

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Hollerbach Affidavit.

RECOGNITION OF FOREIGN ORDER

3. **THIS COURT ORDERS** that the following order of the United States Bankruptcy Court for the Southern District of Texas (the "**U.S. Court**") issued on June 14, 2023, in the insolvency proceedings of the Chapter 11 Debtors pursuant to chapter 11 of title 11 of the United States Code, is hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA:

interim order (i) authorizing the debtors to (a) obtain senior secured superpriority post-petition financing and (b) use cash collateral, (ii) granting liens and superpriority administrative expense claims, (iii) providing adequate protection to prepetition secured parties, (iv) scheduling a final hearing, and (v) granting related relief.

DIP CHARGE

4. **THIS COURT ORDERS** that any defined term used in this section which is not otherwise defined herein shall have the meaning ascribed to such term in the Interim DIP Order, a copy of which is attached hereto as Schedule "A".
5. **THIS COURT ORDERS** that the DIP Agents, for and on behalf of themselves and the DIP Secured Parties, shall be entitled to the benefit of and are hereby granted a charge (the "**DIP Charge**") on the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Chapter 11 Debtors (the "**Property**") located in Canada, which DIP Charge shall be consistent with the liens and charges created by or set forth in the Interim DIP Order, provided however that, with respect to the Property in Canada, the DIP Charge shall have the priority set out in paragraphs 23 and 25 of the Supplemental Order of the Honourable Mr. Justice Osborne dated June 15, 2023 (the "**Supplemental Order**"), as amended hereby, and further provided that, the DIP

Charge shall not be enforced except with leave of this Court on notice to those parties on the Service List (as defined in paragraph 32 of the Supplemental Order).

6. **THIS COURT ORDERS** that paragraph 23 of the Supplemental Order shall be amended and replaced so that it reads:

23. THIS COURT ORDERS that the priorities of the Administration Charge, the D&O Charge and the DIP Charge (collectively, the “**Charges**”) shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$1,000,000);
- (b) Second – D&O Charge (to the maximum amount of \$1,500,000); and
- (c) Third – DIP Charge;

GENERAL

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America or any other foreign jurisdiction to give effect to this Order and to assist the Chapter 11 Debtors, the Foreign Representative, and the Information Officer, as an officer of this Court, and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that this Order and all its provisions are effective from the date it is made without any need for entry and filing.

Schedule "A"
Interim DIP Order

ENTERED

June 14, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
INSTANT BRANDS ACQUISITION HOLDINGS INC., et al.,	§	Case No. 23-90716 (DRJ)
	§	
Debtors.¹	§	(Joint Administration Requested)
	§	

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN
SENIOR SECURED SUPERPRIORITY POST-PETITION FINANCING
AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND
SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) PROVIDING
ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES,
(IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF**

Upon the Motion (the “**Motion**”)² of Instant Brands Acquisition Holdings Inc. and certain of its affiliates (collectively, the “**Debtors**”),³ each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), pursuant to sections 105, 361, 362, 363, 364, 503, 506, 507, and 552 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), Rules 1075-1, 2002-1, 4001-1, 4002-1, and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “**Local Rules**”),

¹ The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective employer identification numbers or registration numbers in the applicable jurisdictions, are as follows: Instant Brands (Texas) Inc. (2526); Instant Brands Acquisition Holdings Inc. (9089); Instant Brands Acquisition Intermediate Holdings Inc. (3303); Instant Brands Holdings Inc. (3318); URS-1 (Charleroi) LLC (7347); Instant Brands LLC (0566); URS-2 (Corning) LLC (8085); Corelle Brands (Latin America) LLC (8862); EKCO Group, LLC (7167); EKCO Housewares, Inc. (0216); EKCO Manufacturing of Ohio, Inc. (7300); Corelle Brands (Canada) Inc. (5817); Instant Brands (Canada) Holding Inc. (4481); Instant Brands Inc. (9822); and Corelle Brands (GHC) LLC (9722). The address of the debtors’ corporate headquarters is 3025 Highland Parkway, Suite 700, Downers Grove, IL 60515.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion or the DIP Credit Agreements, each as defined herein, as applicable.

³ The Debtors and their direct and indirect non-Debtor subsidiaries are collectively referred to herein as “**Instant Brands**” or the “**Company**.”

and the Procedures for Complex Cases in the Southern District of Texas (the “**Complex Case Procedures**”), seeking entry of an interim order (together with all exhibits hereto, this “**Interim Order**”):

- (i) authorizing (a) Instant Brands Holdings Inc. (the “**Lead Borrower**”) and Instant Brands Inc. (the “**Canadian Borrower**”) and, together with the Lead Borrower, the “**ABL DIP Borrowers**”) to obtain, (b) URS-1 (Charleroi) LLC, URS-2 (Corning) LLC (together, the “**UnSubs**”) to guarantee on a joint and several basis upon consummation of the UnSub Payoff Event (as defined herein), and (c) each of the other Debtors ((a)-(c), collectively, the “**ABL DIP Loan Parties**”) to guarantee on a joint and several basis, in each case, a senior secured superpriority postpetition asset-based revolving credit facility (the “**ABL DIP Facility**”), in an initial aggregate principal amount of up to \$125,000,000 (the “**ABL DIP Commitment**”) and the loans made pursuant thereto, the “**ABL DIP Loans**”), pursuant to the terms and subject to the conditions of this Interim Order, the *Superpriority Secured Debtor-In-Possession Asset-Based Revolving Credit Agreement* (as the same may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time subject to the terms set forth in this Interim Order, the “**ABL DIP Credit Agreement**”), a copy of which is attached hereto as **Exhibit A**, between the ABL DIP Borrowers, the ABL DIP Loan Parties party thereto, Bank of America, N.A., as administrative agent and collateral agent (in such capacities under the applicable ABL DIP Documents (as defined below), the “**ABL DIP Agent**”), and the lenders party thereto from time to time (the “**ABL DIP Lenders**,” and together with the ABL DIP Agent, and the other Secured Parties (as defined in the ABL DIP Credit Agreement), the “**ABL DIP Secured Parties**”) and the other ABL DIP Documents and which ABL DIP Facility will be composed of:
- (x) an asset-based revolving credit facility with aggregate initial commitments of \$105,000,000 in Tranche A Revolving Commitments (as defined in the ABL DIP Credit Agreement) including (i) a \$10 million Canadian Borrower Sublimit (as defined in the ABL DIP Credit Agreement) made available upon entry of the Interim Order, (ii) a \$30 million letter of credit subfacility made available upon entry of the Interim Order, and (iii) a \$30,000,000 discretionary swingline subfacility,
- (y) an asset-based revolving credit facility with aggregate initial commitments of \$12,000,000 in Tranche B-1 Revolving Commitments (as defined in the ABL DIP Credit Agreement), and
- (z) an asset-based revolving credit facility with aggregate initial commitments of \$8,000,000 in Tranche B-2 Revolving Commitments (as defined in the ABL DIP Credit Agreement)

- (ii) authorizing the Debtors to (x) execute, deliver and perform their respective obligations under (a) the ABL DIP Credit Agreement and (b) any other agreements, instruments, pledge agreements, mortgages, guarantees, security agreements, intellectual property security agreements, control agreements, financing statements, notes, and documents related thereto (including each “Loan Document” (as defined in the ABL DIP Credit Agreement)) (as each document may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, collectively, with the ABL DIP Credit Agreement, the “**ABL DIP Documents**”) and (y) use the proceeds of the ABL DIP Facility to pay in full all Prepetition ABL Obligations (as defined below), including interest and fees through the date of repayment, which will be implemented through the automatic substitution and exchange of the Prepetition ABL Obligations for ABL DIP Obligations on a cashless dollar for dollar basis (the “**ABL Debt Roll-Up**”);
- (iii) subject to and conditioned on the substantially contemporaneous occurrence of the UnSub Payoff Event, authorizing: (a) the Lead Borrower to obtain (and together with the ABL DIP Borrowers, the “**DIP Borrowers**”), (b) the UnSubs to guarantee on a joint and several basis upon consummation of the UnSub Payoff Event, and (c) each of the other Debtors ((a)-(c) collectively, the “**Term DIP Loan Parties**,” and together with the ABL DIP Loan Parties, the “**DIP Loan Parties**”) to guarantee on a joint and several basis, in each case, a senior secured superpriority postpetition multi-draw term loan facility (the “**Term Loan DIP Facility**,” and together with the ABL DIP Facility, the “**DIP Facilities**”; the loans thereunder the “**Term DIP Loans**,” and together with the ABL DIP Loans, the “**DIP Loans**”) to be advanced and made available to the Lead Borrower pursuant to the terms and subject to the conditions of this Interim Order and in the *Senior Secured Superpriority Priming Debtor-In-Possession Credit Agreement* (as the same may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time subject to the terms set forth in this Interim Order, the “**Term DIP Credit Agreement**,” and together with the ABL DIP Credit Agreement, the “**DIP Credit Agreements**”), a copy of which is attached hereto as **Exhibit B**, in an aggregate original principal amount of \$132,500,000 (the “**Term DIP Commitment**,” and together with the ABL DIP Commitment, the “**DIP Commitments**”), which shall consist of:
- (a) up to \$100,000,000 which shall be made available by Jefferies Capital Services, LLC (the “**Fronting Lender**”) on an interim basis upon entry of the Interim Order, subject to and conditioned upon the contemporaneous occurrence of the UnSub Payoff Event, and satisfaction of the other applicable conditions to such interim loan; and
- (b) up to \$32,500,000 which shall be made available by the Fronting Lender on a final basis upon entry of the Final Order (as defined below) and satisfaction of the other applicable conditions to any such final loan;
- (iv) subject to and conditioned on the substantially contemporaneous occurrence of the UnSub Payoff Event, authorizing the Debtors to execute, deliver, and perform

their respective obligations under (a) the Term DIP Credit Agreement by and among the Lead Borrower, the Term DIP Loan Parties party thereto, the Fronting Lender, the lenders from time to time party thereto (which lenders may include up to 100% of the Prepetition Term Lenders (as defined below)) (the “**Term DIP Lenders**,” and together with the Fronting Lender and the ABL DIP Lenders, the “**DIP Lenders**”), and Wilmington Trust, National Association, as administrative agent and collateral agent under the Term Loan DIP Facility (in such capacities, the “**Term DIP Agent**,” together with the ABL DIP Agent, the “**DIP Agents**,” and the Term DIP Agent, together with the Term DIP Lenders, the “**Term DIP Secured Parties**,” and the Term DIP Secured Parties, together with the ABL DIP Secured Parties the “**DIP Secured Parties**”) and (b) any other agreements, instruments, pledge agreements, mortgages, guarantees, security agreements, intellectual property security agreements, control agreements, financing statements, notes, and documents related thereto (including each “Loan Document” (as defined in the Term DIP Credit Agreement)) (collectively, as each document may be amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof and thereof, collectively with the Term DIP Credit Agreement, the “**Term DIP Documents**”);

- (v) authorizing the Debtors to execute, deliver, and perform their respective obligations under (a) the DIP Credit Agreements, (b) the DIP Intercreditor Agreement and (c) any other agreements, instruments, pledge agreements, guarantees, control agreements and other loan documents related to any of the foregoing (including any security agreements, intellectual property security agreements, notes, blocked account agreements, deposit account control agreements, securities account control agreements, credit card acknowledgements, credit card agreements, collateral access agreements, landlord agreements, warehouse agreements, bailee agreements, carrier agency agreements, customs broker agency agreements, subordination agreements (including any intercompany subordination agreements), and freight forwarder agreements, and all Uniform Commercial Code filings and all filings with the United States Patent and Trademark Office or the United States Copyright Office with respect to the recordation of an interest in the intellectual property of the Debtors (the foregoing, collectively, as each document may be amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof and thereof, and including the ABL DIP Documents, this Interim Order, the Final Order (once entered), and the Term DIP Documents, the “**DIP Documents**”) and to perform such other acts as may be necessary or desirable in connection with the DIP Documents;
- (vi) authorizing the Debtors to incur and guarantee loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees, costs, expenses, other liabilities, and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable under, or secured by, the ABL DIP Documents (collectively, the “**ABL DIP Obligations**”) and the Term DIP Documents (collectively, the “**Term DIP Obligations**,” and together with the ABL DIP Obligations, the “**DIP Obligations**”) including the

commitment fees, upfront fees, exit fees, backstop fees, or premiums, administrative agency fees, and any other fees payable pursuant to the DIP Documents (collectively, the “**DIP Fees**”);

- (vii) authorizing and directing the Debtors to use the proceeds of the DIP Facilities and solely in accordance with the Approved Budget:

- (I) to indefeasibly pay in full in cash the outstanding principal balance, together with all accrued and unpaid interest, fees, and other “**Note Obligations**” (as defined therein) due thereunder, under the *Senior Secured Promissory Note*, dated January 18, 2023 (as amended, the “**Prepetition Reimbursement Note**,” and all instruments and documents executed at any time in connection therewith, the “**Prepetition Reimbursement Note Documents**” and all obligations due thereunder the “**Prepetition Reimbursement Note Obligations**”), between Debtor Instant Brand Holdings, Inc. as borrower, and Cornell Capital Partners LP (together with its designated affiliates and permitted assigns, “**Prepetition Reimbursement Noteholder**”), as holder, in an aggregate principal amount of \$55,000,000, plus undisputed, accrued and unpaid interest and fees through the date of repayment (the indefeasible repayment of the Prepetition Reimbursement Note and the other Prepetition Reimbursement Note Obligations, together with the termination of the Prepetition Reimbursement Note Documents in accordance with the terms thereof and this Interim Order, collectively, the “**UnSub Payoff Event**”); and

- (II) immediately after the ABL Debt Roll-Up, to use proceeds of the Term Loan DIP Facility to indefeasibly prepay in cash the ABL DIP Obligations in accordance with the Approved Budget, subject to reborrowing subject to the terms of the ABL DIP Credit Agreement (the “**ABL Paydown**”);

- (viii) authorizing the Debtors to use Prepetition Collateral (as defined below), including Cash Collateral (as defined below), as well as the proceeds of the DIP Facilities, subject to the Approved Budget, and the restrictions set forth in the DIP Documents and this Interim Order;
- (ix) providing adequate protection to the Prepetition Secured Parties (as defined below) solely to the extent of any Diminution in Value (as defined below) of their interests in the Prepetition Collateral (including Cash Collateral);
- (x) granting to the DIP Agents, for the benefit of the DIP Secured Parties, and authorizing the Debtors to incur, valid, enforceable, non-avoidable, and automatically and fully perfected DIP Liens (as defined below) in all DIP Collateral (as defined below), including, without limitation, all property constituting Prepetition Collateral, to secure the DIP Obligations, which DIP Liens shall be subject to the Carve Out (as defined below) and the relative rankings and priorities set forth in this Interim Order, and as further set forth on **Exhibit C**;
- (xi) granting to the DIP Agents, for the benefit of the DIP Secured Parties, and authorizing the Debtors to incur, allowed superpriority administrative expense

claims against each of the Debtors, on a joint and several basis, in respect of all DIP Obligations, which superpriority administrative expense claims against each of the Debtors shall be subject to the Carve Out and the relative rankings and priorities set forth in this Interim Order, and as further set forth on **Exhibit C**;

- (xii) upon entry of the Final Order, waiving the Debtors' right to surcharge the Prepetition Collateral and DIP Collateral pursuant to section 506(c) of the Bankruptcy Code,
- (xiii) upon entry of the Interim Order, waiving (a) the "equities of the case" exception under section 552(b) of the Bankruptcy Code and (b) the equitable doctrine of "marshaling" and other similar doctrines (A) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (B) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);
- (xiv) modifying or vacating the automatic stay imposed by section 362 of the Bankruptcy Code or otherwise to the extent necessary to implement and effectuate the terms and provisions set forth in this Interim Order and in the DIP Documents, and waiving any applicable stay (including under Bankruptcy Rule 6004) with respect to the effectiveness and enforceability of this Interim Order, and providing for the immediate effectiveness of this Interim Order;
- (xv) scheduling a final hearing (the "**Final Hearing**") to consider entry of a final order (the "**Final Order**") authorizing and approving, among other things, the relief requested in the Motion on a final basis, which order shall be in form substantially similar to this Interim Order and otherwise reasonably acceptable in form and substance to the Debtors, the DIP Lenders, the DIP Agents, and the Prepetition Secured Parties, and approving the form of notice with respect to the Final Hearing; and
- (xvi) granting related relief.

The Court having considered the interim relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Adam Hollerbach in Support of Debtors' Chapter 11 Proceedings and First Day Pleadings* (the "**Hollerbach Declaration**"), the *Declaration of Ronen Bojmel in Support of the Debtors' Emergency Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, 507, and 552 (I) Authorizing the Debtors to (A) Obtain Senior Secured Superpriority Post-Petition Financing and (B) Use Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Providing Adequate Protection to Prepetition Secured Parties, (IV) Scheduling a Final Hearing,*

and (V) *Granting Related Relief* (the “**Bojmel Declaration**”), the DIP Documents, and the evidence submitted and arguments made at the interim hearing held on June 13, 2023 (the “**Interim Hearing**”); and due and sufficient notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002 and 4001(b), (c), and (d) and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved, or overruled by the Court; and it appearing that the interim relief requested in the Motion is fair and reasonable and in the best interests of the Debtors and their estates, necessary to avoid immediate and irreparable harm to the Debtors and their estates, and 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 Documents 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:⁴

A. **Petition Date.** On June 12, 2023 (the “**Petition Date**”), each Debtor filed a voluntary petition (each, a “**Petition**”) under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas (this “**Court**”).

