IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
EPIC! CREATIONS, INC., *et al*.,[1]	Case No. 24-11161 (JTD)
Debtors.	**Re. D.I. 221 and 236**
	Obj. Deadline: Nov 13, 2024 at 4:00 p.m. (ET) **Hearing Date: Nov 20, 2024 at 11:00 a.m. (ET)**

NOTICE OF HEARING REGARDING THE TRUSTEE'S MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II) AUTHORIZING THE TRUSTEE TO OBTAIN POSTPETITION FINANCING, (III) GRANTING SENIOR POSTPETITION SECURITY INTERESTS, AND ACCORDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS PURSUANT TO SECTIONS 364(c) AND 364(d) OF THE BANKRUPTCY CODE, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE that on October 29, 2024, Claudia Z. Springer, Esq., in her capacity as Chapter 11 Trustee (the "Trustee") of Epic! Creations, Inc. ("Epic"), Neuron Fuel, Inc. ("Neuron Fuel"), and Tangible Play, Inc. ("Tangible Play," together with Epic and Neuron Fuel, collectively the "Debtors") filed the *Trustee's Motion for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral, (II) Authorizing the Trustee to Obtain Postpetition Financing, (III) Granting Senior Postpetition Security Interests, and According Superpriority Administrative Expense Status Pursuant to Sections 364(c) and 364(d) of the Bankruptcy Code, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [D.I. 221] (the "Motion"), attached hereto as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that on October 31, 2024, the Bankruptcy Court entered the *Interim Order (I) Authorizing the Use of Cash Collateral, (II) Authorizing the Chapter 11 Trustee on Behalf of the Debtors' Estates to Obtain Postpetition Financing, (III) Granting Senior Postpetition Security Interests, and According Superpriority Administrative Expense Status Pursuant to Sections 364(c) and 364(d) of the Bankruptcy Code, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Granting Related* [D.I. 236] (the "Interim Order"), attached hereto as **Exhibit B**.

PLEASE TAKE FURTHER NOTICE that objections, if any, to final approval of the Motion and entry of the Final Order (as defined in the Interim Order) must (a) be in writing, (b) be filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Epic! Creations, Inc. (9113); Neuron Fuel, Inc. (8758); and Tangible Play, Inc. (9331).

Delaware 19801, on or before **November 13, 2024 at 4:00 p.m. (ET)** (the "Objection Deadline"), and (c) served as to be received on or before the Objection Deadline upon (i) the Trustee, Claudia Z. Springer, Novo Advisors, LLC, 401 N. Franklin St., Suite 4 East, Chicago, IL 60654; (ii) counsel for the Trustee, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654, Attn: Catherine Steege (CSteege@jenner.com) and Melissa Root (MRoot@jenner.com); (iii) co-counsel for the Trustee, Pashman Stein Walder Hayden, P.C., 824 N. Market Street, Suite 800, Wilmington, Delaware, 19801-1242, Attn: Joseph C. Barsalona II (jbarsalona@pashmanstein.com) and Henry J. Jaffe (hjaffe@pashmanstein.com); (iv) counsel for GLAS, (a) Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654, Attn: Patrick J. Nash Jr. (patrick.nash@kirkland.com) (b) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Brian Schartz, P.C. (bschartz@kirkland.com) and Jordan Elkin (jordan.elkin@kirkland.com); (v) co-counsel for GLAS, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19801, Attn: Laura Davis Jones (ljones@pszjlaw.com); (vi) co-counsel for GLAS, Reed Smith LLP, 599 Lexington Avenue, 22nd Floor, New York, New York 10022, Attn: David A. Pisciotta (dpisciotta@reedsmith.com); (vii) counsel for the Petitioning Lender Creditors, Cahill, Gordon & Reindel LLP, 32 Old Slip, New York, NY 10005, Attn: Joel Moss (jmoss@cahill.com); (viii) co-counsel for the Petitioning Lender Creditors, Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Attn: G. David Dean (ddean@coleschotz.com); (ix) the U.S. Trustee, Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey (linda.casey@usdoj.gov); and (x) counsel to any official committee of unsecured creditors appointed in these Chapter 11 Cases

PLEASE TAKE FURTHER NOTICE that only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON NOVEMBER 20, 2024 AT 11:00 A.M. (ET) BEFORE THE HONORABLE JOHN T. DORSEY, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: October 31, 2024
Wilmington, Delaware

PASHMAN STEIN WALDER HAYDEN, P.C.

