP ABL Agent) and without recourse of any kind, except that the selling party shall represent and warrant: (a) the amount of the ABL Obligations being purchased from it, (b) that such ABL Secured Party owns the ABL Obligations free and clear of any Liens or encumbrances and (c) that such ABL Secured Party has the right to assign such ABL Obligations and the assignment is duly authorized;

(v) upon the delivery of the Purchase Option Notice to the DIP ABL Agent, the Remedies Notice Period (as defined in the then-effective DIP Order) shall automatically be extended by 5 Business Days to allow for the purchase of the ABL Obligations to occur; and

(vi) the DIP ABL Agent acknowledges and confirms that the DIP ABL Lenders shall fund the "Carve Out Account" (as defined in the then-effective DIP Order) in accordance with the then-effective DIP Order.

5. Subject to Sections 5.3(c) and 5.3(d) of the Intercreditor Agreement, the DIP ABL Agent and the DIP Term Loan Agent shall each use good faith efforts to notify the other party of any written amendment or modification to the DIP ABL Loan Documents and DIP Term Loan Documents, but the failure to do so shall not create a cause of action against the party failing to give such notice or create any claim or right on behalf of any third party.

6. Each of Tops Markets II, Tops Holding II, Tops MBO and TM1 hereby acknowledges that it has received a copy of the Intercreditor Agreement, consents thereto, agrees to recognize all rights granted thereby (including as modified hereby) to the DIP ABL Agent, the DIP ABL Lenders, the ABL Agent, the ABL Claimholders, the DIP Term Loan Agent, the DIP Term Loan Lenders, the Notes Agent, and the Note Claimholders, and agrees that it will not do any act or perform any obligation which is not in accordance with the agreements set forth in the Intercreditor Agreement, including as modified hereby. Each of the DIP ABL Agent, the ABL Agent, the DIP Term Loan Agent, the Notes Agent, and the Debtors hereby ratifies and confirms all of its respective obligations under the Intercreditor Agreement, including as modified hereby.

7. Except as otherwise provided for in this Acknowledgment and the then-effective DIP Order, all of the terms and conditions of the Intercreditor Agreement shall remain in full force and effect.

8. The parties acknowledge and agree that in the event of any conflict between the then-effective DIP Order and the Intercreditor Agreement, as modified by this Acknowledgement, the terms of then-effective DIP Order shall prevail.

9. By its signature, each person executing this Acknowledgment on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Acknowledgment. This Acknowledgment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument. Any signatures delivered by a party by facsimile transmission or by e-mail transmission shall be deemed an original signature hereto.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Acknowledgment to be executed and delivered as of the date first above written.

BANK OF AMERICA, N.A., in its capacity as the
ABL Agent

By: _____
Name:
Title:

BANK OF AMERICA, N.A., in its capacity as the
DIP ABL Agent

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, in its
capacity as the Notes Agent

By: _____
Name:
Title:

**CORTLAND CAPITAL MARKET SERVICES
LLC**, in its capacity as the DIP Term Loan Agent

By: _____
Name:
Title:

Acknowledged and Agreed:

DEBTORS:

TOPS HOLDING LLC

By: _____
Name:
Title:

TOPS MARKETS II CORPORATION

By: _____
Name:
Title:

TOPS MARKETS, LLC

By: _____
Name:
Title:

TOPS PT, LLC

By: Tops Markets, LLC, its sole member

By: _____
Name:
Title:

TOPS GIFT CARD COMPANY, LLC

By: _____
Name:
Title:

ERIE LOGISTICS LLC

By: _____
Name:
Title:

TOPS HOLDING II CORPORATION

By: _____

Name:

Title:

TOPS MBO CORPORATION

By: _____

Name:

Title:

TM1, LLC

By: _____

Name:

Title:

Exhibit 2

Budget

Project Tangerine
Weekly Cash Flow Forecast – 13 Week DIP Model
(\$ in Millions)