⁴ 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.

B. **Debtors in Possession.** The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in any of the Chapter 11 Cases.

C. **Jurisdiction and Venue.** This Court has jurisdiction over the Chapter 11 Cases, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The predicates for the relief sought herein are sections 105, 361, 362, 363, 364, 503, 506, 507, and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004, and 9014, and Local Rules 1075-1, 2002-1, 4001-1, 4002-1, and 9013-1.

D. **Committee Formation.** As of the date hereof, the United States Trustee for the Southern District of Texas (the “**U.S. Trustee**”) has not appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (a “**Creditors’ Committee**”).

E. **Notice.** The Interim Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, appropriate, and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion or the entry of this Interim Order shall be required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing.

F. **Debtors’ Stipulations.** Without prejudice to the rights of any party in interest, as set forth in paragraph 38 of this Interim Order, and subject to the limitations therein, the Debtors acknowledge, admit, stipulate, and agree that:

(i) **Prepetition ABL Facility.**

(a) **Prepetition ABL Credit Agreement.** As of the Petition Date, pursuant to and in accordance with the *Asset-Based Revolving Credit Agreement*, dated June 30, 2021 (as amended or supplemented before the date hereof, the “**Prepetition ABL Credit Agreement**,” and all instruments and documents executed at any time in connection therewith (including all “Loan Documents” (as defined in the Prepetition ABL Credit Agreement), the “**Prepetition ABL Documents**”), between Debtors Instant Brands Holdings Inc. and Instant Brands Inc. as borrowers, Instant Brands Acquisition Intermediate Holdings Inc., as Initial Holdings, the lenders party thereto (as of the Petition Date (together with their respective successors and assigns, the “**Prepetition ABL Lenders**”), Bank of America, N.A. as administrative agent and collateral agent (in such capacities, the “**Prepetition ABL Agent**,” and together with the Prepetition ABL Lenders and all other “Secured Parties” as defined in the Prepetition ABL Credit Agreement, the “**Prepetition ABL Secured Parties**”), the Prepetition ABL Lenders provided a revolving credit facility to the Debtors (the “**Prepetition ABL Facility**”).

(b) **Prepetition ABL Obligations.** As of the Petition Date, the Debtors were lawfully liable and indebted to the Prepetition ABL Secured Parties, without defense, challenge, objection, claim, counterclaim, or offset of any kind, in the aggregate principal amount of not less than \$121,377,023.49, plus \$22,256,502.07 of issued and outstanding letters of credit plus any other amounts due and payable under the Prepetition ABL Credit Agreement, including accrued and unpaid interest thereon, premiums, reimbursement obligations (contingent or otherwise), fees, costs, expenses and disbursements (including any attorneys’, accountants’, appraisers’, and financial advisors’ fees and related expenses and disbursements), indemnification obligations, guarantee obligations, and other charges, amounts, liabilities, costs and obligations of whatever nature, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable (whether before or after the Petition Date), in each case, as and to the extent provided in the Prepetition ABL Credit Agreement, including all “Loan Obligations” and all “Secured Obligations,” each as defined in the Prepetition ABL Credit Agreement and all other amounts that may become allowed or allowable under section 506(b) of the Bankruptcy Code, including interest, fees, prepayment premiums, costs, and other charges (collectively, the “**Prepetition ABL Obligations**”). Such Prepetition ABL Obligations include:

- (I) \$108,290,599.49 in outstanding principal amount of “Tranche A Revolving Commitments”;
- (II) \$7,991,438.50 in outstanding principal amount of “Tranche B-1 Revolving Commitments”;
- (III) \$5,094,985.50 in outstanding principal amount of “Tranche B-2 Revolving Commitments”;
- (IV) \$22,256,502.07 in issued and outstanding letters of credit;

(c) **Prepetition ABL Guarantees and Liens.** As more fully set forth in the Prepetition ABL Documents, before the Petition Date, to secure the Prepetition ABL Obligations, Instant Brands Acquisition Intermediate Holdings Inc., Instant Brands Holdings Inc., Instant Brands Inc., Instant Brands LLC, EKCO Group, LLC, Corelle Brands (GHC) LLC, EKCO Housewares, Inc., EKCO Manufacturing of Ohio, Inc., Instant Brands (Canada) Holding Inc., and Corelle Brands (Canada) Inc. (together, the “**Prepetition Loan Parties**”) unconditionally guaranteed, on a joint and several basis, the due and punctual payment and performance, and satisfaction when due and at all times thereafter, of the Prepetition ABL Obligations and granted to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Secured Parties, valid, binding, properly perfected, and enforceable continuing liens on and security interests in (collectively, the “**Prepetition ABL Liens**”) all of the “Collateral” as defined in the Prepetition ABL Credit Agreement, including applicable proceeds and products, accessions, substitutions and replacements for and rents, profits, and products, in each case whether then owned or owing to or thereafter acquired or arising and wherever located (the “**Prepetition ABL Collateral**”), subject to the terms of the Prepetition Intercreditor Agreement (as defined below). In accordance with the Prepetition Intercreditor Agreement, the Prepetition ABL Liens consist of: (a) first priority liens on and security interests in all “ABL Priority Collateral” and “Exclusive Foreign ABL Collateral” (each as defined in the Prepetition Intercreditor Agreement); and (b) second priority liens on and security interests in “Term Priority Collateral” as defined in the Prepetition Intercreditor Agreement.

(ii) **Prepetition Term Loan Facility.**

(a) **Prepetition Term Credit Agreement.** As of the Petition Date, pursuant to and in accordance with the *Senior Secured Credit Agreement*, dated April 12, 2021 (as amended or supplemented before the date hereof, the “**Prepetition Term Credit Agreement**,” and together with the Prepetition ABL Credit Agreement, the “**Prepetition Credit Agreements**”) and all instruments and documents executed at any time in connection therewith including all “Loan Documents” as defined in the Prepetition Term Credit Agreement (the “**Prepetition Term Documents**,” and together with the Prepetition ABL Documents, the “**Prepetition Credit Documents**”), between Debtor Instant Brands Holdings Inc., Instant Brands Acquisition Intermediate Holdings Inc., each of the lenders party as of the Petition Date (together with their respective successors and assigns, the “**Prepetition Term Lenders**,” and together with the Prepetition ABL Lenders, the “**Prepetition Lenders**”), and Wilmington Trust, National Association, as successor administrative agent and collateral agent (in such capacities, the “**Prepetition Term Agent**,” and together with the Prepetition Term Lenders, the “**Prepetition Term Secured Parties**,” and the Prepetition Term Secured Parties, together with the Prepetition ABL Secured Parties, the “**Prepetition Secured Parties**,” and the Prepetition Term Agent, together with the Prepetition ABL Agent, the “**Prepetition Agents**”), the Prepetition Term Lenders provided a term loan facility to the Debtors (the “**Prepetition Term Loan Facility**,” and together with the Prepetition ABL Facility, the “**Prepetition Facilities**”).

(b) **Prepetition Term Obligations.** As of the Petition Date, the Prepetition Loan Parties were lawfully liable and indebted to the Prepetition Term

Secured Parties, without defense, challenge, objection, claim, counterclaim, or offset of any kind, in the aggregate principal amount of not less than \$390,937,500, plus any other amounts due and payable under the Prepetition Term Credit Agreement, including, without limitation, accrued and unpaid interest thereon, premiums, reimbursement obligations (contingent or otherwise), fees, costs, expenses and disbursements (including any attorneys', accountants', appraisers', and financial advisors' fees and related expenses and disbursements), indemnification obligations, guarantee obligations, and other charges, amounts, liabilities, costs, and obligations of whatever nature, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable (whether before or after the Petition Date), in each case, as and to the extent provided in the Prepetition Term Credit Agreement, including all "Secured Obligations" as defined in the Prepetition Term Credit Agreement and all other amounts that may become allowed or allowable under section 506(b) of the Bankruptcy Code, including interest, fees, prepayment premiums, costs, and other charges (collectively, the "**Prepetition Term Obligations**," and together with the Prepetition ABL Obligations, the "**Prepetition Obligations**").

(c) **Prepetition Term Guarantees and Liens.** As more fully set forth in the Prepetition Term Documents, before the Petition Date, to secure the Prepetition Term Obligations, the Prepetition Loan Parties unconditionally guaranteed on a joint and several basis, the due and punctual payment and performance and satisfaction when due and at all times thereafter, of the Prepetition Term Obligations and the Prepetition Loan Parties granted to the Prepetition Term Agent, for the benefit of the Prepetition Term Secured Parties, valid, binding, properly perfected, and enforceable continuing liens on and security interests in (the "**Prepetition Term Liens**," together with the Prepetition ABL Liens, the "**Prepetition Liens**") all of the "Collateral" as defined in the Prepetition Term Credit Agreement, including applicable proceeds and products and accessions, substitutions and replacements for and rents, profits, and products, in each case whether then owned or owing to or thereafter acquired or arising and wherever located (the "**Prepetition Term Collateral**," together with the Prepetition ABL Collateral, the "**Prepetition Collateral**"), subject to the terms of the Prepetition Intercreditor Agreement. In accordance with the Prepetition Intercreditor Agreement, the Prepetition Term Liens consists of: (a) first priority liens on and security interests in all Term Priority Collateral and "Exclusive Term Collateral" (each as defined in the Prepetition Intercreditor Agreement) and (b) second priority liens on and security interests in all ABL Priority Collateral.

(iii) **Prepetition Reimbursement Note.** As of the Petition Date, the Prepetition Loan Parties and the UnSubs were lawfully liable and obligated to the Prepetition Reimbursement Noteholder, without defense, challenge, objection, claim, counterclaim, or offset of any kind, with respect to loans arising as a result of drawings under a standby letter of credit obtained by the Prepetition Reimbursement Noteholder and issued for the benefit of the Prepetition ABL Agent, plus any and all other amounts due and payable under the Prepetition Reimbursement Note Documents, including, without limitation, all Prepetition Reimbursement Note Obligations that may be due, owing, or chargeable in connection therewith, in each case, as and to the extent provided in the Prepetition Reimbursement Note Documents. As more fully set forth in the

Prepetition Reimbursement Note Documents, to secure the Prepetition Reimbursement Note Obligations, the UnSubs granted to the Prepetition Reimbursement Noteholder valid, binding, properly perfected, and enforceable continuing liens on and security interests in all of the “Collateral” (as defined in the Prepetition Reimbursement Note), in accordance with the Prepetition Reimbursement Note Documents.

(iv) **Enforceability of Prepetition Intercreditor Agreement.** The Prepetition Agents entered into the *ABL Intercreditor Agreement*, dated October 9, 2020 (as amended or supplemented before the date hereof, the “**Prepetition Intercreditor Agreement**”) for the benefit of the applicable Prepetition Secured Parties, acknowledged and consented to by the Prepetition Loan Parties, to govern the respective rights, interests, obligations, priority, and positions of the Prepetition ABL Secured Parties and the Prepetition Term Secured Parties.

(v) **Validity, Perfection, and Priority of Prepetition Liens and Prepetition Obligations.** (a) The Prepetition Liens are valid, binding, enforceable, non-avoidable, and properly perfected liens, with priority over any and all other liens (other than liens expressly permitted to be senior to such Prepetition Liens under the Prepetition Credit Documents, but solely to the extent permitted under the applicable Prepetition Credit Agreement and only to the extent such permitted liens were existing, valid, enforceable, properly perfected, and non-avoidable as of the Petition Date or perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code), subject to the terms of the Prepetition Intercreditor Agreement; (b) the Prepetition ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Loan Parties, enforceable in accordance with the terms of the Prepetition ABL Documents, the aggregate value of the Prepetition ABL Collateral exceeds the amount of the Prepetition ABL Obligations, and the Prepetition ABL Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code; (c) the Prepetition Term Obligations constitute legal, valid, binding and non-avoidable obligations of

the Prepetition Term Secured Parties, enforceable in accordance with the terms of the Prepetition Term Documents, and the Prepetition Term Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code; (d) no portion of the Prepetition Liens, the Prepetition Obligations, or any payments made to any Prepetition Secured Party or applied or paid on account of the Prepetition Obligations prior to or following the Petition Date is subject to any contest, set-off, avoidance, impairment, disallowance, recharacterization, reduction, subordination (whether equitable, contractual, or otherwise), recoupment, recovery, rejection, attack, effect, counterclaims, cross-claims, defenses, or any other challenge or claim (as defined in the Bankruptcy Code) of any kind, any cause of action or any other challenge of any nature under or pursuant to the Bankruptcy Code or any other applicable domestic or foreign law or regulation or otherwise by any person or entity; (e) the Debtors and their estates hold no claims (as defined in the Bankruptcy Code), counterclaims, defenses, setoff rights, or causes of action, including Avoidance Actions, of any kind against any of the Prepetition Secured Parties or any of their respective Representatives with respect to the Prepetition Obligations and the Prepetition Liens; and (f) the Debtors have, on behalf of each of their estates and any party that may try to claim by, through, or on behalf of the Debtors' estates, waived, discharged and released any right they may have to: (A) challenge the validity, enforceability, priority, security, and perfection of any of the Prepetition Obligations, the Prepetition Credit Documents, or the Prepetition Liens, respectively; and (B) assert any and all claims (as defined in the Bankruptcy Code) or causes of action against any of the Prepetition Secured Parties and each of their respective officers, directors, equity holders, members, partners, subsidiaries, affiliates, funds, managers, managing members, employees, advisors, principals, attorneys, professionals, accountants, investment bankers, consultants, agents, and other representatives (in each case, in

their respective capacities as such), whether arising at law or in equity, including any recharacterization, subordination, avoidance, or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or any other similar provisions of applicable state or federal law, in each case, arising out of, based upon or related to the Prepetition Credit Documents, the Prepetition Liens or the Prepetition Obligations, as applicable.

(vi) **No Control.** None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted, or are control persons or insiders of the Debtors or any of their affiliates.

(vii) **Cash Collateral.** All of the Debtors' cash, whether existing as of the Petition Date or thereafter, wherever located (including, without limitation, all cash on deposit or maintained by the Debtors in any account or accounts), constitutes or will constitute "cash collateral" of the Prepetition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code (the "**Cash Collateral**").

(viii) **Indemnification.** The DIP Secured Parties and the Prepetition Secured Parties have acted in good faith, and without negligence or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, documenting, or obtaining the approval of the DIP Facilities and the use of Cash Collateral, including in respect of the granting of the DIP Liens and the Adequate Protection Liens (as defined below), any challenges or objections to the DIP Facilities or the use of Cash Collateral, and all documents related to any and all transactions contemplated by the foregoing, including the DIP Documents. Accordingly the DIP Secured Parties and the Prepetition Secured Parties shall be and hereby are indemnified and held harmless by the Debtors in respect of any

claim or liability incurred in respect thereof or in any way related to the DIP Facilities or the use of Cash Collateral as and to the extent provided in the DIP Documents and the Prepetition Credit Documents, as applicable; *provided*, that no such Indemnified Parties will be indemnified for any cost, expense, or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such parties' gross negligence, actual fraud, or willful misconduct. Subject only to Paragraph 38, no exception or defense exists in contract, law, or equity as to the Debtors' obligation set forth, as the case may be, in this paragraph (vii), in the DIP Documents, or in the Prepetition Credit Documents to indemnify and hold harmless the Indemnified Parties, as applicable.

(ix) **Release.** Effective upon entry of this Interim Order (and subject to paragraph 38), the Debtors, on behalf of themselves and their respective estates (including any successor trustee or other estate representative in these Chapter 11 Cases or any Successor Cases (as defined below)) and any party acting by, through, or under any of the Debtors or their estates, hereby absolutely, irrevocably, and unconditionally release, waive, and forever discharge and acquit the DIP Secured Parties, the Prepetition Secured Parties, their respective participants and affiliates, and their former or current officers, partners, directors, managers, members, principals, employees, agents, related funds, affiliates, investors, financing sources, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals and the respective successors and assigns thereof, in each case solely in their capacities as such (collectively, the "**Released Parties**"), from any and all claims, demands, offsets, defenses, counterclaims, set off rights, objections, challenges, causes of action, liabilities, losses, damages, responsibilities, disputes, remedies, actions, suits, controversies, indebtedness, reimbursement obligations (including, attorneys' fees), costs, expenses, or judgments of every type, whether

known or unknown, asserted or unasserted, suspected or unsuspected, accrued or unaccrued, fixed or contingent, or pending or threatened, of any kind or nature whatsoever, whether arising under common law, statute, or regulation or by contract or in equity (including, without limitation, any so-called “lender liability” or equitable subordination claims or defenses, recharacterization, subordination, avoidance, any claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, or any other claim or cause of action arising under the Bankruptcy Code or applicable non-bankruptcy law), in each case, arising under, in connection with, or related to the Debtors or their estates or the extent, amount, validity, enforceability, priority, security, perfection, and avoidability of the DIP Facilities, the DIP Obligations, the DIP Liens, the DIP Documents, the Prepetition Facilities, the Prepetition Obligations, the Prepetition Liens, and the Prepetition Credit Documents, and the obligations owing and the financial obligations made thereunder, the negotiation thereof, and of the deal reflected thereby, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause, or thing whatsoever arising at any time on or prior to the date of this Interim Order, except to the extent such claim, damage, loss, liability, or expense is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted primarily from such Released Party’s gross negligence, actual fraud, or willful misconduct. For the avoidance of doubt, the foregoing release shall not constitute a release of any rights or obligations under this Interim Order or under the DIP Documents.