/s/ Joseph C. Barsalona II
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Co-counsel to the Trustee

Exhibit A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
EPIC! CREATIONS, INC., *et al.*,[1]	Case No. 24-11161 (JTD)
Debtors.	(Jointly Administered)

TRUSTEE'S MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II) AUTHORIZING THE TRUSTEE TO OBTAIN POSTPETITION FINANCING, (III) GRANTING SENIOR POSTPETITION SECURITY INTERESTS, AND ACCORDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS PURSUANT TO SECTIONS 364(C) AND 364(D) OF THE BANKRUPTCY CODE, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

Claudia Z. Springer, not individually but solely as chapter 11 trustee (the "Trustee") for the estates (the "Estates") of the debtors (the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), files this motion (the "Motion") for the entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the "Interim Order") and final order (the "Final Order," and together with the Interim Order, the "Financing Orders"), (i) authorizing the Trustee to use Cash Collateral; (ii) authorizing the Trustee to obtain postpetition secured financing on the terms set forth in the DIP Credit Facility Documents (as defined below); (iii) granting liens and providing superpriority claims with respect to such postpetition financing; (iv) approving the form of adequate protection to be provided to the Prepetition Secured Parties; (v) modifying the automatic stay to the extent necessary to effectuate the terms and conditions of the Interim Order;

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Epic! Creations, Inc. (9113); Neuron Fuel, Inc. (8758); and Tangible Play, Inc. (9331).

(vi) scheduling a final hearing (the "Final Hearing") to consider entry of the Final Order; and (vii) granting related relief.

The term sheet attached hereto as **Exhibit B** outlines certain key proposed terms of the DIP Credit Facility. In support of this Motion, the Trustee relies on and incorporates by reference the *Declaration of Jacob Grall* (the "Grall Declaration"), which was filed concurrently herewith, and the *Declaration of Claudia Z. Springer in Support of First Day Motions* [D.I. 193] (the "First-Day Declaration"). In further support of this Motion, the Trustee respectfully represents as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (D), and (O), and, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Trustee consents to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent the consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory and legal predicates for the relief sought herein are sections 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, 9013, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rules 2002-1(b), 4001-1, 4001-2, and 9013-1.

RELIEF REQUESTED

4. By this Motion, the Trustee respectfully requests entry of the Financing Orders granting, among other things, the following relief, as applicable:

(a) authorizing the Trustee, as of the date of her appointment, to use any and all "cash collateral," as defined in section 363 of the Bankruptcy Code (the "Cash Collateral"), which term shall include, without limitation, all cash and cash equivalents of the Debtors' estates, whenever or wherever acquired, and the proceeds of all collateral pledged to the Prepetition Secured Parties, including all rights, interests, and obligations in and to any cause of action of the Borrower with respect to fraud, fraudulent conveyance, or breach of fiduciary duties and any proceeds thereof (collectively, the "Litigation Claims"), in accordance with the terms set forth in the Interim Order;

(b) authorizing the Trustee, on behalf of the Estates of each Debtor, as borrower (the "Borrowers"), to enter into a senior secured, superpriority postpetition credit facility in an aggregate maximum principal amount of up to $19 million in new money term loans (and, subject to entry of the Final Order, up to $133 million in Roll-Up Loans (as defined below)) (the "DIP Credit Facility," and the loans thereunder, the "DIP Loans") pursuant to the terms of (i) the term sheet attached hereto as **Exhibit B** ("DIP Term Sheet"),[2] up to $5 million of which will be available on an interim basis; (ii) that certain DIP Credit Agreement to be attached as Exhibit 1 to the Interim Order (as amended, supplemented or otherwise modified from time to time, the "DIP Credit Agreement"), to be executed by and among the Borrower, certain members of the ad hoc group of lenders (in their capacity as lenders under the DIP Credit Facility Documents) (the "DIP Lenders"), GLAS Trust Company LLC, as administrative and collateral agent (in such capacities, together with its successors and permitted assigns, the "DIP Agent," and together with the DIP Lenders, the "DIP Secured Parties"), which will include the terms set forth in the DIP Term Sheet, (iii) the Financing Orders; and (iv) any and all other Loan Documents (as may be defined in the DIP Credit Agreement and, together with the DIP Term Sheet, the Interim Order, the Final Order, and such other documents as may be designated by the DIP Agent, collectively, the "DIP Credit Facility Documents"), to fund the administrative costs of these Chapter 11 Cases and other specified uses of the DIP Loans specifically set forth in the DIP Credit Facility Documents;

(c) granting to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, to secure all obligations owed under the DIP Credit Facility and the other DIP Credit Facility Documents, pursuant to section 364(c)(1) of the Bankruptcy Code,

[2] For the avoidance of doubt, the summary of the terms set forth in the DIP Term Sheet is qualified in all respects by the terms set forth in the Financing Orders and the DIP Credit Agreement. To the extent there is any conflict between the DIP Term Sheet and the Financing Orders or the DIP Credit Agreement, the Financing Order or the DIP Credit Agreement, as applicable, shall govern.