Period Actual / Forecast Fiscal Week Week Ending	FY18 P3					FY18 P4				FY18 P5				Total 13 Weeks Through 5/18/18
	Period 2	Period 3	Period 3	Period 3	Period 3	Period 4	Period 4	Period 4	Period 4	Period 5	Period 5	Period 5	Period 5	
	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	
	Week 8 2/23/18	Week 9 3/2/18	Week 10 3/9/18	Week 11 3/16/18	Week 12 3/23/18	Week 13 3/30/18	Week 14 4/6/18	Week 15 4/13/18	Week 16 4/20/18	Week 17 4/27/18	Week 18 5/4/18	Week 19 5/11/18	Week 20 5/18/18	
Post-Petition Week	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	
Forecast Week	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19	Week 20	Total
I. Operating Cash Flows														
Total Receipts	\$ 55.4	\$ 59.3	\$ 64.9	\$ 60.9	\$ 55.7	\$ 54.4	\$ 63.5	\$ 62.4	\$ 60.2	\$ 57.8	\$ 61.4	\$ 72.0	\$ 63.8	\$ 791.8
Operating Disbursements														
Merchandise Vendor Payments	(19.5)	(34.2)	(40.8)	(39.9)	(44.3)	(36.8)	(38.1)	(38.7)	(32.2)	(38.7)	(36.5)	(41.2)	(40.4)	(481.3)
Occupancy	(0.0)	(0.8)	(4.9)	-	(0.1)	-	(5.0)	(1.7)	-	-	(4.0)	(2.3)	(0.0)	(18.8)
Payroll & Benefits	(3.0)	(7.4)	(8.4)	(12.8)	(8.2)	(8.0)	(9.0)	(13.4)	(7.3)	(9.1)	(7.3)	(8.7)	(13.0)	(115.7)
Other Operating Disbursements	(1.5)	(19.7)	(15.4)	(9.8)	(8.9)	(10.8)	(11.7)	(9.9)	(4.6)	(13.8)	(5.8)	(15.2)	(7.6)	(134.8)
Total Operating Disbursements	(24.0)	(62.2)	(69.5)	(62.6)	(61.5)	(55.6)	(63.8)	(63.7)	(44.2)	(61.6)	(53.6)	(67.3)	(61.1)	(750.6)
II. Non-Operating Cash Flows														
Capex	(0.0)	(0.4)	(0.9)	(0.6)	(0.3)	(1.0)	(0.7)	(0.2)	(0.1)	(0.5)	(0.4)	(0.5)	(0.2)	(5.7)
Interest	-	-	-	-	-	-	(1.4)	-	-	-	(1.2)	-	-	(2.6)
Other Non-Operating	(1.1)	(0.0)	(0.0)	(0.3)	(0.0)	(0.0)	(0.0)	(0.0)	(0.1)	(0.0)	(0.0)	(0.0)	(0.1)	(1.7)
Total Non - Operating Cash Flows	(1.1)	(0.4)	(0.9)	(0.8)	(0.4)	(1.0)	(2.1)	(0.2)	(0.2)	(0.5)	(1.7)	(0.5)	(0.3)	(10.1)
Total Business Disbursements	(25.1)	(62.6)	(70.4)	(63.4)	(61.9)	(56.6)	(65.9)	(63.9)	(44.4)	(62.0)	(55.2)	(67.8)	(61.4)	(760.7)
Bankruptcy-Related Disbursements														
Financing Fees	(7.8)	-	-	-	-	-	-	-	-	-	-	-	-	(7.8)
Utility Deposits	-	(1.8)	-	-	-	-	-	-	-	-	-	-	-	(1.8)
KEIP / KERF	-	-	-	-	-	-	-	-	(1.1)	-	-	-	-	(1.1)
Professional Fees	-	-	-	-	-	-	-	(6.0)	-	-	-	(5.1)	-	(11.1)
Total Bankruptcy-Related Disbursements	(7.8)	(1.8)	-	-	-	-	-	(6.0)	(1.1)	-	-	(5.1)	-	(21.7)
Net Cash Flows Before Financing	\$ 22.5	\$ (5.0)	\$ (5.5)	\$ (2.6)	\$ (6.1)	\$ (2.2)	\$ (2.4)	\$ (7.5)	\$ 14.7	\$ (4.2)	\$ 6.2	\$ (0.9)	\$ 2.4	\$ 9.4
III. Beginning Cash Balance	6.8	0.5	0.5	0.5	42.2	36.1	33.8	31.5	24.0	38.7	34.5	40.7	39.8	6.8