G. **Findings Regarding Postpetition Financing and Use of Cash Collateral.**

(i) **Good Cause.** Good and sufficient cause has been shown for the entry of this Interim Order and for authorization of the Debtors to obtain financing under the DIP Facilities. The execution and delivery of the DIP Documents and the implementation of the DIP Facilities are in the best interests of the Debtors and their estates.

(ii) **Request for Postpetition Financing and Use of Cash Collateral.** The Debtors seek authority to (a) enter into the DIP Facilities and incur the DIP Obligations on the terms described herein and in the DIP Documents and (b) use Cash Collateral on the terms described herein, in each case, to administer their Chapter 11 Cases and fund their operations. The DIP Lenders shall have no obligation to make or be deemed to have made loans, advances or other extensions of credit under the DIP Facilities except to the extent required under the respective DIP Documents and shall have no obligation to waive any conditions required thereunder. At the Final Hearing, the Debtors will seek final approval of the DIP Facilities and use of Cash Collateral pursuant to the proposed Final Order, which shall be in form and substance acceptable to the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties in their sole and absolute discretion. Notice of the Final Hearing and the proposed Final Order will be provided in accordance with this Interim Order.

(iii) **Priming of the Prepetition Liens.** The priming of the Prepetition Liens under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Documents and as provided herein and on **Exhibit C** hereto, will enable the Debtors to obtain the DIP Facilities and to continue to operate their business during the pendency of the Chapter 11 Cases, to the benefit of their estates and creditors. The Prepetition Secured Parties are entitled to receive adequate protection as set forth in this Interim Order pursuant to sections 361, 363, and 364 of the

Bankruptcy Code, solely to the extent of any Diminution in Value (as defined below) of their respective interests in the Prepetition Collateral (including Cash Collateral).

(iv) **Immediate Need for Postpetition Financing and Use of Cash Collateral.**

The Debtors have an immediate and a critical need for the DIP Facilities and to continue to use the Collateral (including Cash Collateral) to, among other things, (a) avoid the liquidation of these estates, (b) permit the orderly continuation of the operation of their businesses, (c) maintain business relationships with customers, vendors, and suppliers, (d) make payroll, (e) satisfy other working capital and operational needs, (f) pay professional fees, expenses, and obligations benefitting from the Carve Out, (g) facilitate the closing of the DIP Facilities and consummate the UnSub Payoff Event as a condition thereto, and (h) pay costs, fees, and expenses associated with or payable under the DIP Documents and this Interim Order. The access by the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, incurrence of new indebtedness under the DIP Documents, and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern values of the Debtors and to a successful restructuring of the Debtors. The Debtors' use of Cash Collateral alone would be insufficient to meet the Debtors' cash disbursement needs during the period of effectiveness of this Interim Order. The terms of the proposed DIP Facilities pursuant to the DIP Documents and this Interim Order are fair and reasonable, reflect each Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration.

(v) **No Credit Available on More Favorable Terms.** The DIP Facilities are the best sources of debtor-in-possession financing available to the Debtors under the circumstances. Given their current financial condition, the Debtors have been and continue to be

unable to obtain financing and other financial accommodations from sources other than the DIP Lenders on terms more favorable than those provided under the DIP Facilities and the DIP Documents. The Debtors are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors have also been unable to obtain sufficient (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. Adequate financing on a postpetition basis on better terms is not available without granting the DIP Agents, for the benefit of themselves and the other DIP Secured Parties, (1) perfected priming security interests in and liens (each as provided herein and in the DIP Documents) on the DIP Collateral, with the priorities set forth herein; (2) superpriority administrative expense claims; and (3) the other protections set forth in this Interim Order.

(vi) **Use of Proceeds of the DIP Facilities and Cash Collateral.** The DIP Secured Parties require, and the Debtors have agreed, that the extension of credit and other financial accommodations made under the DIP Documents, the Cash Collateral (including, without limitation, the proceeds of the DIP Facilities), the proceeds of the DIP Facilities, and all other cash or funds of the Debtors shall be used solely in accordance with the Approved Budget (subject to permitted variances) and otherwise in accordance with the terms and conditions of this Interim Order and the DIP Documents, and for no other purpose.

(vii) **Adequate Protection.** The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363, 364, and 507 of the Bankruptcy Code, to adequate protection (“**Adequate Protection**”), as and to the extent set forth in this Interim Order, of their interest in

all Prepetition Collateral, including Cash Collateral, in an amount equal to the diminution in the value of the Prepetition Secured Parties' interest in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code (the "**Diminution in Value**"). Based on the Motion, the Hollerbach Declaration, the Bojmel Declaration, and the record presented to the Court at the Interim Hearing, the terms of the proposed adequate protection arrangements and of the use of the Prepetition Collateral (including Cash Collateral) are fair and reasonable, reflect the Debtors' prudent exercise of business judgment, and constitute reasonably equivalent value and fair consideration for the use of the Prepetition Collateral (including Cash Collateral); *provided*, that nothing in this Interim Order or the DIP Documents shall (a) be construed as the affirmative consent by any of the Prepetition Secured Parties for the use of Cash Collateral other than in accordance with the Approved Budget and otherwise on the terms set forth in this Interim Order and in the context of the DIP Facilities authorized by this Interim Order or the DIP Credit Agreement, (b) be construed as a consent by any Prepetition Secured Party to the terms of any other financing or any other lien encumbering the Prepetition Collateral (whether senior or junior) except to the extent permitted by the DIP Documents, or (c) prejudice, limit, or otherwise impair the rights of any of the Prepetition Secured Parties to seek modification of the grant of Adequate Protection provided hereby so as to provide new, different, or additional adequate protection or assert the interests of any of the Prepetition Secured Parties, without prejudice to the right of the Debtors and any other party in interest's rights to contest such modification.

(viii) **Consent.** The Prepetition Agents on behalf of their respective Prepetition Secured Parties have not objected to the Debtors' use of Prepetition Collateral (including Cash Collateral), and the Debtors' entry into the DIP Documents and the priming liens granted to the

DIP Secured Parties, in each case, in accordance with the Approved Budget and otherwise in accordance with and subject to the terms and conditions in this Interim Order and the DIP Documents.

(ix) **Business Judgment and Good Faith Pursuant to Section 364(e).** Based on the Motion, the Hollerbach Declaration, the Bojmel Declaration, and the record presented to the Court at the Interim Hearing, (a) the extension of credit and other financial accommodations made under, and all of the Debtors' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facilities and the DIP Documents (including consummation of the UnSub Payoff Event), (b) the interest, fees, and other amounts paid and to be paid thereunder, (c) the terms of adequate protection granted to the Prepetition Secured Parties, (d) the terms on which the Debtors may continue to use Prepetition Collateral (including Cash Collateral), and (e) the Cash Collateral arrangements described therein and herein, in each case, pursuant to this Interim Order and the DIP Documents, (I) are fair, reasonable, and the best available to the Debtors under the circumstances; (II) reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties; (III) are supported by reasonably equivalent value and fair consideration; and (IV) represent the best financing available. The DIP Facilities and the use of Prepetition Collateral (including Cash Collateral) were negotiated in good faith and at arm's length among the Debtors, the DIP Secured Parties, the Prepetition Secured Parties, and their respective advisors. The Debtors' continued use of Prepetition Collateral (including Cash Collateral) to fund the administration of the Debtors' estates and continued operation of their businesses (including the incurrence and payment of any adequate protection obligations and the granting of adequate protection liens), in accordance with the terms hereof, and the credit to have been extended by the DIP Secured Parties under the DIP Facilities shall be deemed to have been

so allowed, advanced, made, used and extended in good faith, and for valid business purposes and uses, within the meaning of section 364(e) of the Bankruptcy Code, and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code. Moreover, the ABL Debt Roll-Up and the ABL Paydown are necessary to the DIP Secured Parties' entry into the DIP Facilities and are consistent with the Debtors' exercise of their fiduciary duties. The DIP Secured Parties and the Prepetition Secured Parties (and their successors and assigns) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(x) **Initial DIP Budget.** The Debtors have prepared and delivered to the DIP Lenders and DIP Agents an initial 13-week budget (the "**Initial DIP Budget**"), a copy of which is attached hereto as **Exhibit D**. The Initial DIP Budget may be modified, amended, and updated from time to time in accordance with each DIP Credit Agreement and once approved in accordance therewith shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent budget upon approval in accordance with the DIP Credit Agreements, shall constitute without duplication, an "**Approved Budget**"). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances known to them, taken as a whole, as of the Petition Date. The proceeds of the DIP Facilities and the Cash Collateral shall be used solely in accordance with the DIP Budget (subject to permitted variances). The DIP Secured Parties and the Prepetition Secured Parties are relying, in part, upon the Debtors' agreement to comply with limits on cash expenditures in the Approved Budget (subject to permitted variances), the other DIP Documents, and this Interim Order in determining to enter into the DIP Facilities provided for in this Interim Order.

(xi) **Relief Essential; Necessity of Immediate Entry.** The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and the Local Rules and good cause has been shown for the immediate entry of this Interim Order. For the reasons set forth in the Motion, the Hollerbach Declaration, the Bojmel Declaration, and the record presented to the Court at the Interim Hearing, absent granting the relief set forth in this Interim Order, the Debtors' estates would face significant business disruption resulting in immediate and irreparable harm. Consummation of the DIP Facilities and the use of Prepetition Collateral (including Cash Collateral) in accordance with this Interim Order and the DIP Documents are therefore in the best interests of the Debtors, their estates, and their creditors.

(xii) **Interim Hearing.** Notice of the Interim Hearing and the relief requested in the Motion has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier, or hand delivery to certain parties in interest, including the Notice Parties (as defined below). 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 Motion, and the record before the Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. **DIP Facilities Approved on an Interim Basis.** The relief requested in the Motion is authorized and approved, in each case, subject to the terms and conditions set forth in the DIP Documents and this Interim Order. Any and all objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived, settled, or resolved and all

reservations of rights included therein, are hereby denied and overruled on the merits. This Interim Order shall become effective immediately upon its entry.

2. **Authorization of the DIP Facilities and the DIP Documents.**

(a) The Debtors are hereby authorized without the need for any further corporate action to execute, enter into, and perform all obligations under the DIP Documents, to borrow (as applicable), incur, guarantee, perform and pay the DIP Obligations, to grant security for the payment and performance of the DIP Obligations, and to take any other and further acts related to the performance of the DIP Documents. The DIP Documents and this Interim Order shall govern the financial and credit accommodations to be provided to the Debtors by the DIP Lenders in connection with the DIP Facilities. The DIP Borrowers are hereby authorized to borrow money and incur other liabilities and obligations pursuant to the DIP Documents, and the DIP Loan Parties are hereby authorized to guarantee the Debtors' obligations with respect to such borrowings and other liabilities and obligations, in each case together with applicable interest, expenses, fees, including any prepetition and postpetition fees and expenses, and other charges payable in connection with the DIP Facilities, which shall be used for all purposes permitted under the DIP Documents and this Interim Order, including to (i) provide working capital and pay for other general corporate purposes of the Debtors, (ii) pay administration costs of the Chapter 11 Cases and claims or amounts approved by the Bankruptcy Court, (iii) consummate the UnSub Payoff Event, (iv) consummate the ABL Debt Roll-Up and the ABL Paydown, and (v) pay interest and make adequate protection and other payments in accordance with the Approved Budget (subject to permitted variances), this Interim Order, and the DIP Documents.

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor is hereby authorized to perform all acts to make, execute, and deliver all instruments

and documents (including, without limitation, the execution or recordation of security agreements, control agreements, mortgages, deeds of trust, and financing statements), and to pay all fees and expenses required or necessary for the Debtors to implement the terms of, perform their obligations under, or effectuate the purposes of and transactions contemplated by this Interim Order or the DIP Documents, including, without limitation:

(i) the execution and delivery of, and performance under, one or more non-material authorizations, amendments, waivers, consents, or other modifications to and under the DIP Documents, in each case, in such form as the Debtors and the DIP Agents, acting at the express written direction of the applicable DIP Lenders, may agree; *provided*, that updates and supplements to the Approved Budget required to be delivered by the Debtors under the DIP Documents shall not be considered amendments or modifications to the Approved Budget or the DIP Documents. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of any material modification or amendment on an expedited basis;

(ii) upon entry of this Interim Order, the payment to the DIP Agents and the DIP Lenders, as the case may be, of all prepetition and postpetition fees, including any DIP Fees (which fees, in each case, shall be, and shall be deemed to have been, approved upon entry of this Interim Order, and which fees shall not be subject to any challenge, contest, disgorgement, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance, or other claim, cause of action, or other challenge of any nature under the Bankruptcy Code, applicable law, or otherwise), and any amounts due (or that may become due) in respect of the reimbursement and indemnification obligations, in each case referred to in the DIP Documents (and in any separate letter agreements between any or all Debtors, on the one hand, and any of the DIP Agents or DIP Lenders (including, without limitation, the Fronting Lender), on the other, in connection with the DIP Facility) and the costs and expenses as may be due from time to time, including, without limitation, fees and expenses of Skadden, Arps, Slate, Meagher & Flom LLP ("**Skadden**") and Norton Rose Fulbright and Norton Rose Fulbright Canada LLP ("**Norton Rose**") as counsel and FTI Consulting ("**FTI**") as financial advisor to the ABL DIP Secured Parties and Ropes & Gray LLP ("**Ropes & Gray**"), local counsel to the DIP Lenders, Moelis & Company LLC ("**Moelis**"), Ankura Consulting Group, LLC ("**Ankura**") as advisors to the Term DIP Secured Parties, in each case, as provided for in the DIP Documents (the "**DIP Fees and Expenses**"), and Proskauer Rose LLP ("**Proskauer**") in an amount up to \$100,000, in each case without the need to file retention motions or fee applications or to provide notice to any party but subject to the procedures set forth in paragraph 36; and

(iii) the performance of all other acts required under or in connection with the DIP Documents, including the granting of the DIP Liens and DIP Superpriority Claims (as defined below) and perfection of the DIP Liens and DIP Superpriority Claims as permitted herein and therein.

(c) Subject to the terms and conditions of this Interim Order, the DIP Agents are hereby authorized to execute, enter into, and perform all rights and duties of the DIP Agents under the DIP Documents.

(d) Upon execution and delivery of the DIP Documents, each of the DIP Documents shall constitute valid, binding, and non-avoidable obligations of the Debtors, fully enforceable against the Debtors in accordance with the terms of the DIP Documents and this Interim Order. No obligation, payment, transfer, or grant of security under the DIP Documents or this Interim Order to the DIP Agents, the DIP Lenders, or any of their respective representatives shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, 547, and 548 through 550 of the Bankruptcy Code, any applicable Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act, or other similar state statute or common law), or subject to any defense, reduction, recoupment, recharacterization, subordination, disallowance, impairment, cross-claim, claim, or counterclaim.

(e) No DIP Lender or DIP Agent shall have any obligation or responsibility to monitor the Debtors' use of the DIP Loans, and each DIP Lender and DIP Agents may rely upon the Debtors' representations as to whether the amount of DIP Loans requested at any time and the use thereof are in accordance with the requirements of this Interim Order, the DIP Documents and Bankruptcy Rule 4001(c)(2).

3. **Authorization of the DIP Fees.** The Debtors are authorized to use the proceeds of the DIP Facilities to pay in cash in full the DIP Fees.

4. **Authorization of the UnSub Payoff Event.** The Debtors are authorized and directed to use the proceeds of the DIP Facilities to indefeasibly pay in cash in full all of the

outstanding Prepetition Reimbursement Note Obligations to the Prepetition Reimbursement Noteholder and take all steps necessary to cause the termination or cancellation of the Prepetition Reimbursement Note Obligations. Notwithstanding anything herein to the contrary, payment of the Prepetition Reimbursement Note Obligations shall not be subject to any challenge, contest, disgorgement, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance, or other claim, cause of action, or other challenge of any nature under the Bankruptcy Code, applicable law, or otherwise. Solely upon the irrevocable consummation of the UnSub Payoff Event, the UnSubs will be automatically deemed to be restricted subsidiaries and guarantors under the DIP Facilities in accordance with the DIP Documents, and all assets and proceeds thereof will be subject to the DIP Liens and Adequate Protection Liens in accordance with the priorities set forth herein. Notwithstanding any interval of time, consummation of the DIP Facilities will be deemed to be substantially contemporaneous with the occurrence of the UnSub Payoff Event and the incurrence of the guarantees by and pledge of assets towards the DIP Obligations by the UnSubs in accordance with the DIP Documents and with the priorities herein.