allowed superpriority administrative expense claim status (the "DIP Superpriority Claim"), with priority over all administrative expense claims and unsecured claims now existing or hereafter arising, against the Debtors or their estates;

(d) authorizing and approving the Trustee to incur obligations under the DIP Credit Facility Documents, including to borrow under the DIP Credit Facility and to accrue interest on the DIP Loans (collectively, the "DIP Obligations"), and to use the proceeds of the DIP Credit Facility on the terms and conditions set forth in the Financing Orders and DIP Credit Facility Documents, including the Approved Budget (as defined below);

(e) authorizing the Trustee to pay principal, interest, expenses, and other DIP Obligations payable under the DIP Credit Facility Documents as they become due;

(f) authorizing and approving the form of adequate protection to be provided by the Trustee to the Prepetition Secured Parties, solely to the extent of the aggregate Diminution in Value (as defined below), if any;

(g) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement the terms of the Financing Orders and the DIP Credit Facility Documents as set forth herein; waiving any applicable stay (including under Bankruptcy Rule 6004) with respect to the effectiveness and enforceability of the Financing Orders; and providing for the immediate effectiveness of the Financing Orders;

(h) authorizing the Trustee, as of the Order for Relief Date, to effectuate any intercompany transactions among the Estates that she, in consultation with the DIP Secured Parties and Prepetition Secured Parties, determines are necessary to preserve the value of the Estates, and allowing any claims arising out of such transactions as administrative expense claims entitled to priority under section 503(b)(1)(A) of the Bankruptcy Code;

(i) scheduling the Final Hearing on this Motion to consider entry of the Final Order on a final basis and approving the form of notice with respect to such Final Hearing; and

(j) granting related relief.

BACKGROUND

5. On June 4-5, 2024 (the "Petition Date"), GLAS Trust Company LLC, in its capacity as administrative and collateral agent under the November 24, 2021, Credit and Guaranty Agreement (the "Credit Agreement"), and certain other lenders under the Credit Agreement (the "Prepetition Lenders") filed an involuntary chapter 11 petition against each Debtor. [D.I. 1]

6. On June 27, 2024, this Court entered an order directing joint administration of the Debtors' cases for procedural purposes. [D.I. 61]

7. On September 16, 2024 (the "Order for Relief Date"), this Court entered an order for relief in the Debtors' involuntary chapter 11 cases and directed the appointment of a chapter 11 trustee as a default sanction based on the Debtors' failure to comply with their discovery obligations. [D.I. 147]

8. On September 23, 2024, the United States Trustee for Region 3 duly appointed the Claudia Z. Springer as chapter 11 trustee of each Debtor, subject to approval by the Court. [D.I. 152] On October 7, 2024, this Court entered an order approving the appointment of the Trustee. [D.I. 180] No examiner or statutory committee of unsecured creditors has been appointed in these Chapter 11 Cases.

9. On November 24, 2021, the Debtors' former affiliate, BYJU's Alpha, Inc., as borrower, and GLAS Trust Company LLC, as administrative and collateral agent (the "Prepetition Agent"); and certain lenders (such lenders, together with the Prepetition Agent, the "Prepetition Secured Parties") closed on a $1.2 billion term loan facility under that certain Credit and Guaranty Agreement dated as of November 24, 2021 (the "Prepetition Credit Agreement"). As of the Petition Date, the "Guarantors" to the Credit Agreement included each Debtor. As security for their obligations under the Credit Agreement, the Debtors each granted the Prepetition Secured Parties a lien on the property defined as "Collateral" in that certain Pledge and Security Agreement dated as of November 24, 2021 (the "Prepetition Security Agreement").

10. As of the Petition Date, the Prepetition Secured Lenders were owed approximately $1,189,513,685 in outstanding principal and approximately $275,946,454 in outstanding, accrued,

and unpaid premium, interest, fees, expenses, and other amounts under the Prepetition Credit Agreement.

11. All cash held by each Estate constitutes Cash Collateral under section 363(a) of the Bankruptcy Code, and immediate access to that Cash Collateral is critical to the Trustee's efforts to expeditiously secure the Estates' assets, stabilize and continue the Estates' businesses and operations, formulate and implement a restructuring strategy, and investigate and pursue any valuable claims.

12. However, the Estates' current cash is insufficient to fund the anticipated administrative costs in these Chapter 11 Cases, including investigating and prosecuting currently-known and prospective claims. Accordingly, the Trustee engaged in good-faith, arm's-length negotiations with the Prepetition Secured Lenders over the terms of the DIP Credit Facility. Without access to the Cash Collateral and the DIP Credit Facility (the Trustee's sole postpetition financing option at this time), the Trustee will be unable to achieve a successful outcome in these Chapter 11 Cases. Accordingly, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Estates.