Net Cash Flows Before Financing	22.5	(5.0)	(5.5)	(2.6)	(6.1)	(2.2)	(2.4)	(7.5)	14.7	(4.2)	6.2	(0.9)	2.4	9.4
Loan Draws / (Paydowns)	(28.8)	5.0	5.5	18.3	-	-	-	-	-	-	-	-	-	-
DIP Term Loan Proceeds	-	-	-	25.9	-	-	-	-	-	-	-	-	-	25.9
Ending Cash Balance	0.5	0.5	0.5	42.2	36.1	33.8	31.5	24.0	38.7	34.5	40.7	39.8	42.2	42.2
Beginning ABL Principal Balance	89.1	7.7	12.7	18.2	-	-	-	-	-	-	-	-	-	89.1
Loan Draws / (Paydowns)	(28.8)	5.0	5.5	18.3	-	-	-	-	-	-	-	-	-	-
DIP Term Loan Proceeds	(52.5)	-	-	(36.6)	-	-	-	-	-	-	-	-	-	(89.1)
Ending ABL Principal Balance	7.7	12.7	18.2	-	-	-	-	-	-	-	-	-	-	-
Standby LCS	34.3	36.8	36.8	36.8	36.8	36.8	36.8	36.8	36.8	36.8	39.3	39.3	39.3	39.3
Ending ABL Loan Balance (excl FILO)	42.0	49.5	55.0	36.8	36.8	36.8	36.8	36.8	36.8	36.8	39.3	39.3	39.3	39.3
ABL FILO Beginning Balance	10.0	-	-	-	-	-	-	-	-	-	-	-	-	10.0
Increase / (Decrease)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Term Loan Proceeds	(10.0)	-	-	-	-	-	-	-	-	-	-	-	-	(10.0)
ABL FILO Ending Balance	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan Cap as of Applicable Collateral Date	119.8	117.5	116.2	115.5	114.1	113.4	109.6	112.4	111.7	108.6	108.0	111.0	110.4	110.4
Ending ABL Loan Balance	42.0	49.5	55.0	36.8	36.8	36.8	36.8	36.8	36.8	36.8	39.3	39.3	39.3	39.3
Excess Availability (before block)	77.9	68.0	61.3	78.7	77.4	76.7	72.8	75.7	75.0	71.8	68.8	71.7	71.1	71.1
Availability Block	12.0	11.8	11.6	11.5	11.4	11.3	11.0	11.2	11.2	10.9	10.8	11.1	11.0	11.0
Excess Availability (after block)	65.9	56.3	49.6	67.2	66.0	65.3	61.9	64.4	63.8	61.0	58.0	60.6	60.1	60.1
Liquidity (before block)	78.4	68.5	61.8	120.9	113.4	110.5	104.3	99.7	113.7	106.3	109.5	111.5	113.3	113.3
Liquidity (after block)	\$ 66.4	\$ 56.8	\$ 50.1	\$ 109.3	\$ 102.0	\$ 99.2	\$ 93.3	\$ 88.4	\$ 102.5	\$ 95.5	\$ 98.7	\$ 100.4	\$ 102.3	\$ 102.3
DIP Term Loan Beginning Balance	-	62.5	62.5	62.5	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0	-
Increase / (Decrease)	62.5	-	-	62.5	-	-	-	-	-	-	-	-	-	125.0
DIP Term Loan Ending Balance	62.5	62.5	62.5	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0	125.0
Rolling Four Week Cash Flow					(19.2)	(16.4)	(13.3)	(18.2)	2.7	0.7	9.2	15.8	3.5	
Bankruptcy-Related Expenses	3.8	1.1	1.1	1.1	1.1	1.1	1.3	1.3	1.3	1.3	0.9	0.9	0.9	17.2
Budgeted Inventory Levels ¹	139.4	137.1	135.6	135.6	135.6	138.2	138.4	138.6	138.8	138.6	137.7	136.8	135.9	135.9

Footnotes

1. Budgeted Inventory Level is comprised of grocery, perishable, and warehouse inventory.