5. **Approval of ABL Debt Roll-Up.** Upon entry of the Interim Order and execution of the ABL DIP Credit Agreement, and subject to paragraph 38, the Prepetition ABL Obligations will be automatically deemed to be substituted and exchanged for ABL DIP Obligations on a cashless dollar for dollar basis, and immediately thereafter, proceeds of the Term Loan DIP Facility will be applied to the ABL Paydown.

6. **Carve Out.**

(a) As used in the Interim Orders, the “**Carve Out**” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee

under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$100,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses other than any success, restructuring, or transaction fee incurred by the Debtors' investment banker and less any amounts of prepetition retainers of such professional person not previously applied to fees and expenses (the "**Allowed Professional Fees**") incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "**Debtor Professionals**") and the Creditors' Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "**Committee Professionals**") and, together with the Debtor Professionals, the "**Professional Persons**") at any time before or on the first business day following the date of delivery by the ABL DIP Agent or the Term DIP Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$3,500,000 incurred after the first business day following delivery by the ABL DIP Agent or the Term DIP Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise. For purposes of the foregoing, "**Carve Out Trigger Notice**" shall mean a written notice delivered by email (or other electronic means) by the ABL DIP Agent or the Term DIP Agent to the DIP Borrowers, their lead restructuring counsel, the U.S. Trustee, respective counsel to the Ad Hoc Group of Term Loan Lenders (as defined in the First Day Declaration), counsel to each of the Term DIP Agent and ABL DIP Agent, and counsel to the Creditors' Committee (if any), which notice may be delivered

following the occurrence and during the continuation of an Event of Default (as defined in the Term DIP Credit Agreement or ABL DIP Credit Agreement), stating that the Post-Carve Out Amount (as defined below) is in effect.

(b) Fee Estimates.

(i) Not later than 6:00 p.m. Prevailing Central Time on the third business day of each week starting with the first full calendar week following the Closing Date (as defined in the ABL DIP Credit Agreement), each Professional Person shall deliver to the Debtors a statement setting forth a good-faith estimate of the amount of fees and expenses (collectively, “**Estimated Fees and Expenses**”) incurred during the preceding week by such Professional Person (through Saturday of such week, the “**Calculation Date**”), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a “**Weekly Statement**”); *provided* that within one business day of the occurrence of the Termination Declaration Date (as defined herein), each Professional Person shall deliver one additional statement (the “**Final Statement**”) setting forth a good-faith estimate of the amount of fees and expenses incurred during the period commencing on the calendar day after the most recent Calculation Date for which a Weekly Statement has been delivered and concluding on the Termination Declaration Date (as defined below).

(ii) If any Professional Person fails to deliver a Weekly Statement within three calendar days after such Weekly Statement is due then, with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person; *provided* that such Professional Person shall be entitled to be paid any unpaid amount of Allowed Professional Fees in excess of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person from a reserve to be funded by the Debtors from all cash on hand as of such date and any available cash thereafter held by any Debtor pursuant to paragraph 6(d) below. Any deemed draw and borrowing pursuant to paragraph 6(c) for amounts under paragraph 6(c) below shall, when combined with the cash on hand at the time of such deemed draw and borrowing, be limited to the greater of (x) the sum of (I) the aggregate unpaid amount of Estimated Fees and Expenses included in such Weekly Statements timely received by the Debtors prior to the Termination Declaration Date *plus*, without duplication, (II) the aggregate unpaid amount of Estimated Fees and Expenses included in the Final Statements timely received by the Debtors pertaining to the period through and including the Termination Declaration Date, and (y) the aggregate unpaid amount of fees and expenses of Professional Persons included in the Approved Budget for the period prior to the Termination Declaration Date (such amount, the “**Pre-Trigger Professional Fee Carve Out Cap**”).

(iii) For the avoidance of doubt, the ABL DIP Agent shall maintain at all times a reserve (the “**ABL Carve Out Reserve**”) in an amount (the “**ABL Carve Out Reserve Amount**”) equal to (i) the greater of (x) the aggregate unpaid amount of Estimated Fees and Expenses included in all Weekly Statements timely received by the Debtors, and (y) the aggregate amount of fees and expenses of Professional Persons contemplated to be unpaid in the Approved Budget at the applicable time, *plus* (ii) the Post-Carve Out Amount, *plus* (iii) the amounts contemplated under paragraph 6(a)(i) and 6(a)(ii) above, *plus* (iv) an amount equal to the amount of Allowed Professional Fees set forth in the Approved Budget for the then current week occurring after the most recent Calculation Date and the week succeeding such current week (such amount set forth in (iv), regardless of whether such reserve is maintained, the “**Budgeted Cushion Amount**”); *provided*, that the ABL Carve Out Reserve will at all times exclude any transaction, success, financing or restructuring fee payable to any investment banker or any other Professional Person. Not later than 6:00 p.m. Prevailing Central Time on the fourth business day of each week starting with the first full calendar week following the entry of the Interim Order, the Debtors shall deliver to the ABL DIP Agent a report setting forth the ABL Carve Out Reserve Amount as of such time, and, in setting the ABL Carve Out Reserve, the ABL DIP Agent shall be entitled to rely upon such reports in accordance with the ABL DIP Credit Agreement. Prior to the delivery of the first report setting forth the ABL Carve Out Reserve Amount, the ABL DIP Agent shall calculate the ABL Carve Out Reserve Amount by reference to the Approved Budget for subsection (i) of the ABL Carve Out Reserve Amount. For the avoidance of doubt, the ABL Carve Out Reserve will be maintained as a reserve against the Borrowing Base and the ABL DIP Agent and ABL DIP Lenders will have no obligation to fund in cash the ABL Carve Out Reserve unless required after delivery of the Carve Out Trigger Notice. In no event shall amounts funded from the ABL DIP Facility or the ABL DIP Priority Collateral exceed, in the aggregate, the maximum permitted amount of the ABL Carve-Out Reserve established immediately prior to the delivery of a Carve Out Trigger Notice.

(c) Funding of Pre-Carve Out Amounts: On the day on which a Carve Out Trigger Notice is delivered pursuant to the terms hereof (the “**Termination Declaration Date**”), the Carve Out Trigger Notice shall (i) constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund an account in an amount equal to the sum of (1) the amounts set forth in paragraphs 6(a)(i) and 6(a)(ii) above, and (2) an amount equal to the Pre-Trigger Professional Fee Carve Out Cap (the sum of (1) and (2) being the “**Pre-Carve Out Amounts**”), and (ii) to the extent not satisfied via cash on hand, be deemed a draw request and notice of borrowing by the Debtors for undrawn and unfunded

DIP Loans committed under the DIP Facilities (on a pro rata basis based on the then-outstanding DIP Commitments), in an amount equal to the Pre-Carve Out Amounts.

(d) Use of Pre-Carve Out Amounts: The Debtors shall deposit and hold the Pre-Carve Out Amounts in a segregated account in trust to pay such then unpaid Allowed Professional Fees (the “**Pre-Carve Out Trigger Notice Account**”) prior to any and all other claims. All funds in the Pre-Carve Out Trigger Notice Account shall be used first to pay the Pre-Carve Out Amounts, but not, for the avoidance of doubt, the Post-Carve Out Amount, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Account has not been reduced to zero, (x) the funds funded by the ABL DIP Lenders or from ABL DIP Priority Collateral and remaining in the account shall be distributed first to the ABL DIP Agent on account of the ABL DIP Obligations until indefeasibly paid in full, in cash and all commitments under the ABL DIP Credit Agreement have been terminated, and (y) the funds funded by the Term DIP Lenders or from Term DIP Priority Collateral and remaining in the account shall be distributed to the Term DIP Agent which shall apply such funds to the Term DIP Obligations in accordance with the DIP Term Loan Credit Agreement until indefeasibly paid in full, in cash, and all DIP Commitments have been terminated, and thereafter, any such excess funds shall be paid to the Prepetition Secured Parties in accordance with the priorities set forth in the Prepetition Credit Agreements, subject to the Prepetition Intercreditor Agreement or the DIP Intercreditor Agreement, as applicable.

(e) Funding of Post-Carve Out Amounts: On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) constitute a demand to the Debtors to utilize all cash on hand (including Cash Collateral) as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an

amount equal to the Post-Carve Out Amount, and (ii) to the extent not satisfied via cash on hand, be deemed a request by the Debtors for undrawn and available ABL DIP Loans and unfunded Term DIP Loans committed under the DIP Facilities (on a pro rata basis based on the then-outstanding DIP Commitments), in an amount equal to the Post-Carve Out Amount (any such amounts actually advanced shall constitute ABL DIP Loans or Term DIP Loans, as applicable).

(f) Use of Post-Carve Out Amounts: The Debtors shall deposit and hold the Post-Carve Out Amount in a segregated account in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Amount (the “**Post-Carve Out Trigger Notice Account**” and, together with the Pre-Carve Out Trigger Notice Account, the “**Carve Out Accounts**”) prior to any and all other claims. All funds in the Post-Carve Out Trigger Notice Account shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the “**Post-Carve Out Amounts**”), and then, to the extent the Post-Carve Out Trigger Notice Account has not been reduced to zero, (x) the funds funded by the ABL DIP Lenders and remaining in the account shall be distributed first to the ABL DIP Agent on account of the ABL DIP Obligations until indefeasibly paid in full, in cash and all commitments under the ABL DIP Credit Agreement have been terminated, and (y) the funds funded by the Term DIP Lenders and remaining in the account shall be distributed to the Term DIP Agent which shall apply such funds to the Term DIP Obligations in accordance with the Term DIP Credit Agreement until indefeasibly paid in full, in cash, and all commitments under the Term DIP Credit Agreement have been terminated, and thereafter, such excess funds shall be paid to the Prepetition Secured Parties in accordance with the priorities set forth in the Prepetition Credit Agreements, subject to the Prepetition Intercreditor Agreement or the DIP Intercreditor Agreement, as applicable.

(g) Certain Conditions for Carve Out: On the first business day after the ABL DIP Agent or the DIP Term Loan Agent gives Carve Out Trigger Notice to such DIP Lenders, notwithstanding anything in the DIP Documents to the contrary, including with respect to the existence of a Default or Event of Default (each as defined in the applicable DIP Documents), the failure of the Debtors to satisfy any or all of the conditions precedent for ABL DIP Loans or Term DIP Loans under the DIP Facilities, but, subject in the case of the ABL DIP Facility to the availability requirements set forth in the ABL DIP Credit Agreement, any termination of the DIP Commitments following an Event of Default, as applicable, or the occurrence of the DIP Termination Event (as defined below), each DIP Lender with outstanding and unfunded DIP Commitments (on a pro rata basis based on the then-outstanding DIP Commitments) shall make available to the applicable DIP Agent such DIP Lender's pro rata share with respect to such borrowing set forth in the preceding clauses (c) (ii) and (d)(ii), to the extent cash on hand is insufficient, in accordance with the DIP Facilities; *provided* that in no event shall the DIP Agents or the DIP Lenders be required to (x) extend DIP Loans to fund the Carve Out other than pursuant to this paragraph 6 or in amounts exceeding the DIP Commitments, or (y) extend DIP Loans pursuant to a deemed draw and borrowing pursuant to paragraphs 6(c)(ii) or 6(d)(ii) in an aggregate amount exceeding the ABL Carve Out Reserve Amount or exceeding the Term DIP Commitment.

(h) Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, if either of the Carve Out Accounts is not funded in full in the amounts set forth in this Paragraph 6, then, any excess funds in one of the Carve Out Accounts following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Account, up to the applicable amount set forth in this Paragraph 6, prior to

making any payments to the DIP Agents or the Prepetition Secured Parties, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agents and the Prepetition Agents shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Accounts have been fully funded, but shall have a security interest in any residual interest in the Carve Out Accounts, with any excess paid to the applicable DIP Agent for application in accordance with the DIP Documents. Furthermore, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Accounts shall not constitute DIP Loans or increase or reduce the DIP Obligations, (ii) in no way shall the Initial DIP Budget, Approved Budget, Carve Out, Post-Carve Out Amount, Carve Out Accounts or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors, (iv) the Carve Out cannot be used to fund any Challenge or to dispute the validity, priority, or amount of any DIP Liens, DIP Claims, Prepetition Liens, or Prepetition Claims.

(i) For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facilities, or in any Prepetition Credit Agreements, the Carve Out shall be senior to all DIP Liens, DIP Superpriority Claims, the Adequate Protection Liens, and the Prepetition 507(b) Claims (as defined herein) and any and all other forms of adequate protection, claims or liens securing the Prepetition Obligations and nothing herein shall reduce the priority of the Carve Out.

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

Carve Out (it being understood that only unpaid fees and expenses of Professional Persons shall be included in the Carve Out).

(k) None of the DIP Agents, DIP Lenders, or the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 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 Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(l) Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

(m) The DIP Intercreditor Agreement shall contain provisions governing contribution among the DIP Secured Parties to ensure that the DIP Secured Parties fund their ratable share of the Carve-Out, whether through funded DIP Commitments or through recovery on their Priority DIP Collateral, and to compensate the DIP Secured Parties under a given DIP Facility in the event that either (a) the DIP Lenders under such DIP Facility fund a portion of the Carve-Out that is greater than their pro rata share of all DIP Commitments or (b) the Priority DIP Collateral under such DIP Facility accounts for greater than such Facility's pro rata share of all DIP Commitments.

7. **Milestones.** The Debtors shall comply with the milestones set forth in Section 6.22 of the ABL DIP Credit Agreement and the Term DIP Credit Agreement (collectively, the “**Milestones**”), in each case as may be modified or extended in accordance with the terms thereof.

8. **No Obligation to Extend Credit.** The DIP Secured Parties have no obligation to make any commitment, loan or advance under the DIP Documents, unless all of the conditions precedent to the making of such extension of credit by the applicable DIP Secured Parties under the applicable DIP Documents and this Interim Order have been satisfied in full or waived by the DIP Secured Parties in accordance with their terms. The DIP Secured Parties have no obligations to make any commitment, loan or advance to any Debtor, other than subject to the terms and in accordance with the terms of the applicable DIP Documents and this Interim Order.

9. **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 non-material and 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 use commercially reasonable efforts to provide notice (which shall be provided through electronic mail) to counsel to the Creditors’ Committee (if any), the U.S. Trustee, the DIP Agents, and the DIP Secured Parties and the Prepetition Secured Parties (collectively, the “**Notice Parties**”), each of whom shall have five days from the date of such notice to object in writing to such amendment, modification, or supplement, it being understood that waivers for the benefit of the Debtors and extensions of the Milestones and similar deadlines will not be considered “material” for purposes hereof, and may become immediately effective. If no objection from a Notice Party to the amendment,

modification, or supplement is timely received during the five-day period (or if all Notice Parties otherwise acknowledge that they have no objection to such amendment, modification, or supplement prior to the expiration of the five-day period), 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, and such objection is not subsequently consensually resolved, approval of the Court (which may be sought on an expedited basis) will be necessary to effectuate the amendment, modification, or supplement. Any material amendment, modification, or supplement that becomes effective in accordance with this paragraph 9 shall be filed with the Court.

10. **DIP Obligations.** Upon entry of this Interim Order and execution and delivery of the DIP Documents, the DIP Documents shall constitute valid, binding, enforceable, and non-avoidable obligations of each of the Debtors, and shall be fully enforceable against each of the Debtors, their estates, and any successors thereto, including, without limitation, any estate representative or trustee appointed in any of these Chapter 11 Cases, or any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of these Chapter 11 Cases, or in any other proceedings superseding or relating to any of the foregoing and upon the dismissal of any of these Chapter 11 Cases or any such successor cases (collectively, the “**Successor Cases**”), and their creditors and other parties in interest, in each case, in accordance with the terms thereof and this Interim Order. The DIP Obligations will include all loans and any other indebtedness or obligations, contingent or absolute, now existing or hereafter arising, which may from time to time be or become owing by the Debtors to any of the DIP Agents or DIP Lenders, in each case, under, or secured by, the DIP Documents or this Interim Order, including all principal, interest, costs, fees, expenses, indemnities, and other amounts under the DIP Documents (including this

Interim Order). The Debtors (including the UnSubs upon the UnSub Payoff Event) shall be jointly and severally liable for the DIP Obligations in accordance with the DIP Documents. No obligation, payment, transfer, or grant of security under the DIP Documents or this Interim Order to the DIP Secured Parties shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, 548, or 549 of the Bankruptcy Code, any applicable Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or other similar state statute or common law), or subject to any defense, reduction, recoupment, recharacterization, subordination, disallowance, impairment, cross-claim, claim, counterclaim, offset, or any other challenge under the Bankruptcy Code or any applicable law.