13. Prior to filing this Motion, the Trustee caused the Estate of Tangible Play, Inc. to borrow $1,500 on October 3, 2024, $45,000 on October 9, 2024, and $10,000 on October 26, 2024 from the Estate of Epic! Creations, Inc. to fund its payroll obligations. The Trustee believes that those transactions constituted an actual and necessary cost of preserving the Estate of Tangible Play, Inc., which gave rise to a postpetition intercompany claim of the Estate of Epic! Creations Inc. against the Estate of Tangible Play, Inc. that is entitled to administrative expense status in these Chapter 11 Cases.

SUMMARY OF DIP CREDIT FACILITY AND USE OF CASH COLLATERAL

14. In accordance with Bankruptcy Rules 4001(b)(1) and 4001(c)(1), and Local Rule 4001-2(a)(i) and (ii), a summary of certain key terms of the DIP Credit Facility and Financing Orders is set forth below. The below summary is qualified in its entirety by reference to the applicable provisions of the Financing Orders and the DIP Credit Facility Documents, and the Financing Orders and the DIP Credit Facility Documents will control in the event of any inconsistency between the below summary and such documents, as applicable.

Summary of Material Terms of DIP Credit Facility & Use of Cash Collateral[3]	
Parties Bankruptcy Rule 4001(c)(1)(B)	**Borrowers** Claudia Z. Springer, as Chapter 11 Trustee of Epic! Creations, Inc., on behalf of the Estate of Debtor Epic! Creations, Inc. Claudia Z. Springer, as Chapter 11 Trustee of Neuron Fuel, Inc., on behalf of the Estate of Debtor Neuron Fuel, Inc. Claudia Z. Springer, as Chapter 11 Trustee of Tangible Play, Inc., on behalf of the Estate of Debtor Tangible Play, Inc. (the Trustee, the Estates, and the Debtors, collectively, the "DIP Borrowers") **Lenders**: certain members of the ad hoc group of lenders under a senior debtor-in-possession credit agreement (in their capacity as lenders under the DIP Credit Agreement) **DIP Agent**: GLAS Trust Company LLC
DIP Facility Amount & Structure Bankruptcy Rule	A senior-secured multiple-draw term loan facility in the aggregate maximum principal amount of $19 million, along with a maximum of $133 million in additional Roll-Up Loans (the "DIP Facility" and, the

[3] Capitalized terms used in this summary of the use of Cash Collateral but not defined in the summary shall have the meanings ascribed to them in the Financing Orders, as applicable. For the avoidance of doubt, the summary of the terms set forth herein is qualified in all respects by the terms set forth in the Financing Orders and the DIP Credit Agreement. To the extent there is any conflict between the DIP Term Sheet and the Financing Orders or the DIP Credit Agreement, the Financing Order or the DIP Credit Agreement, as applicable, shall govern.

4001(c)(1)(B) Local Rule 4001-2(a)(i)(A)	commitments thereunder, the "DIP Commitments") subject to the terms and conditions set forth in the DIP Credit Agreement consisting of: i. Interim New Money DIP Loans. Upon entry of this Interim Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $5.0 million (the "Interim New Money DIP Loan Commitments" and the term loans made thereunder, the "Interim New Money DIP Loans"). ii. Final New Money DIP Loans. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount that will not, when combined with the Interim New Money DIP Loans, exceed $9.5 million (the "Final New Money DIP Loan Commitments" and the term loans made thereunder, the "Final New Money DIP Loans"). iii. Uncommitted Accordion. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $9.5 million (the "Accordion New Money DIP Loan Commitments" and the term loans made thereunder, the "Accordion New Money DIP Loans" and together with the Interim New Money DIP Loans and the Final New Money DIP Loans, the "New Money DIP Loans"). iv. Roll-Up Loans. Upon entry of the Final Order, senior secured term loans in the aggregate principal amount not to exceed $133 million consisting of, subject to the DIP Credit Agreement and at the sole option of each DIP Lender, for every dollar of New Money DIP Loans held by such DIP Lender or any of its affiliates at the time of election, up to seven dollars of loans under the Prepetition Credit Agreement held by such DIP Lender or any of its affiliates at the time of election (whether as a lender of record, by participation, or any other means), which such DIP Lender may irrevocably elect to convert into an equivalent amount of loans under the DIP Facility (the "Roll-Up Loans," and together with the New Money DIP Loans, the "DIP Loans"); *provided* that, for the avoidance of doubt, no roll-up election may be made on account of any Accordion New Money DIP Loans until such loans are actually committed and funded in accordance with the terms of the DIP Credit Agreement.
Use of Proceeds & Cash Collateral Bankruptcy Rule 4001(c)(1)(B)(ii), (iii) Local Rule	The Cash Collateral, including proceeds of the New Money DIP Loans, will be used for working capital, general corporate purposes, and any costs relating to these Chapter 11 Cases (including the allowed fees and expenses of any retained professionals) strictly in accordance with an Approved DIP Budget, subject to the Permitted Disbursement Variance.

4001-2(a)(i)(A)	
Liens and Priorities Bankruptcy Rule 4001(c)(l)(B)(i)	The obligations of the Borrower and Guarantors shall be secured by: a perfected first-priority security interest (subject to permitted liens and other exceptions to be set forth in the DIP Credit Agreement) in substantially all of each Estate's tangible and intangible assets now owned or hereafter acquired on a senior basis to the loans under the Prepetition Credit Agreement, including, without limitation, all rights, interests and obligations in and to any cause of action of the Borrower with respect to fraud, fraudulent conveyance, or breach of fiduciary duties and any proceeds thereof (collectively, the Litigation Claims"). All obligations under the DIP Credit Agreement shall constitute an allowed administrative expense claim (the "DIP Superpriority Claim") having priority under Section 364(c)(1) of the Bankruptcy Code over all other administrative expense claims in these Chapter 11 Cases and recourse to all of the Estates' assets and property, and proceeds and products thereof, subject only to the Carve-Out. All liens granted under the DIP Credit Agreement will be granted pursuant to Sections 364(c)(2), (c)(3) and (d)(1) of the Bankruptcy Code, as applicable, and will be deemed to be valid, enforceable, fully perfected, and non-avoidable in the Final Order.
Interest Rate & Fees Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(B)	The DIP Loans shall accrue interest at a rate *per annum* equal to Term SOFR plus 10.00%, which interest shall be payable quarterly and of which, (x) an amount equal to Term SOFR plus 1.00% multiplied by the aggregate outstanding amount of the DIP Loans shall be payable **in cash**, and (y) the remaining interest accrued shall be payable in kind rather than in cash and shall be issued in additional DIP Loans. Backstop Fee: 6% payable in kind on Effective Date of DIP Credit Agreement. Exit Fee: 4% on account of New Money DIP Loans only (including any funded Accordion New Money DIP Loans and excluding any Roll-Up Loans).
Adequate Protection Bankruptcy Rules 4001(b)(1)(B)(iv), 4001(b)(1)(C)(ii)	In consideration of the stipulations and consents set forth in the Financing Orders, the Trustee has agreed to provide the Prepetition Secured Parties adequate protection of their interests in the Cash Collateral, solely to the extent of and in an amount equal to the aggregate diminution in value of such interests from and after the Petition Date (each such diminution, a "Diminution in Value"), resulting from the imposition of the priming DIP Liens on the Prepetition Collateral, the Carve Out, the Trustee's use of the Prepetition Collateral (including Cash Collateral), the imposition of

	the automatic stay (each Prepetition Secured Party's claim for such Diminution in Value, an "Adequate Protection Claim").
Carve-Out Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(F)	The Interim Order provides a "Carve Out" of certain statutory fees, the allowed professional fees of the Trustee and any official committee appointed in these Chapter 11 Cases pursuant to section 1103 of the Bankruptcy Code, subject to a $[•] million[4] Post-Carve Out Trigger Notice Cap, and up to $50,000 for a chapter 7 trustee's fees and expenses, all as detailed in the Interim Order.
Approved Budget Bankruptcy Rule 4001(b)(1)(B)(ii) Local Rule 4001-2(a)(iii)	The Approved Budget will be attached as Exhibit 3 to the Interim Order. The Trustee believes that the Approved Budget, subject to the Permitted Disbursement Variance (as defined in the DIP Credit Agreement), will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period prior to entry of the Final Order.
Conditions of Closing and Borrowing Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(E)	Prior to funding, the Trustee must dismiss with prejudice the New York litigation pending against GLAS Trust Company LLC and Redwood Capital Management, LLC. Certain other customary and usual conditions precedent set forth in the DIP Credit Agreement.
DIP Liens on Unencumbered Assets Local Rule 4001-2(a)(i)(G)	Subject and subordinate only to the Carve Out, pursuant to section 364(c)(2) of the Bankruptcy Code, the Trustee will grant the DIP Secured Parties a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Estates, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to Prepetition Liens, including, but not limited to: the Prepetition Collateral; postpetition revenues; insurance; bank accounts and other security or deposit accounts (including, for the avoidance of doubt, any accounts opened prior to, on, or after the Petition Date); all equity interests; all intercompany claims, accounts, and receivables (and all rights associated therewith); all rights, interests, and obligations in and to any cause of action with respect to fraud, fraudulent

[4] Subject to further negotiation. The Trustee has requested a $2.5 million Post Carve-Out Trigger Notice Cap and the DIP Lenders are proposing $1 million.