11. **DIP Superpriority Claims.** Subject and subordinate to the Carve Out, immediately upon, and effective as of, entry of this Interim Order: (a) the ABL DIP Agent, for itself and for the benefit of the ABL DIP Secured Parties; and (b) the Term DIP Agent, for itself and the benefit of the Term DIP Secured Parties, pursuant to section 364(c)(1) of the Bankruptcy Code, on account of all of the DIP Obligations, are each hereby granted, allowed superpriority administrative expense claims against the Debtors on a joint and several basis (without the need to file any proof of claim) with priority set forth in **Exhibit C** and otherwise over any and all claims against each of the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien,

levy, or attachment, or otherwise, which allowed claims (the “**DIP Superpriority Claims**”) shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which DIP Superpriority Claims shall be payable from and have recourse to all DIP Collateral in accordance with the DIP Documents and this Interim Order, subject only to the liens on such property and the Carve Out as set forth in this Interim Order and the DIP Documents. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

12. **DIP Liens.**

(a) ABL DIP Liens Generally: As security for the ABL DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the ABL DIP Agent, for the benefit of themselves and each of the other ABL DIP Secured Parties, are each hereby granted continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected security interests in and liens (the “**ABL DIP Liens**”) on all DIP Collateral other than the Exclusive Term DIP Collateral (as defined below), subject to the priorities in this Interim Order and upon its execution the DIP Intercreditor Agreement, as collateral security for the prompt and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of all ABL DIP Obligations.

(b) Term DIP Liens Generally: As security for the Term DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the Term DIP Agent, for the benefit of themselves and each of the other Term DIP Secured Parties, are each hereby granted

continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected security interests in and liens on (the “**Term DIP Liens**,” together with the ABL DIP Liens, the “**DIP Liens**”) all DIP Collateral other than Exclusive ABL DIP Collateral, subject to the priorities and terms of this Interim Order and upon execution thereof, the DIP Intercreditor Agreement, as collateral security for the prompt and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of all Term DIP Obligations.

(c) Liens on Unencumbered Property: As security for the DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the DIP Agents, for the benefit of themselves and each of the other DIP Secured Parties, pursuant to section 364(c)(2) of the Bankruptcy Code, shall be granted DIP Liens in all DIP Collateral other than Exclusive ABL DIP Collateral and Exclusive Term DIP Collateral that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code (the “**Unencumbered Property**”).

(d) ABL DIP Priming Liens: Pursuant to section 364(d)(1) of the Bankruptcy Code, as security for the ABL DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the ABL DIP Agent, for the benefit of themselves and each of the other ABL DIP Secured Parties, are each hereby granted continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected first (subject only to the Carve Out, the Prior Liens, and the priorities set forth on Exhibit C) priority senior priming security interest in and lien upon (the “**ABL DIP Priming Liens**”) all Prepetition ABL Collateral of the Prepetition ABL Secured

Parties, which ABL DIP Priming Liens shall prime in all respects the interests of the Prepetition ABL Secured Parties arising from the current and future liens (including adequate protection liens) of the Prepetition ABL Secured Parties on the Prepetition ABL Collateral (the “**ABL Primed Liens**”).

(e) Term DIP Priming Liens: Pursuant to section 364(d)(1) of the Bankruptcy Code, as security for the Term DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the Term DIP Agent, for the benefit of themselves and each of the other Term DIP Secured Parties, are each hereby granted continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected first (subject only to the Carve Out, the Prior Liens, and the priorities set forth on Exhibit C) priority senior priming security interest in and lien upon (the “**Term DIP Priming Liens**”) all Prepetition Term Collateral of the Prepetition Term Secured Parties, which Term DIP Priming Liens shall prime in all respects the interests of the Prepetition Term Secured Parties arising from the current and future liens (including adequate protection liens) of the Prepetition Term Secured Parties on the Prepetition Term Collateral (the “**Term Primed Liens**,” and together with the ABL Primed Liens, the “**Primed Liens**”).

(f) ABL DIP Junior Liens: Pursuant to section 364(c)(3) of the Bankruptcy Code, as security for the ABL DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the ABL DIP Agent, for the benefit of themselves and each of the other ABL DIP Secured Parties, are each hereby granted continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected secured interests in and liens upon all DIP Collateral (including the UnSubs upon the UnSub Payoff Event) other than Exclusive Term DIP Collateral

that is subject to the priorities set forth on **Exhibit C** including (i) the Carve Out and (ii) both (x) valid, perfected and non-avoidable senior liens in existence immediately before the Petition Date (other than the Primed Liens) and (y) any valid and non-avoidable senior liens (other than the Primed Liens) in existence immediately before the Petition Date that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code ((x) and (y) together, and excluding the Primed Liens, the “**Prior Liens**”, *provided* that nothing in this Interim Order or the Final Order shall limit the rights of the DIP Secured Parties to seek to prime a Prior Lien in connection with the Final Order or be construed as a stipulation, finding or acknowledgment of the existence, validity, enforceability or priority of any actual or purported Prior Lien, and all rights of the Debtors, the DIP Secured Parties and the Prepetition Secured Parties with respect to such matters are fully reserved); *provided*, that nothing in the foregoing clauses (i) and (ii) shall limit the rights of the ABL DIP Secured Parties under the ABL DIP Documents to the extent such liens are not permitted hereunder.

(g) Term DIP Junior Liens: Pursuant to section 364(c)(3) of the Bankruptcy Code, as security for the Term DIP Obligations, immediately upon, and effective as of, entry of this Interim Order (and, in the case for the UnSubs, solely after the consummation of the UnSub Payoff Event), the Term DIP Agent, for the benefit of themselves and each of the other Term DIP Secured Parties, are each hereby granted continuing, valid, binding, enforceable, nonavoidable, and automatically and properly perfected secured interests in and liens upon all DIP Collateral (including the UnSubs upon the UnSubs Payoff event), other than Exclusive ABL DIP Collateral (as defined below) that is subject to the priorities set forth on **Exhibit C** including (i) the Carve Out and (ii) the Prior Liens; *provided*, that nothing in the foregoing clauses (i) and (ii) shall limit

the rights of the Term DIP Secured Parties under the Term DIP Documents to the extent such liens are not permitted hereunder.

(h) The term “**DIP Collateral**” means the Debtors’ interest in all assets and properties (whether tangible, intangible, real, personal or mixed), whether now owned by or owing to, or hereafter acquired by, or arising in favor of, the Debtors (including under any trade names, styles, or derivations thereof), and whether owned or consigned by or to, or leased from or to, the Debtors, and regardless of where located, including, without limitation, all of the Debtors’ rights, title and interest in: (i) all Prepetition Collateral; (ii) all cash and cash equivalents; (iii) all funds in any deposit account, securities account or other account of the Debtors and all money, cash, cash equivalents, instruments and other property deposited therein or credited thereto from time to time; (iv) all accounts and other receivables; (v) all contract rights; (vi) all instruments, documents and chattel paper; (vii) all securities (whether or not marketable); (viii) all goods, as-extracted collateral, furniture, machinery, equipment, inventory, and fixtures; (ix) all real property interests; (x) all interests in leaseholds, (xi) all franchise rights; (xii) all patents, tradenames, trademarks (other than intent-to-use trademarks), copyrights, licenses, and all other intellectual property; (xiii) all general intangibles, tax or other refunds, or insurance proceeds; (xiv) all equity interests, capital stock, limited liability company interests, partnership interests and financial assets; (xv) all investment property; (xvi) all supporting obligations; (xvii) all letters of credit issued to the Debtors and letter of credit rights; (xviii) all commercial tort claims; (xix) all other claims and causes of action and the proceeds thereof, other than claims and causes of action under section 502(d), 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, “**Avoidance Actions**”) but, subject to the entry of the Final Order, including any

proceeds or property recovered, unencumbered or otherwise from Avoidance Actions, whether by judgment, settlement or otherwise (“**Avoidance Proceeds**”), provided that Avoidance Proceeds may only be applied in satisfaction of the DIP Facilities only after the applicable DIP Agent has exhausted all other sources of recovery for repayment of such claims; (xx) all books and records (including, without limitation, customers lists, credit files, computer programs, printouts and other computer materials and records); (xxi) to the extent not covered by the foregoing, all other assets or properties of the Debtors, whether tangible, intangible, real, personal or mixed; and (xxii) all proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, including any and all proceeds of any insurance, indemnity, warranty or guaranty payable to such Debtor from time to time with respect to any of the foregoing; *provided*, that the DIP Collateral shall not include Excluded Property (as defined in the DIP Documents) but shall include the proceeds of Excluded Property unless such proceeds or products of such Excluded Property would constitute property or assets of the type otherwise described in the applicable definition of “Excluded Property”, and *provided, further*, that, without a further order of the Court, DIP Collateral shall not include any leasehold interest of the Debtors if the granting of a lien on such leasehold interest would result in a default under an agreement in existence on the date of this order between the Debtor’s counterparty with respect to such leasehold interest and any non-affiliated third party, including parties providing financing to such counterparty. Notwithstanding anything to the contrary herein, the DIP Collateral (A) in respect of the ABL DIP Obligations will not include “Exclusive Term Collateral” as defined in the Prepetition Intercreditor Agreement, any such “Exclusive Term Collateral” held by the UnSubs upon the UnSub Payoff Event,⁵ the DIP Proceeds Account

⁵ For the avoidance of doubt, upon consummation of the UnSub Payoff Event, the “Corning Property” (as defined in the Prepetition Intercreditor Agreement) will constitute Exclusive Term DIP Collateral.

(as defined in the Term DIP Credit Agreement), or any proceeds of the foregoing (together constituting the “**Exclusive Term DIP Collateral**”) which collateral will continue securing the Term DIP Obligations and (B) in respect of the Term DIP Obligations will not include “Exclusive Foreign ABL Collateral” as defined in the Prepetition Intercreditor Agreement, any “Exclusive Foreign ABL Collateral” held by the UnSubs upon the UnSub Payoff Event, or any proceeds of the foregoing (together the “**Exclusive ABL DIP Collateral**”), which collateral will continue securing the ABL DIP Obligations. For purposes of this Interim Order, (x) “**ABL DIP Priority Collateral**” means all DIP Collateral (other than Exclusive Term DIP Collateral) that is of the same type and nature as “ABL Priority Collateral” as such term is defined in the Prepetition Intercreditor Agreement, any such “ABL Priority Collateral” held by the UnSubs upon the UnSub Payoff Event, and all products and proceeds thereof, and (y) “**Term DIP Priority Collateral**” means all DIP Collateral (other than Exclusive ABL DIP Collateral) that is of the same type and nature as “Term Priority Collateral” as such term is defined in the Prepetition Intercreditor Agreement, any such “Term Priority Collateral” held by the UnSubs upon the UnSub Payoff Event, and all products and proceeds thereof.

13. **Priority of DIP Liens.**

(a) **Priority of ABL DIP Liens:** Pursuant to section 364(c) and 364(d) of the Bankruptcy Code, the ABL DIP Liens securing the ABL DIP Obligations 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 other than the Exclusive Term DIP Collateral, except that the ABL DIP Liens shall be subject to the Carve Out as set forth in this Interim Order and **Exhibit C**, and otherwise:

(i) junior only to (A) any Prior Liens, (B) the Term DIP Liens, Term DIP Adequate Protection Liens (as defined below), and Prepetition Term Liens solely as

to any Term DIP Priority Collateral (including, upon the consummation of the UnSub Payoff Event, any Term DIP Priority Collateral at the UnSubs);

(ii) senior to (A) the Term DIP Liens, Term DIP Adequate Protection Liens (as defined below), and Prepetition Term Liens as to any ABL DIP Priority Collateral (including, upon the consummation of the UnSub Payoff Event, any ABL DIP Priority Collateral at the UnSubs), (B) the ABL DIP Adequate Protection Liens (as defined below), and (C) the Prepetition ABL Liens; and

(iii) *pari-passu* with the Term DIP Liens on any DIP Collateral constituting Unencumbered Property that is neither ABL DIP Priority Collateral nor Term DIP Priority Collateral (excluding DIP Collateral constituting assets or proceeds of the UnSubs).

(b) Priority of Term DIP Liens: Pursuant to section 364(c) and 364(d) of the Bankruptcy Code, the Term DIP Liens securing the Term DIP Obligations 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 other than the Exclusive ABL DIP Collateral, except that the Term DIP Liens shall be subject to the Carve Out as set forth in this Interim Order and **Exhibit C**, and shall otherwise be:

(i) junior only to, as to (A) any Prior Liens, (B) the ABL DIP Liens, ABL DIP Adequate Protection Liens, and Prepetition ABL Liens solely as to any ABL DIP Priority Collateral (including, upon the consummation of the UnSub Payoff Event, the ABL DIP Priority Collateral at the UnSubs);

(ii) senior to (A) the ABL DIP Liens, ABL DIP Adequate Protection Liens, and Prepetition ABL Liens as to any Term DIP Priority Collateral (including upon the consummation of the UnSub Payoff Event, any Term DIP Priority Collateral at the UnSubs); (B) the Term DIP Adequate Protection Liens, and (C) and the Prepetition Term Liens; and

(iii) *pari-passu* with the ABL DIP Liens on any DIP Collateral constituting Unencumbered Property that is neither ABL DIP Priority Collateral nor Term DIP Priority Collateral (excluding DIP Collateral constituting assets or proceeds of the UnSubs).

(c) Except as expressly set forth in this Interim Order, the DIP Liens: (i) shall not be made subject to, junior to, or *pari passu* with (A) any lien or security interest heretofore or

hereinafter granted in any of the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against the Debtors, their estates, any trustee or any other estate representative appointed or elected in the Chapter 11 Cases or any Successor Cases and upon the dismissal of any of the Chapter 11 Cases or any Successor Cases, (B) any lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code, and (C) any intercompany or affiliate lien or claim in favor of the Debtor or a subsidiary of the Debtor; and (ii) shall not be subject to sections 506(c), 510, 549, 550, or 551 of the Bankruptcy Code.

(d) DIP Intercreditor Agreement: After entry of this Interim Order, the Debtors, DIP Secured Parties, and Prepetition Secured Parties are authorized to execute and enter into an intercreditor agreement substantially similar to the Prepetition Intercreditor Agreement and consistent with this Interim Order governing the relative rights between the DIP Secured Parties and Prepetition Secured Parties, with such new intercreditor agreement being the “**DIP Intercreditor Agreement.**” Regardless of whether the DIP Secured Parties are parties to the Prepetition Intercreditor Agreement, prior to execution of the DIP Intercreditor Agreement, the DIP Agents, on behalf of themselves and their respective DIP Secured Parties, and the Prepetition Secured Parties shall be bound by the terms of the Prepetition Intercreditor Agreement, including the limitations on all actions set forth therein.

14. Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, and DIP Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Secured Parties or the Prepetition Secured Parties, as applicable,

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 Secured Parties and the Prepetition Secured Parties under the DIP Documents, the DIP Facility, and this Interim Order, as applicable; (d) permit the DIP Secured Parties to exercise their rights, including remedies against the Debtors and their Collateral in the event of a default or Event of Default under the DIP Documents; (e) permit the ABL DIP Secured Parties to exercise and continue exercising cash dominion as described in the Cash Management Motion⁶ and (f) authorize the Debtors to pay, and the DIP Secured Parties and Prepetition Secured Parties to retain and apply, payments made in accordance with this Interim Order.

15. **Protection of DIP Lenders' Rights.**

(a) So long as the DIP Obligations are outstanding or the DIP Lenders have any DIP Commitments under the DIP Documents, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Credit Documents or this Interim Order, or otherwise seek to exercise or enforce any rights or remedies against such DIP Collateral, including in connection with the Prepetition Liens or the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition, or sale of, or release of liens on, such DIP Collateral) (but not any proceeds of such transfer, disposition, or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments), to the extent such transfer, disposition, sale, or release is authorized under the DIP Documents; (iii) not file any

⁶ The Cash Management Motion is: *Debtors' Emergency Motion for Motion of Interim and Final Orders (I) Authorizing (A) Debtors to Continue to Maintain Existing Cash Management System, Bank Accounts, and Business Forms, (B) Debtors to Open and Close Bank Accounts, and (C) Financial Institutions to Administer the Bank Accounts and Honor and Process Related Checks and Transfers, (II) Waiving Deposit and Investment Requirements, (III) Allowing Intercompany Transactions and Affording Administrative Expense Priority to Post-Petition Intercompany Claims, and (IV) Authorizing Debtors to Continue Utilizing the C2FO Platform.*

further financing statements, trademark filings, copyright filings, mortgages, notices of lien, or similar instruments, or otherwise take any action to perfect their security interests in such DIP Collateral unless, solely as to this clause (iii), the DIP Agents or the DIP Lenders file financing statements or other documents to perfect the liens granted pursuant to this Interim Order, or as may be required by applicable law to continue the perfection of valid and non-avoidable liens or security interests as of the Petition Date or to reflect the succession of the Prepetition Term Agent, and (iv) at the request of the DIP Agents, deliver or cause to be delivered, at the Debtors' reasonable cost and expense, any termination statements, releases, or assignments in favor of the DIP Agents or the DIP Lenders or other documents reasonably necessary to effectuate or evidence the release, termination, or assignment of liens on any portion of such DIP Collateral subject to any transfer, sale, or disposition permitted by the DIP Documents and this Interim Order.

(b) To the extent any Prepetition Secured Party has possession of any DIP Collateral or has control with respect to any DIP Collateral (including deposit accounts), or has been noted as a secured party on any certificate of title for a titled good constituting DIP Collateral, then such Prepetition Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee or gratuitous sub-collateral agent solely for perfection for the benefit of the DIP Agents and the DIP Lenders, and it shall comply with the instructions of the DIP Agents with respect to the exercise of such control. The Prepetition Agents are not and shall not be deemed to be a fiduciary of any kind for the DIP Agents or the DIP Lenders, and the DIP Secured Parties hereby waive and release the Prepetition Agents from all claims and liabilities arising pursuant to any Prepetition Agents' role under this paragraph 15(b) as gratuitous bailee and sub-collateral agent with respect to the DIP Collateral.