	conveyance, breach of fiduciary duties, or other causes of action (collectively, the "Litigation Claims"); and any and all proceeds, products, rents, and profits of all of the foregoing.
Chapter 11 Milestones Bankruptcy Rule 4001(c)(1)(B)(vi) Local Rule 4001-2(a)(i)(H)	The DIP Facility is subject to the following Milestones, which may be extended or waived as approved in writing by the DIP Agent at the direction of the Required Lenders (email from counsel to the Administrative Agent being sufficient): i. On or before November 1, 2024, the Interim DIP Order shall have been entered by the Bankruptcy Court. ii. On or before November 7, 2024, the Trustee shall have engaged a business broker or investment banker that is satisfactory to the Administrative Agent (at the direction of the Required Lenders) in its sole discretion to administer the marketing and sale process for some, all, or substantially all of the Epic! Assets, the Neuron Fuel Assets, and the Tangible Play Assets through one or more transactions (the "Sale Process"). iii. On or before November 15, 2024, the Trustee shall have decided whether to shutdown business operations, and all operations related thereto, of Tangible Play, Inc., and, if so, established a workplan in connection therewith, which such determination and workplan shall be reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders). iv. On or before November 15, 2024, the Trustee shall have filed a motion in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders), seeking entry of an order approving bidding procedures for the Sale Process (the "Bidding Procedures Motion"). v. On or before November 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Epic! (the "Epic! Assets"). vi. On or before November 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Epic! Assets. vii. On or before December 2, 2024, the Final DIP Order shall have been entered by the Bankruptcy Court. viii. On or before December 6, 2024, the order approving the Bidding Procedures Motion (the "Bidding Procedures Order"), in form

	and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) shall have been entered by the Bankruptcy Court. ix. On or before December 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Neuron Fuel (the "Neuron Fuel Assets") and all or substantially all of the assets or Equity Interests of Tangible Play (the "Tangible Play Assets"). x. On or before December 16, 2024, the deadline for potential bidders to submit binding bids in connection with the sale of the Epic! Assets shall have occurred. xi. On or before December 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Neuron Fuel Assets and the Tangible Play Assets. xii. On or before December 18, 2024, the Trustee shall have conducted an auction for the sale of all or substantially all of the Epic! Assets (if necessary) and shall have selected one or more successful bidder(s). xiii. On or before December 23, 2024, the Bankruptcy Court shall have entered one or more order(s) approving the sale(s) (each, a "Sale Order") provided for in the purchase agreement(s) between the Trustee (on behalf of Epic!) and the winning bidder(s) with respect to the applicable Epic! Assets in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders). xiv. On or before December 30, 2024, the Trustee shall have consummated the transaction(s) approved by the Sale Order with respect to the Epic! Assets. xv. On or before January 16, 2025, the deadline for potential bidders to submit binding bids in connection with the sale of the Neuron Fuel Assets and the Tangible Play Assets shall have occurred. xvi. On or before January 20, 2025, the Trustee shall have conducted an auction for the sale of all or substantially all of the Neuron Fuel Assets and the Tangible Play assets (if necessary) and shall have selected one or more respective successful bidder(s). xvii. On or before January 24, 2025, the Bankruptcy Court shall have entered one or more Sale Order(s) approving the sale(s) provided for in the purchase agreement(s) between the Trustee (on behalf of Neuron Fuel and Tangible Play, as applicable) and the winning

	bidder(s) with respect to the applicable Neuron Fuel Assets and the applicable Tangible Play Assets in form and substance satisfactory to the Administrative Agent (at the direction of the Required Lenders). xviii. On or before January 31, 2025, the Trustee shall have consummated the transaction(s) approved by the Sale Order(s) with respect to the Neuron Fuel Assets and the Tangible Play Assets. xix. On or before March 31, 2025, the effective date of an Acceptable Plan shall have occurred.
Limitations on Investigations of Liens Local Rule 4001–2(a)(i)(L)	Subject to the Challenge Period, the stipulations, admissions, waivers, and releases contained in the Interim Order, including the Trustee's Stipulations, shall be binding upon the Trustee, the Estates, and any of their respective successors in all circumstances and for all purposes, and the Trustee and the Estates are deemed to have irrevocably waived and relinquished all Challenges (as defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in the Interim Order, including the Trustee's Stipulations, shall be binding upon all other parties in interest, including the Debtors, any Committee, and any other person acting on behalf of the Estates, unless and to the extent that a party in interest with proper standing granted by order of the Court, has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (a) seeking to avoid, object to, or otherwise challenge the findings or the Trustee's Stipulations, including regarding: (i) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of any of the Prepetition Secured Parties; (ii) the validity, enforceability, allowability, priority, secured status, or amount of the Obligations; (iii) asserting or prosecuting any so-called "lender liability" claims, avoidance actions, or any other claim, counter claim, cause of action, objection, contest or defense, of any kind or nature whatsoever, whether arising under the Bankruptcy Code, applicable law, or otherwise, against any of the Prepetition Secured Parties or their respective representatives (any such claim, a "Challenge") and (b) in which the Court enters a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed Challenge. A Challenge must be filed on or prior to 75 days following entry of the Interim Order (the "Challenge Period" and the date of expiration of the Challenge Period, the "Challenge Period Termination Date"). None of the DIP Facility, the DIP Collateral, the Prepetition Collateral (including Cash Collateral), or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), analyze, initiate, assert, prosecute, join, commence, threaten, support, or finance the initiation or prosecution of any

claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type:

(i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Loan Documents, the Prepetition Credit Agreement, the Loan Documents, or the Interim Order, including for the payment of any services rendered by the professionals retained by the Trustee, on behalf of the Estates, or the Committee in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral, the Prepetition Collateral, or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Secured Parties related to the DIP Obligations or the Obligations;

(ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Obligations, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' liens or security interests in the DIP Collateral or the Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Obligations, to the extent applicable;

(b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the

	Prepetition Secured Parties related to the Obligations, respectively, or by or on behalf of the DIP Agent and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent or the DIP Lenders related to the DIP Obligations or the DIP Liens or (y) any of the Prepetition Liens or any other rights or interests of any of the Prepetition Secured Parties related to the Obligations or the Prepetition Liens.
Maturity Date and Events of Default Bankruptcy Rule 4001(c)(l)(B) Local Rule 4001-2(a)(i)(M)	The DIP Loans will mature on the earlier of (i) 6 months from entry of the Final DIP Order, (ii) consummation of a plan of reorganization or liquidation, (iii) acceleration of the DIP loans under the DIP documents and (iv) consummation of a section 363 sale for all or substantially all of the Estates' assets. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Loan Documents, shall constitute an event of default (collectively, the "Events of Default"): (a) the failure of any of the Estates, or the Trustee on the Estates' behalf, to perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under the Interim Order, (b) the failure of the Estates, or the Trustee on the Estates' behalf, to comply with any of the Required Milestones (as defined below), or (c) the occurrence of an "Event of Default" under the DIP Credit Agreement, in each case unless waived by the Required DIP Lenders or DIP Agent, as applicable.
Cross-Collateralization Local Rule 4001-2(a)(i)(N)	Under the proposed intercreditor agreement, proceeds of the DIP Collateral may be used to pay down the obligations of BYJU's Alpha, Inc. under its debtor-in-possession credit facility extended by substantially the same lenders. The Trustee believes that such cross-collateralization will not prejudice any party in interest because the BYJU's Alpha, Inc. debtor-in-possession credit facility also includes a roll-up of BYJU's Alpha, Inc.'s obligations under the Prepetition Credit Agreement and because it is just a matter of application of proceeds agreed among the lenders that does not increase or otherwise change any obligations of the Estates. The DIP Lenders have also indicated to the Trustee that they will not extend the DIP Facility to the Trustee without such cross-collateralization.

Roll-Up Local Rule 4001–2(a)(i)(O)	Subject to entry of the Final Order, DIP Lenders may elect to roll-up seven dollars of prepetition term loans for every dollar of new money funded at any time prior to 7 days before the Maturity Date.
Lenders' Expenses Local Rule 4001-2(a)(i)(K)	The Trustee, on behalf of the Estates, shall pay the reasonable and documented professional fees, expenses, and disbursements of professionals to the extent provided for in paragraphs 4(d)(iii) and 8(h) of the Interim Order (collectively, the "Lender Professionals" and each, a "Lender Professional") no later than ten business days (the "Review Period") after the receipt by counsel for the Trustee, the Committee (if any), or the U.S. Trustee of each of the invoices therefor (the "Invoiced Fees") and without the necessity of filing formal fee applications or complying with the U.S. Trustee Guidelines, including such amounts arising before the Petition Date.
Trustee's Stipulations Bankruptcy Rule 4001(c)(1)(B)(iii) Local Rule 4001–2(a)(i)(Q)	In requesting the DIP Facility and the use of Cash Collateral, and in exchange for and as a material inducement to the DIP Lenders and the Prepetition Secured Parties to agree to provide, or consent to, the DIP Facility, the Trustee's access to the Cash Collateral, and subordination of the Prepetition Liens to the Carve Out and the DIP Liens (which DIP Liens shall be subject to the Carve Out), and as a condition to providing financing under the DIP Facility and consenting to the use of Cash Collateral, subject to the rights of the parties in interest (other than the Trustee) set forth in the Interim Order, the Trustee permanently and irrevocably admits, stipulates, acknowledges, and agrees, as follows, on behalf of the Estates, subject to the Challenge Period (collectively, the "Trustee's Stipulations"): i. Prepetition Secured Parties. Byju's Alpha, Inc., as borrower, the Debtors, as guarantors, GLAS Trust Company LLC ("GLAS" or the "Prepetition Agent"), as administrative agent and collateral agent, the lenders party thereto (collectively, the "Prepetition Secured Lenders" and, together with GLAS, the "Prepetition Secured Parties"), among others, entered into that certain Credit and Guaranty Agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Prepetition Credit Agreement"). ii. Prepetition Secured Obligations. As of the Petition Date, the Debtors were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim, or offset of any kind, in the aggregate amount of not less than $1,189,513,685 attributable to principal of loans outstanding