(c) Any proceeds of DIP Collateral received by any Prepetition Secured Party in connection with the exercise of any right or remedy relating to the DIP Collateral or otherwise received by any Prepetition Secured Party shall be segregated and held in trust for the benefit of and forthwith paid over to the DIP Agents for the benefit of the applicable DIP Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The DIP Agents are hereby authorized to make any such endorsements as agent for any such Prepetition Secured Party. This authorization is coupled with an interest and is irrevocable.

16. **DIP Termination Events; Exercise of Remedies.**

(a) The occurrence of any of the following shall constitute a “DIP Termination Event” under this Interim Order (each a “**DIP Termination Event**,” and the date upon which such DIP Termination Event occurs, the “**DIP Termination Date**”), unless waived in writing by the requisite ABL DIP Secured Parties or the requisite Term DIP Secured Parties, as applicable:

(a) the occurrence of an “Event of Default” under and as defined in (i) with respect to the ABL DIP Facility, the ABL DIP Credit Agreement or (ii) with respect to the Term Loan DIP Facility, the Term DIP Credit Agreement, (b) the occurrence of the “Maturity Date” (under and as defined in the ABL DIP Credit Agreement or the Term DIP Credit Agreement), (c) the consummation of any sale of all or substantially all the assets of or equity interests in the Debtors, (d) the effective date of a chapter 11 plan of any of the Debtors, (e) any of the Debtors files a motion seeking authorization from the Court for (or the Court enters an order authorizing or approving) any amendment, modification, or extension of this Interim Order, the UnSub Payoff Event, or the DIP Documents without the prior written consent of the requisite DIP Secured Parties (and no such consent shall be implied by any other action, inaction, or acquiescence of any of the DIP

Secured Parties) and such motion is not withdrawn within two business days after delivery of written notice that such action, subject to the passage of time, would constitute a DIP Termination Event; *provided* that such DIP Termination Event shall be applicable only to the DIP Facility or DIP Facilities governed by such DIP Documents, (f) the failure to timely comply with any of the Milestones; (g) the failure of the Debtors to make any payment of principal or interest required under this Interim Order or the DIP Documents to any of the DIP Secured Parties or the Prepetition Secured Parties as and when due and payable hereunder or thereunder; (h) the failure by any of the Debtors to timely perform or comply with any of the other terms, provisions, conditions or other obligations under this Interim Order, which such failure shall not be cured by the Debtors within two business days after written delivery of notice of breach from the requisite DIP Secured Parties.

(b) Upon the occurrence of a DIP Termination Event that has not been waived and after delivery of written notice (including by e-mail) by the ABL DIP Agent acting at the direction of the requisite ABL DIP Lenders or the Term DIP Agent acting at the direction of the requisite Term DIP Lenders (a “**Termination Notice**”), to lead restructuring counsel to each of the Debtors, the other DIP Agent, the Creditors’ Committee (if any) and the U.S. Trustee, (the “**Remedies Notice Parties**”), the ABL DIP Agent (acting at the direction of the requisite ABL DIP Lenders) or the Term DIP Agent (acting at the direction of the requisite Term DIP Lenders), as applicable, may (and any stay otherwise applicable to the DIP Secured Parties, whether arising under section 105 or 362 of the Bankruptcy Code or otherwise, but subject to the terms of this Interim Order (including this paragraph) is hereby modified for such purpose), without further notice to, hearing of, or order from this Court: (i) immediately terminate or revoke the Debtors’ right under this Interim Order and any other DIP Documents to use any Cash

Collateral (subject to the Carve Out and related provisions); (ii) terminate the Term Loan DIP Facility and the ABL DIP Facility (as applicable) and any DIP Document as to any future liability or obligation of the DIP Secured Parties but without affecting any of the DIP Obligations or the DIP Liens securing such DIP Obligations; (iii) declare all DIP Obligations under the ABL DIP Facility or the Term Loan DIP Facility (as applicable) to be immediately due and payable; and (iv) invoke the right to charge interest at the default rate under the DIP Documents. Upon delivery of such Termination Notice by the ABL DIP Agent acting at the direction of the requisite ABL DIP Lenders or the Term DIP Agent acting at the direction of the requisite Term DIP Lenders (as applicable), without further notice or order of the Court, the DIP Secured Parties' and the Prepetition Secured Parties' consent to use Cash Collateral and the Debtors' ability to incur additional DIP Obligations under the applicable DIP Facility hereunder will, automatically terminate and the DIP Secured Parties under the applicable DIP Facility will have no obligation to provide any DIP Loans or other financial accommodations; *provided, however*, that during the DIP Agent Remedies Notice Period (defined below) the Debtors shall have the right to use Cash Collateral to pay necessary expenses set forth in the Approved Budget in accordance with the DIP Documents. As soon as reasonably practicable following receipt of a Termination Notice, the Debtors shall file a copy of same on the docket. Within five business days of receipt of the Termination Notice (such five day period, the "**DIP Agent Remedies Notice Period**"), the Debtors, the Creditors' Committee (if appointed), or any party in interest shall be entitled to seek an emergency hearing with the Court for the purpose of contesting whether, in fact, an Event of Default has occurred and is continuing or to obtain non-consensual use of Cash Collateral.

(c) During the continuation of a DIP Termination Event and following the delivery of the Termination Notice, but before exercising the remedies set forth in this sentence

below or any other remedies (other than those set forth in paragraph 16(b)), the applicable DIP Secured Parties shall be required to file a motion with the Court seeking emergency relief (the “**Stay Relief Motion**”) on not less than five business days’ notice to the Remedies Notice Parties (which may run concurrently with the DIP Agent Remedies Notice Period and which notice period Remedies Notice Parties will not object to) for a further order of the Court modifying the automatic stay in the Chapter 11 Cases to permit the applicable DIP Secured Parties to, subject to the Carve Out and related provisions, and subject to the DIP Intercreditor Agreement: (i) freeze or sweep monies or balances in the Debtors’ accounts; (ii) immediately set-off any and all amounts in accounts maintained by the Debtors with the applicable DIP Agent or the applicable DIP Secured Parties against the DIP Obligations, (iii) enforce any and all rights against the DIP Collateral, including, without limitation, foreclosure on all or any portion of the DIP Collateral, occupying the Debtors’ premises, sale or disposition of the DIP Collateral; and (iv) take any other actions or exercise any other rights or remedies permitted under this Interim Order, the DIP Documents or applicable law; *provided* that the Debtors’ rights to contest any such relief are reserved. The rights and remedies of the DIP Secured Parties specified herein are cumulative and not exclusive of any rights or remedies that the DIP Secured Parties have under the DIP Documents or otherwise. If the DIP Secured Parties are permitted by the Court to take any enforcement action with respect to the DIP Collateral following the hearing on the Stay Relief Motion, the Debtors shall cooperate with the DIP Secured Parties in their efforts to enforce their security interest in the DIP Collateral, and shall not take or direct any person or entity to take any action designed or intended to hinder or restrict in any respect such DIP Secured Parties from enforcing their security interests in the DIP Collateral. Until such time that the Stay Relief Motion has been adjudicated by the Court, the Debtors may use the proceeds of

the DIP Facility (to the extent drawn before the occurrence of DIP Termination Event) or Cash Collateral to fund operations in accordance with the Approved Budget and the terms of the DIP Documents. The Debtors shall promptly cause a copy of any Stay Relief Motion to be served on any party that has filed a request for notices with this Court. Following the payment in full of the DIP Obligations (unless the ABL DIP Lenders or the Term DIP Lenders have otherwise agreed in writing as to the applicable obligations owed to them), the Prepetition Agents (acting at the request of the requisite Prepetition Secured Parties) shall be permitted to exercise rights and remedies as set forth in this paragraph 16 on the same terms as applicable to the DIP Agents, to the extent such rights and remedies are available under the Prepetition Loan Documents or applicable law with respect to Prepetition Collateral (subject to the Prepetition Intercreditor Agreement) unless the requisite Prepetition Secured Parties have otherwise agreed in writing as to the applicable obligations owed to them.

(d) No rights, protections, or remedies of the DIP Secured Parties or the Prepetition Secured Parties granted by this Interim Order or the DIP Documents shall be limited, modified, or impaired in any way by (i) any withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral or (ii) any termination of the Debtors' authority to continue to use Cash Collateral.

17. **Protection of Rights of Prepetition Secured Parties and DIP Secured Parties.**

(a) Unless (i) each of the DIP Agents and the applicable requisite amount of DIP Secured Parties or (ii) the Prepetition Agents and the requisite Prepetition Secured Parties, as applicable, provide their prior written consent, or all DIP Obligations and all Prepetition Secured Obligations have been indefeasibly paid in full in cash and the DIP Commitments have terminated, in any of these Chapter 11 Cases or any Successor Cases, the Debtors shall neither

seek entry of, nor support any motion or application seeking entry of, and otherwise shall object to any motion or application seeking entry of, any order (including any order confirming any plan of reorganization or liquidation) that authorizes any of the following: (i) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; or (ii) any modification of any of the DIP Secured Parties' or the Prepetition Secured Parties' rights under this Interim Order, the DIP Documents, or the Prepetition Credit Documents, as applicable, with respect to any DIP Obligations or Prepetition Secured Obligations. It shall be an Event of Default under the DIP Documents and this Interim Order, and the Debtors' authority to use of Cash Collateral shall terminate, if, in any of these Chapter 11 Cases or any Successor Cases, any order is entered granting any of the relief enumerated in provisions (i) and (ii) of the previous sentence.

18. **Proceeds of Subsequent Financing.** If the Debtors', their estates, any trustee, any examiner with enlarged powers, or any responsible officer subsequently appointed in any of the Chapter 11 Cases or any Successor Cases shall obtain credit or incur debt pursuant to sections 364(b), (c), or (d) of the Bankruptcy Code in violation of this Interim Order or the DIP Documents at any time before the repayment in full in cash of all of the DIP Obligations, the satisfaction of the Superpriority DIP Claims and the Adequate Protection Claims, and the termination of the DIP Lenders' commitments to extend credit under the DIP Facilities and this Interim Order with respect to any or all of the Debtor and the Debtors' estates, then, unless otherwise agreed by each of the DIP Agents and the requisite amount of DIP Secured Parties, all cash proceeds derived from such credit or debt shall immediately be turned over to the DIP Agents to be applied to the DIP Obligations pursuant to the DIP Documents and in the priorities set forth herein. For the avoidance of doubt, none of the Prepetition Secured Parties consent to

the priming of the Prepetition Liens or the DIP Liens or the incurrence of any debt or shall be deemed to have consenting to the priming of the Prepetition Liens or the DIP Liens or the incurrence of any debt in connection with the incurrence of credit or debt referenced in this paragraph 18.

19. **Credit Bidding.** The Prepetition Secured Parties and the DIP Secured Parties shall, subject to the rights preserved in paragraph 38, the DIP Documents, the Prepetition Credit Documents, and the priority of liens and claims set forth herein, be authorized to credit bid, consistent with the applicable DIP Documents and Prepetition Credit Documents, up to the full amount of the outstanding Prepetition Secured Obligations and DIP Obligations in any sale or disposition of Prepetition Collateral or DIP Collateral (each, a “**Credit Bid**”) pursuant to section 363(k) of the Bankruptcy Code, subject to the provision of cash consideration sufficient to satisfy the Carve Out and any senior liens on the collateral that is subject to the Credit Bid except to the extent otherwise agreed by the holder of such senior lien in their sole and absolute discretion. The Prepetition Secured Parties and DIP Secured Parties shall each be deemed a “Qualified Bidder” with respect to their rights to acquire all or any of the Prepetition Collateral and DIP Collateral by Credit Bid.

20. **Limitation on Charging Expenses Against Collateral.** Subject to and effective only upon entry of the Final Order, and without limiting the scope of the Carve Out, no costs or expenses of administration of these Chapter 11 Cases or any Successor Cases or future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral or the Prepetition Collateral (including Cash Collateral) pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the requisite DIP

Secured Parties and the requisite Prepetition Secured Parties, as applicable, and no consent shall be implied from any other action, inaction, or acquiescence by the DIP Secured Parties or the Prepetition Secured Parties, as applicable, and nothing contained in this Interim Order shall be deemed to be a consent by the DIP Secured Parties or the Prepetition Secured Parties to any charge, lien, assessment, or claims against the DIP Collateral or the Prepetition Collateral under section 506(c) of the Bankruptcy Code or otherwise.

21. **Section 552(b) of the Bankruptcy Code.** The DIP Secured Parties and Prepetition Secured Parties shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code; in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agents or the Prepetition Secured Parties with respect to proceeds, products, offspring, or profits of any Prepetition Collateral, provided that the foregoing shall be without prejudice to the terms of the Final Order with respect to the period from and after the entry of the Final Order.

22. **Marshaling.** None of the DIP Secured Parties or the Prepetition Secured Parties shall be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Secured Debt, or the Prepetition Collateral, *provided* that Avoidance Proceeds may only be applied in satisfaction of the DIP Obligations or the Prepetition Obligations after the applicable DIP Agent or Prepetition Agent (as applicable) has exhausted all other sources of recovery for repayment of such claims.

23. **Payments Free and Clear.** In light of, among other things, the agreement of the DIP Secured Parties and the Prepetition Secured Parties to make commitments and allow the Debtors to use Cash Collateral on the terms set forth herein, (i) the DIP Agents and the Prepetition Agents shall be entitled to apply the payments or proceeds of the DIP Collateral in

accordance with the provisions of this Interim Order or the Final Order, as applicable, the DIP Documents, and the Prepetition Credit Documents, as applicable, and (ii) any and all payments or proceeds remitted to the DIP Agents, the DIP Lenders, the Prepetition Agents, the Prepetition Reimbursement Noteholder, or the Prepetition Secured Parties pursuant to the provisions of this Interim Order or the DIP Documents or any subsequent order of the Court shall be irrevocable and non-refundable, received free and clear of any claim, charge, assessment, or other liability, including without limitation, any such claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code (only to the extent granted in the Final Order) (in all cases, in accordance with Local Rule 4001-2(g)(9)), whether asserted or assessed by through or on behalf of the Debtors.

24. **Use of DIP Facility Proceeds.** From and after the Closing Date, the Debtors shall be permitted to use the proceeds of the DIP Facility and Cash Collateral solely in accordance with and subject to this Interim Order, the DIP Documents, and the Approved Budget (subject to the permitted variances as provided in the DIP Documents).

25. **Maintenance of DIP Collateral.** The Debtors shall take all steps necessary to preserve and maintain the value of the DIP Collateral, including but not limited to: (a) insuring the DIP Collateral as required under the DIP Facility or the Prepetition Credit Documents, as applicable; and (b) maintaining the cash management system which has been agreed to by the requisite DIP Secured Parties (subject to any applicable order of the Court) consistent with their fiduciary duties. To the fullest extent provided by applicable law, the DIP Agents (on behalf of the applicable DIP Secured Parties) shall be, and shall be deemed to be, without any further action or notice, named as additional insureds and lender's loss payees on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral.

26. **Disposition of DIP Collateral.** The Debtors shall not sell, transfer, lease, encumber, or otherwise dispose of any portion of the DIP Collateral other than in the ordinary course of business without the prior written consent of the requisite DIP Secured Parties (and no such consent shall be implied, from any other action, inaction, or acquiescence by the DIP Secured Parties or from any order of this Court) and after prior consultation with the Prepetition Agents (which consultation shall not constitute approval rights), except as otherwise permitted by the DIP Documents or otherwise ordered by the Court.

27. **Authorization to Use Cash Collateral.** The Debtors are authorized to use Cash Collateral solely in accordance with the Approved Budget and the terms and conditions of the DIP Documents and this Interim Order subject to permitted variances (as provided in the DIP Credit Agreements); *provided* that the Prepetition Secured Parties are granted the Adequate Protection as hereinafter set forth. Nothing in this Interim Order shall authorize the Debtors' use of any Cash Collateral or other proceeds resulting therefrom, except as permitted under this Interim Order and the DIP Documents and in accordance with the Approved Budget (subject to the permitted variances as provided in the DIP Credit Agreements). The Prepetition Liens on the Prepetition Collateral shall continue to attach to the Cash Collateral in the same priority as set forth in the Prepetition Intercreditor Agreement irrespective of the commingling of the Cash Collateral with other cash of the Debtors (if any). Any failure by the Debtors on or after the Petition Date to comply with the segregation requirements of section 363(c)(4) of the Bankruptcy Code in respect of any Cash Collateral shall not be used as a basis to challenge the Prepetition Secured Obligations, or the extent, validity, enforceability, or perfected status of the Prepetition Liens. The Debtors' authorization to use Cash Collateral shall end on the DIP Termination Date in accordance with Paragraph 16 (Remedies).

28. **Ongoing Information Obligation**

(a) **Weekly Meetings**. The Debtors shall arrange for weekly (unless waived by the requisite DIP Secured Parties in their sole and absolute discretion) status calls with the DIP Secured Parties and their advisors, and shall use commercially reasonable efforts to cause the Debtors' applicable advisors and appropriate members of the Debtors' management team to participate to discuss (A) the Approved Budget and any other reports or information delivered by the Debtors, (B) the financial operations and performance of the Debtors' business, (C) progress in achieving the Milestones and any winddown, liquidation, or going concern sale or marketing process or efforts, (D) the status of the Chapter 11 Cases generally, and (E) such other matters relating to the Debtors as the DIP Secured Parties (or their respective agents or advisors) shall reasonably request ("**Weekly Meetings**"); *provided*, that the obligation to hold Weekly Meetings will be without duplication of any similar obligations in any of the DIP Documents or Prepetition Credit Documents, and the Debtors will only hold one Weekly Meeting each week for all applicable DIP Secured Parties; provided further that the requirements in this Paragraph 28(a) will not be construed to create any obligation or personal liability on any of the aforementioned advisors to provide such information or to participate in such discussions, absent an express contractual requirement to do so, nor can any of the foregoing be construed to override existing confidentiality and other obligations owed by the Debtors to such of its advisors, including with respect to the sharing of any such information with third parties. The DIP Agents, their counsel, and their financial advisors may attend the Weekly Meetings at their discretion.

(b) **Financial Reporting**. The Debtors shall provide to the DIP Agents, the DIP Lenders, and the Prepetition Agents (and, in each case, their respective consultants, advisors, and professionals) reasonable access to the Debtors' books and records, assets, and properties, for

purposes of monitoring the Debtors' businesses, evaluating compliance with the budget, and monitoring the value of the DIP Collateral during normal business hours. The DIP Lenders (and, in each case, their respective consultants, advisors, and professionals) shall also be permitted, during normal business hours, to conduct, at their discretion and at their respective cost and expense, field audits, collateral examinations, and inventory appraisals in respect of the DIP Collateral.

(c) Weekly Reporting. Following entry of the Interim Order, on each Wednesday subsequent thereto, the Debtors shall deliver to the DIP Lenders (i) a report including weekly and month-to-date sales information with detail by segment and product, with comparison to the prior year's weekly and month-to-date sales information and budget, in a form acceptable to the requisite DIP Secured Parties, (ii) an updated 13-week cash flow forecast, and (iii) a weekly budget.

(d) Monthly Reporting. Following entry of the Interim Order, within 20 days of each subsequent month's end, the Debtors shall deliver to the DIP Lenders (i) monthly financial reports, including an income statement and balance sheet, and (ii) updated ABL DIP Loan borrowing base forecasts; and (iii) any information provided to the U.S. Trustee and counsel to any statutory committee appointed in the Chapter 11 Cases pursuant to the "first day" orders.

(e) Information Requests. Following entry of the Interim Order, the Debtors will deliver to the DIP Lenders by June 21, 2023, an updated monthly three statement projection model (consisting of an income statement, balance sheet and cash flows by business).

(f) Information Obligations Cumulative. Any information obligations set forth in this Paragraph 28 (excluding the Weekly Meeting) are duplicative, and not in lieu of, the

reporting and information obligations of the Debtors set forth in the other DIP Documents. Notwithstanding anything to the contrary herein the Debtors are permitted to provide commercially sensitive information on a “professional eyes only” basis.

(g) Notwithstanding anything herein to the contrary, 11th Lane Holdings, LLC, for as long as it is a Term DIP Lender, shall, (i) be entitled to participate in the Weekly Meetings, provided that, at the Debtors discretion, 11th Lane Holdings, LLC shall be removed from any discussion of the going concern sale or marketing process, and (ii) receive information and reporting provided to the Term DIP Agent and the other Term DIP Lenders pursuant to paragraph 28 hereof.

29. **Adequate Protection of Prepetition Secured Parties.** In consideration for the Debtors’ use of the Prepetition Collateral (including Cash Collateral), and to protect the Prepetition Secured Parties against the Diminution in Value of their interests in the Prepetition Collateral, the Prepetition Secured Parties shall receive the following adequate protection (the “**Adequate Protection Obligations**”):

(a) **ABL Adequate Protection:** Pursuant to sections 361, 363(e), and 364(d) of the Bankruptcy Code, the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Lenders, is hereby granted continuing, valid, binding, enforceable and automatically perfected postpetition liens on the applicable DIP Collateral, other than Exclusive DIP Term Collateral in the priorities set forth in **Exhibit C** (the “**ABL DIP Adequate Protection Liens**”), which liens will be junior only to (i) the Carve Out, (ii) the Prior Liens, (iii) the ABL DIP Liens, and (iii) with respect to Term DIP Priority Collateral, (A) the Term DIP Liens, (B) the Term DIP Adequate Protection Liens (as defined below), and (C) the Prepetition Term Liens. The ABL DIP Adequate Protection Liens will be pari-passu with the Term DIP Adequate Protection Liens in

respect of all other Unencumbered Property (which *pari-passu* priority does not apply to ABL DIP Priority Collateral and Term DIP Priority Collateral held by the UnSubs) and will be senior in priority to all other liens on the DIP Collateral (except as described in this and the immediately preceding sentence). Except as provided in this Interim Order, the ABL DIP Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted or created in any of the Chapter 11 Cases or any Successor Cases and shall be valid and enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in any of the Chapter 11 Cases or any Successor Cases. The ABL DIP Adequate Protection Liens shall not be subject to sections 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estates pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the ABL DIP Adequate Protection Liens. In the event that any portion of the ABL Debt Roll-Up is avoided any interest or fees paid in respect of the ABL DIP Facility shall be treated as adequate protection of the Prepetition ABL Facility.

(b) Term Adequate Protection: Pursuant to sections 361, 363(e), and 364(d) of the Bankruptcy Code, the Prepetition Term Agent, for the benefit of itself and the Prepetition Term Lenders, is hereby granted continuing, valid, binding, enforceable and automatically perfected postpetition liens on the applicable DIP Collateral, other than Exclusive ABL DIP Collateral, in the priorities set forth in **Exhibit C** (the “**Term DIP Adequate Protection Liens**,” and together with the ABL DIP Adequate Protection Liens, the “**Adequate Protection Liens**”), which liens will be junior only to (i) the Carve Out, (ii) the Prior Liens, (iii) the Term DIP Liens, and (iv) with respect to ABL DIP Priority Collateral, (A) the ABL DIP Liens, (B) the ABL DIP Adequate Protection Liens (until the later to occur of the ABL Debt Roll-Up and the expiration

of the Challenge Period), and (C) the Prepetition ABL Liens (until the later to occur of the ABL Debt Roll-Up and the expiration of the Challenge Period). The Term DIP Adequate Protection Liens shall be *pari-passu* with the ABL DIP Adequate Protection Liens in respect of all other Unencumbered Property (which *pari-passu* priority does not apply to ABL DIP Priority Collateral and Term DIP Priority Collateral held by the UnSubs) and will be senior in priority to all other liens on the DIP Collateral (except as described in this and the immediately preceding sentence). Except as provided in this Interim Order, the Term DIP Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted or created in any of the Chapter 11 Cases or any Successor Cases and shall be valid and enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in any of the Chapter 11 Cases or any Successor Cases. The Term DIP Adequate Protection Liens shall not be subject to sections 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estates pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the Term DIP Adequate Protection Liens.

(c) ABL Adequate Protection Claims: Pursuant to section 507(b) of the Bankruptcy Code, until the ABL Debt Roll-Up occurs, the Prepetition ABL Agent, on behalf of itself and the Prepetition ABL Lenders, is hereby further granted an allowed superpriority administrative expense claim (the “**ABL Adequate Protection Claim**”) which claim shall be junior to (i) the Superpriority DIP Claims (except the ABL Adequate Protection Claim will be senior to the Superpriority DIP Claim of the Term DIP Agent against any ABL DIP Priority Collateral), (ii) the Carve Out, and (iii) the Term Adequate Protection Claims (as defined below) (except the ABL Adequate Protection Claim will be senior to the Term Adequate Protection

Claims of the Term DIP Agent against any ABL DIP Priority Collateral). The ABL Adequate Protection Claim shall otherwise be senior to and have priority over any other administrative expense claims, unsecured claims, and all other claims against the Debtors or their estates in any of the Chapter 11 Cases or any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses or other claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114 of the Bankruptcy Code, and any other provision of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other nonconsensual lien, levy, or attachment. The ABL Adequate Protection Claim shall be considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, shall be against each Debtor on a joint and several basis, and shall be payable from and have recourse to all DIP Collateral in accordance with this Interim Order. Except as provided in this Interim Order, the ABL Adequate Protection Claim shall not be made subject to or *pari passu* with any claim heretofore or hereinafter granted or created in any of the Chapter 11 Cases or any Successor Cases and shall be valid and enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in any of the Chapter 11 Cases or any Successor Cases until such time as the Prepetition ABL Obligations are paid in full.

(d) Term Adequate Protection Claims: Pursuant to section 507(b) of the Bankruptcy Code, the Prepetition Term Agent, on behalf of itself and the Prepetition Term Lenders, is hereby further granted an allowed superpriority administrative expense claim (the “**Term Adequate Protection Claim**”) which claim shall be junior to (i) the Carve Out, (ii) the Superpriority DIP Claims (except the Term Adequate Protection Claim will be senior to the

Superpriority DIP Claim of the ABL DIP Agent against any Term DIP Priority Collateral), and (iii) the ABL Adequate Protection Claims (except the Term Adequate Protection Claims will be senior to the ABL Adequate Protection Claim of the Prepetition ABL Agent against any Term DIP Priority Collateral). The Term Adequate Protection Claim shall otherwise be senior to and have priority over any other administrative expense claims, unsecured claims, and all other claims against the Debtors or their estates in any of the Chapter 11 Cases or any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses or other claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114 of the Bankruptcy Code, and any other provision of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other nonconsensual lien, levy, or attachment. The Term Adequate Protection Claim shall be considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, shall be against each Debtor on a joint and several basis, and shall be payable from and have recourse to all DIP Collateral in accordance with this Interim Order. Except as provided in this Interim Order, the Term Adequate Protection Claim shall not be made subject to or *pari passu* with any claim heretofore or hereinafter granted or created in any of the Chapter 11 Cases or any Successor Cases and shall be valid and enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in any of the Chapter 11 Cases or any Successor Cases until such time as the Prepetition ABL Obligations are paid in full.

(e) **Adequate Protection Fees and Expenses.** The Debtors shall accrue, as adequate protection, (i) for the benefit of the Prepetition Lenders, interest (at the default rate) due

under the Prepetition Credit Documents and (ii) for the benefit of the Prepetition Secured Parties, the reasonable and documented prepetition and postpetition fees and out-of-pocket expenses of the Prepetition Agents and the Prepetition Secured Parties, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of (A) Skadden, Norton Rose, FTI, Ropes & Gray, Moelis and Ankura and (B) any other advisors (including local and foreign local legal counsel) retained by the Prepetition Agents (the “**Adequate Protection Fees and Expenses**”), which Adequate Protection Fees and Expenses shall be allowed under section 507(b) of the Bankruptcy Code.

(f) **Information Rights.** The Debtors shall promptly provide the Prepetition Agents and the Prepetition Secured Parties all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agents or the DIP Lenders under the Prepetition Credit Agreements.

30. **Adequate Protection Liens and Prepetition Credit Documents.** All distributions on account of any of the claims granted herein shall be in accordance with the Prepetition Credit Documents, the terms of this Interim Order, and the priority of liens set forth on **Exhibit C** attached hereto. Each of the Prepetition Secured Parties are deemed to consent to the priming of their Prepetition Liens by the DIP Liens.

31. **Reservation of Rights of Prepetition Secured Parties.** Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties; *provided* that the Prepetition Agents, acting at the express written direction of the requisite Prepetition Secured Parties, may request

further or different adequate protection and the Debtors or any other party in interest may contest any such request.

32. **Perfection of DIP Liens and Adequate Protection Liens.**

(a) The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the Debtors, as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments in any jurisdiction, or take possession of or control over cash or securities or other property, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder. All such financing statements, trademark filings, copyright filings, mortgages, notices of lien, or similar instruments shall be deemed to have been filed or recorded at the time of and on the Petition Date. Whether or not the DIP Agents (on behalf of the applicable DIP Secured Parties) or the Prepetition Agents (on behalf of the applicable Prepetition Secured Parties) shall, in their respective sole discretion, choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, or take possession of or control over any cash or securities or other property, or otherwise confirm perfection of the liens and security interests granted to them hereunder, such liens and security interests shall be deemed valid, automatically perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute, or subordination (subject to the priorities set forth in this Interim Order, the Prepetition Intercreditor Agreement, and the DIP Intercreditor Agreement). Upon the request of any DIP Agent or any Prepetition Agents, as applicable, each of the Prepetition Secured Parties and the Debtors, without any further consent of any party, is authorized, but not directed, to take, execute, deliver, and file such instruments (in each case,

without representation or warranty of any kind) to enable the DIP Agents or the Prepetition Agents to further validate, perfect, preserve, and enforce the DIP Liens and the applicable Adequate Protection Liens, respectively. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(b) A certified copy of this Interim Order may, in the discretion of either DIP Agent or either Prepetition Agent, as applicable, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, and all filing offices are hereby instructed to accept such certified copy of this Interim Order for filing or recording, as applicable. The automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the DIP Agents or the Prepetition Agents, as applicable, to take all actions referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

(c) To the extent that any Prepetition Secured Party is the secured party under any account control agreements, listed as loss payee or additional insured under any of the Debtors' insurance policies or is the secured party under any other agreement, the beneficiary of a landlord waiver or other collateral access agreement or party to a credit card notification, the DIP Agents, on behalf of the DIP Secured Parties, is also deemed to be the secured party under such account control agreements or loss payee or additional insured under the Debtors' insurance policies and the secured party under each such agreement (in any such case with the same priority of liens and claims thereunder relative to the priority of (i) the Prepetition Liens and Adequate Protection Liens and (ii) the DIP Liens, as set forth herein), and shall (A) have all rights and powers in each case attendant to that position (including, without limitation, rights of enforcement, but subject in all respects to the terms of this Interim Order), and (B) subject to the

terms of this Interim Order, act in that capacity and distribute any proceeds recovered or received in respect of any of the foregoing to the payment in full of the DIP Obligations.

33. **Preservation of Rights Granted under Interim Order.**

(a) Upon the occurrence and continuance of any Event of Default, interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Documents. Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code or converting any other Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code: (i) the DIP Superpriority Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full in cash (and such DIP Superpriority Claims, DIP Liens, and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest), (ii) the other rights granted by this Interim Order shall not be affected, and (iii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in this paragraph and otherwise in this Interim Order.

(b) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated, or stayed, such reversal, modification, vacatur, or stay shall not affect: (i) the validity, priority, or enforceability of the DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Agents or the Prepetition Agents, as applicable, of the effective date of such reversal, modification, vacatur, or stay or (ii) the validity, priority or enforceability of the DIP Superpriority Claims, the DIP Liens, the DIP Obligations, the Adequate Protection Liens, the Adequate Protection Obligations, the Prepetition

Liens, or the Prepetition Secured Obligations. Notwithstanding any such reversal, modification, vacatur, or stay of any use of DIP Collateral (including any Cash Collateral), any DIP Superpriority Claims, DIP Obligations, DIP Liens, Adequate Protection Obligations, or Adequate Protection Liens incurred by the Debtors to the DIP Agents, the DIP Lenders or the Prepetition Secured Parties, as the case may be, prior to the actual receipt of written notice by the DIP Agents or the Prepetition Agents, as applicable, of the effective date of such reversal, modification, vacatur, or stay shall be governed in all respects by the original provisions of this Interim Order, and the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall be entitled to all rights, remedies, privileges, and benefits granted to parties acting in “good faith” under section 364(e) of the Bankruptcy Code, this Interim Order, and the DIP Documents with respect to all uses of Cash Collateral, the DIP Obligations, and Adequate Protection Obligations.

(c) Except as expressly provided in this Interim Order or in the DIP Documents, the Carve Out, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, and all other rights and remedies of the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7, dismissing any of the Chapter 11 Cases, substantively consolidating any of the Chapter 11 Cases with another case (except as provided in an Acceptable Plan of Reorganization (as defined in the DIP Credit Agreement)), terminating the joint administration of these Chapter 11 Cases or by any other act or omission; (ii) the entry of an order approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents); or (iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and,

pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, and all other rights and remedies of the DIP Agents, the DIP Lenders and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated, and the Carve Out will continue in full force and effect.

34. **Limitation on Use of DIP Facility Proceeds and Collateral.** No DIP Loans, DIP Collateral, Cash Collateral or any portion of the Carve Out, may be used directly or indirectly by any Debtor, any statutory, or non-statutory committee (including any Creditors' Committee, if appointed), or any trustee appointed in the Chapter 11 Cases or any Successor Case, including any chapter 7 case, or any other person, party, or entity (a) in connection with the investigation, initiation, or prosecution of any claims, causes of action, adversary proceedings, or other litigation (i) against any of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties, or their respective predecessors in interest, officers, directors, employees, agents, affiliates, representatives, attorneys, or advisors, or any action purporting to do the foregoing in respect of the Prepetition Secured Obligations, the Prepetition Liens, the DIP Obligations, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to, the Prepetition Secured Obligations,

the DIP Obligations, the DIP Superpriority Claims, the Adequate Protection Obligations, or the liens, claims, rights, or security interests granted under this Interim Order, the DIP Documents, or the Prepetition Credit Documents including, in each case, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550, or 552 of the Bankruptcy Code, applicable non-bankruptcy law, or otherwise; (b) to prevent, hinder, or otherwise delay the Prepetition Secured Parties', the DIP Agents', or the DIP Lenders', as applicable, enforcement or realization on the Prepetition Secured Obligations, DIP Obligations, DIP Superpriority Claims, Adequate Protection Obligations, DIP Collateral, and the liens, claims, and rights granted to such parties under this Interim Order, each in accordance with the DIP Documents, the Prepetition Credit Documents, or this Interim Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Secured Parties, the DIP Agents, or the DIP Lenders under this Interim Order, the Prepetition Credit Documents, or the DIP Documents, as applicable, other than in accordance with the DIP Documents; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or *pari passu* with, the DIP Liens, DIP Obligations, DIP Superpriority Claims, Adequate Protection Liens, the Adequate Protection Obligations, unless all DIP Obligations, Prepetition Secured Obligations, Adequate Protection Obligations, and claims granted to the DIP Agents, DIP Lenders, or Prepetition Secured Parties under this Interim Order, have been paid in full in cash or as otherwise agreed to in writing by the requisite DIP Secured Parties and the requisite Prepetition Secured Parties, (e) to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are agreed to in writing by the requisite DIP Secured Parties and the requisite Prepetition Secured Parties or are otherwise included in the Approved

Budget (as initially attached to the Motion, and as updated in accordance with the terms of the DIP Documents and this Interim Order), or (f) for any purpose specified in the “DIP Facility; Use of Proceeds” sections of the DIP Credit Agreements; *provided*, that notwithstanding anything to the contrary herein, the Creditors’ Committee (if appointed) may use the proceeds of the DIP Loans, DIP Collateral, and Cash Collateral in an amount not to exceed \$100,000 (the “**Investigation Budget Cap**”) only to investigate, but not litigate, (y) the claims and liens of the Prepetition Secured Parties, and (z) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties. For the avoidance of doubt, this paragraph 34 will not limit the Debtors’ rights to use DIP Collateral pursuant to and consistent with paragraph 16 of this Interim Order or any equivalent provision in the Final Order.

35. **Approved Budget.** The Approved Budget is approved on an interim basis. Proceeds of the DIP Facility and Cash Collateral under this Interim Order shall be used by the Debtors in accordance with the DIP Documents and this Interim Order and consistent with the Approved Budget (subject to the Carve Out and permitted variances as provided in the DIP Credit Agreements) or as otherwise agreed by the requisite DIP Secured Parties and Debtors. None of the DIP Secured Parties’ consent (if any) to, or acknowledgment of, the Approved Budget shall be construed as consent to use of the proceeds of the DIP Facility or Cash Collateral beyond the maturity date set forth in the DIP Credit Agreement, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

36. **Payment of DIP Agents’ Fees.** The Debtors shall pay indefeasibly in full, in cash within one business day of entry of the closing of the DIP Facilities, all amounts incurred through closing of the DIP Facilities (regardless of whether incurred prepetition or postpetition) owed to the DIP Secured Parties and Skadden, Norton Rose, FTI, Ropes & Gray, local counsel to

the DIP Lenders, Moelis, and Ankura under the DIP Documents, and a \$100,000 capped fee payment to Proskauer. After closing of the DIP Facilities, DIP Fees and Expenses and the Adequate Protection Fees and Expenses shall be subject to the review procedures set forth in this paragraph 36 and paragraph 29(e) and shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and the Prepetition Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines, *provided, however*, any time such professionals seek payment of post-petition fees and expenses from the Debtors prior to confirmation of a chapter 11 plan, each professional shall provide a copy of its invoices (which shall not be required to contain time entries and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine) to the Notice Parties; *provided, however*, the Fronting Lender and its professionals shall not be required to provide copies of their invoices to the Notice Parties. The invoices for such fees and expenses may be in summary form only, but shall include a general, brief description of the nature of the matters for which services were performed, a list of the professionals who worked on such matters and the number of hours each professional billed. The Debtors, the U.S. Trustee and the Creditors' Committee (if appointed) may object to such fees and expenses and any such objection must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within five calendar days of receipt of such invoice (the "**Review Period**"). If no written objection is received by 12:00 p.m., Central Time on the last date of the Review Period, the Debtors shall pay such invoices within five calendar days after conclusion of the Review Period. If an objection to a

professional's invoice is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice, and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. No attorney or advisor to the DIP Secured Parties 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 or following the Petition Date in accordance with the terms of this Interim Order by any of the Debtors to the (a) DIP Secured Parties in connection with or with respect to the DIP Facility and (b) Prepetition Secured Parties in connection with or with respect to the Chapter 11 Cases or the Prepetition ABL Facility, are hereby approved in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement, or any similar form of recovery by the Debtors or any other person.

37. **Limits to Lender Liability.** Nothing in this Interim Order, the DIP Documents, the Prepetition Credit Documents, or any other documents related to these transactions shall in any way be construed or interpreted to impose upon the DIP Agents, any DIP Lender, or any Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their business or in connection with their restructuring efforts. So long as the DIP Agents and the DIP Lenders comply with their obligations under the DIP Documents and their obligations, if any, under applicable law (including the Bankruptcy Code), (a) the DIP Agents and the DIP Lenders shall not in any way or manner be liable or responsible for (i) the safekeeping of the DIP Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, servicer, bailee,

custodian, forwarding agency or other person, and (b) all risk of loss, damage, or destruction of the DIP Collateral shall be borne by the Debtors.

38. **Effect of Stipulations on Third Parties.** The Stipulations contained in paragraph F(i)–(viii) of this Interim Order (the “**Debtors’ Stipulations**”) shall be binding on the Debtors for all purposes, and the Debtors’ Stipulations and Releases contained in paragraph F(i)–(ix) of this Interim Order shall be binding on the Debtors, any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases, and any other person acting or seeking to act on behalf of the Debtors’ estates, in all circumstances and for all purposes unless: (a) such committee or any other person or entity with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity’s right or ability to do so), has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by the earlier of: (i) (y) if a Creditors’ Committee has been appointed, by the Creditors’ Committee within 60 calendar days after appointment of the Creditors’ Committee and (z) if no Creditors’ Committee has been appointed, by any party in interest with requisite standing (other than the Debtors) within 75 calendar days after entry of the Interim Order and (ii) the date that is established as the deadline for filing objections to (a) a sale of substantially all of the Debtors’ assets or (b) confirmation of a chapter 11 plan in any of the Chapter 11 Cases (the time period established by the foregoing clauses (i) and (ii), as may be extended in the sole discretion of the requisite Secured Parties, under the DIP Facility or Prepetition Facility for which such extension is sought, the “**Challenge Period**”), provided, however, that if, prior to the end of the Challenge period, (x) the cases convert to a chapter 7, or (y) a chapter 11 trustee is appointed,

then, in each such case, the Challenge Period shall be extended for a period of 60 days solely with respect to any such chapter 7 or chapter 11 trustee, (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Secured Obligations or the Prepetition Liens or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the “**Challenges**”) against any of the Prepetition Secured Parties or their respective affiliates and subsidiaries and each of their respective former, current, or future officers, partners, directors, managers, members, principals, employees, agents, related funds, affiliates, investors, financing sources, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals and the respective successors and assigns thereof, in each case solely in their respective capacity as such (each a “**Representative**” and collectively, the “**Representatives**”) in connection with the Prepetition Credit Documents, the Prepetition Secured Obligations, the Prepetition Liens, and the Prepetition Collateral and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; *provided, however*, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred. If no such Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding then: (a) the Debtors’ Stipulations and Releases contained in paragraph F shall be binding on all parties in interest; (b) the obligations of the Debtors under the Prepetition Credit Agreements, including the Prepetition Secured Obligations, shall constitute allowed claims not subject to defense, claim, counterclaim,

recharacterization, subordination, offset or avoidance, for all purposes in the Chapter 11 Cases, and any subsequent chapter 7 case(s); (c) the Prepetition Liens on the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to recharacterization, subordination, avoidance or other defense and (d) the Prepetition Secured Obligations and the Prepetition Liens on the Prepetition Collateral shall not be subject to any other or further claim or challenge by any statutory or non-statutory committee, or any other party in interest, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committee, if any, or any other party in interest, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition Secured Parties and their Representatives arising out of or relating to any of the Prepetition Credit Documents shall be deemed forever waived, released and barred. If any such Challenge is timely filed during the Challenge Period, the Debtors' Stipulations and Releases contained in paragraph F shall nonetheless remain binding and preclusive on any statutory or non-statutory committee, and on any other person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in this Interim Order vests or confers on any Person (as defined in the Bankruptcy Code), including any statutory or non-statutory committee, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition

Credit Documents, the Prepetition Secured Obligations or the Prepetition Liens. Any motion seeking standing (which ruling on standing, if appealed, shall not stay or delay the Chapter 11 Cases or confirmation of any chapter 11 plan) shall attach a draft complaint or other pleading that sets forth such Challenge, and any Challenge not included therein shall be deemed forever waived, released, and barred. For the avoidance of doubt, none of the foregoing challenge provisions set forth in this paragraph shall apply to any DIP Secured Party, in their capacities as such, or the UnSub Payoff Event, and following consummation of the UnSub Payoff Event, and in no event shall the DIP Facility, DIP Obligations, DIP Superpriority Claims, or DIP Liens be subject to challenge pursuant to this paragraph on avoidance or any other grounds by any party. If there is a successful Challenge, then the Court may fashion an appropriate remedy.

39. **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 Facility and the DIP Documents.

40. **Interim Order Governs.** In the event of any inconsistency between the provisions of this Interim Order, the DIP Documents, or any other order entered by this Court, the provisions of this Interim Order shall govern. Notwithstanding anything to the contrary in any other order entered by this Court, any payment made pursuant to, or authorization contained in, any other order entered by this Court shall be consistent with and subject to the requirements set forth in this Interim Order and the DIP Documents, including, without limitation, the Approved Budget.

41. **Proof of Claim.** None of the Prepetition Secured Parties or the DIP Secured Parties shall be required to file proofs of claim in any of the Chapter 11 Cases or Successor Cases in order to assert claims for payment of the Prepetition Secured Obligations arising under the Prepetition Credit Documents or the DIP Obligations arising under the DIP Documents. The statements of claim in respect of the Prepetition Secured Obligations and the DIP Obligations set forth in this Interim Order (including the DIP Documents and the Debtors' Stipulations), together with any evidence accompanying the Motion and presented at the Interim Hearing, are deemed sufficient and do constitute timely filed proofs of claim in respect of such debt and such secured status against each of the applicable Debtors. Any order entered by the Court in relation to the establishment of a bar date for any claim (including administrative claims) in any of the Chapter 11 Cases shall not apply to any of the DIP Secured Parties or Prepetition Secured Parties with respect to any claims and interests, including claims arising under or related to the DIP Documents or the Prepetition Credit Documents. Notwithstanding the foregoing, or any order entered by the Court in relation to the establishment of a bar date in any of the Chapter 11 Cases, the DIP Agents and the Prepetition Agents are hereby authorized and entitled, in each case in its respective sole discretion, but not required, to file a master proof of claim in the Debtors' lead chapter 11 case, *Instant Brands Acquisition Holdings Inc., et al.*, 23-90716 (DRJ) (a "**Master Proof of Claim**"), which shall be deemed asserted against each of the Debtors in their respective Chapter 11 Cases. Upon the filing of a Master Proof of Claim, the Prepetition Agents and the DIP Agents, and each of their respective successors and assigns, as applicable, shall be deemed to have filed a proof of claim in the aggregate amount set forth in such Master Proof of Claim against each of the Debtors. The Master Proofs of Claim shall not be required to identify any Prepetition Secured Party (other than the Prepetition Agents) or whether such Prepetition

Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among such holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. A Master Proof of Claim shall not be required to attach any instruments, agreements, or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements, or other documents will be provided upon written request to the Prepetition Agents. Any proof of claim filed by the Prepetition Agents 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 applicable Prepetition Secured Parties. The provisions set forth in this paragraph 41 are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party in interest or their respective successors in interest.

42. **Binding Effect; Successors and Assigns.** Subject only to paragraph 38, the DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, any statutory or non-statutory committee (including any Creditors' Committee, if appointed), and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, and the Debtors and their respective successors and assigns; *provided*, that the DIP Agents, the DIP Lenders and the Prepetition Secured Parties shall have no obligation to permit the use of the DIP Collateral (including Cash Collateral) by, or

to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

43. **Limitation of Liability.** In determining to make any loan, commitment, or other extension of credit under the DIP Documents or to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, none of the DIP Agents, the DIP Lenders or the Prepetition Secured Parties, each in their capacity as such, by reason of entering into the DIP Facility or the Prepetition Credit Documents and taking any actions permitted under the DIP Documents, the Prepetition Credit Documents or this Interim Order, shall (a) be deemed to be in “control” of the operations or participating in the management of the Debtors, (b) owe any fiduciary duty to the Debtors, any other DIP Secured Party or any other Prepetition Secured Party, their respective creditors, shareholders or estates, or (c) be deemed 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 similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601, et seq., as amended, or any similar federal or state statute). Nothing in this paragraph shall impact or limit the rights of any governmental authority. Furthermore, nothing in this Interim Order, the DIP Documents or the Prepetition Credit Documents 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 the prepetition or postpetition activities of any of the Debtors and their direct or indirect subsidiaries.

44. **Provision Regarding Certain Counterparties.** Notwithstanding anything in this Interim Order, the DIP Documents or the Prepetition Documents to the contrary, none of the

Prepetition Obligations or DIP Obligations are, or shall be, secured by (i) any (A) platinum leased to Instant Brands LLC by Bank of Montreal or (B) rhodium (together with platinum, the “Boullion”) leased to Instant Brands LLC by SCMI US, Inc. or (ii) (A) any quantity of Boullion required to be maintained by Instant Brands LLC pursuant to the terms of any Precious Metals Lease (as defined in the DIP Documents) with Bank of Montreal or SCMI US, Inc. and which quantity of Boullion is, pursuant to the terms of such Precious Metals Lease, required to not be subject to a lease, consignment or other similar arrangement and for which Instant Brands LLC is required to hold title, free and clear of any liens.

45. **Effectiveness.** This Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014, or any Local Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

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

47. **Payments Held in Trust.** Except as expressly permitted in this Interim Order or the DIP Documents, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to payment in full in cash of all DIP Obligations under the DIP Documents and termination of the DIP Commitments in accordance with the DIP Documents, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the

benefit of the DIP Secured Parties and shall immediately turn over such proceeds to the DIP Agents, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Interim Order. For the avoidance of doubt, this paragraph 47 will not apply to payments made or assets transferred by the Debtors as authorized under the Bankruptcy Code or any order of the Court.

48. **Good Faith.** Each of the DIP Secured Parties and Prepetition Secured Parties have acted in good faith (including for the purposes of sections 363(m) and 364(e) of the Bankruptcy Code) in connection with this Interim Order and their reliance on this Interim Order has been and is in good faith.

49. **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.

50. **Retention of Jurisdiction.** The Court shall retain exclusive jurisdiction to implement, interpret, and enforce the provisions of this Interim Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

51. **Rights and Duties Independent.** The rights and duties of the DIP Term Secured Parties under the DIP Term Documents on the one hand and the ABL DIP Secured Parties under the ABL DIP Documents on the other are (a) subject to the Prepetition Intercreditor Agreement and the DIP Intercreditor Agreement, and (b) otherwise be exercised and observed independently by the ABL DIP Secured Parties on the one hand and the DIP Term Secured Parties on the other.

52. **Determination of Requisite Parties.** Any determination as to whether a consent, modification, permission, or amendment required or permitted under this Interim Order has been granted by the “requisite” DIP Secured Parties or the “requisite” Prepetition Secured Parties will be determined by reference to the applicable DIP Credit Agreement or Prepetition Credit Agreement.

53. **Bankruptcy Rules.** The requirements of Bankruptcy Rules 4001, 6003, and 6004 and Local Rule 4001-2, in each case to the extent applicable, are satisfied by the contents of the Motion.

54. **Necessary Action.** The Debtors are authorized to take any and all such necessary actions as are necessary or appropriate to implement the terms of this Interim Order.

55. **Final Hearing.** The Final Hearing is scheduled for July 12, 2023 at 3:30 p.m. (prevailing Central Time) before this Court. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file a written objection thereto, which shall be served upon the Notice Parties, the DIP Secured Parties, and the Prepetition Secured Parties, and shall also be filed with the Clerk of the United States Bankruptcy Court for the Southern District of Texas, in each case to allow actual receipt by the foregoing no later than 4:00 p.m., 2023 (prevailing Central Time) on July 6, 2023.

Signed: June 14, 2023



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED

Court File No: CV-23-00701159-00CL

AND IN THE MATTER OF INSTANT BRANDS ACQUISITION HOLDINGS INC., et al.

APPLICATION OF INSTANT BRANDS INC. UNDER SECTION 46 OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER
(RECOGNITION OF INTERIM DIP ORDER)**

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