	under the Prepetition Credit Agreement, plus approximately $275,946,454 in outstanding accrued and unpaid premium, interest, fees, and expenses, and other amounts, contingent or otherwise, whenever arising or accruing, that may be due, owing, or chargeable in respect thereof, in each case, to the extent provided in the Prepetition Credit Agreement or the Loan Documents (as defined in the Prepetition Credit Agreement) (the "Prepetition Secured Obligations"). iii. Prepetition Collateral. As security for the prompt and complete payment and performance in full when due of all Prepetition Secured Obligations, the Debtors entered into a pledge and security agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Pledge and Security Agreement") with GLAS[5] under which the Debtors granted a security interest in the "Collateral" (as defined in the Pledge and Security Agreement) (such collateral, the "Prepetition Collateral" and such liens granted, the "Prepetition Liens") to GLAS for its benefit and for the benefit of the Prepetition Secured Parties. As of the Petition Date, the Prepetition Liens: (A) have been properly recorded and are valid, binding, enforceable, non-avoidable and fully perfected liens and security interests in the Prepetition Collateral; (B) are not subject to any offset, contest, objection, recovery, recoupment, reduction, defense, counterclaim, subordination, recharacterization, disgorgement, disallowance, avoidance, challenge, or any other claim or cause of action of any kind or nature whatsoever, whether under the Bankruptcy Code, applicable non-bankruptcy law, or other applicable law; (C) were granted to or for the benefit of the Prepetition Secured Parties for fair consideration and reasonably equivalent value, and were granted contemporaneously with, or covenanted to be provided as inducement for, the making of the loans and/or the commitments and other financial accommodations or consideration secured or obtained thereby; (D) without giving effect to the Interim Order, are senior with priority over any and all other liens on or security interests in the Prepetition Collateral; (E) encumber all of the Prepetition Collateral, as the same existed on the Petition Date; (F) are entitled to adequate protection as set forth herein; and are not subject to defense, counterclaim, recharacterization, subordination, avoidance, or

[5] Tangible Play, Inc. was an original party to the Credit Agreement and the Pledge and Security Agreement. On July 19, 2022, Epic! Creations, Inc. and Neuron Fuel, Inc. each executed (i) a counterpart agreement, agreeing to become a Guarantor under the Credit Agreement and to be bound by all the terms thereof with the same force and effect as if originally named therein as a Guarantor, and (ii) a joinder agreement, pursuant to which each agreed to become a party to the Pledge and Security Agreement as a Grantor thereunder with the same force and effect as if originally named as a Grantor therein.

recovery pursuant to the Bankruptcy Code or applicable non-bankruptcy law or regulation by any person or entity.

iv. Cash Collateral. Any and all of the Estates' cash, including all amounts on deposit or maintained in any banking, checking, or other deposit accounts by the Debtors or the Trustee, any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral or deposited into the Debtors' or Trustee's banking, checking, or other deposit accounts after the Petition Date, and the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral"). The Prepetition Secured Parties are entitled to adequate protection of their respective interests in the Cash Collateral, for any Diminution in Value of their respective interests as of the Petition Date resulting from the use of Cash Collateral.

v. Good Faith. The Prepetition Secured Parties and the DIP 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 requisite approvals of the DIP Facility and the use of Cash Collateral, including in respect of granting the DIP Liens and the Adequate Protection Liens, any challenges or objections to the use of Cash Collateral, and all documents relating to any and all transactions contemplated by the foregoing.

vi. No Challenges/Claims. No offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Secured Obligations exist, and no portion of the Prepetition Liens or Prepetition Secured Obligations is subject to any challenge or defense including impairment, set-off, avoidance, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (equitable or otherwise), attack, offset, defense, counterclaims or cross-claims pursuant to the Bankruptcy Code or applicable non-bankruptcy law. The Debtors and their Estates have no valid claims (as such term is defined in section 101(5) of the Bankruptcy Code), objections, challenges, causes of action, and/or choses in action against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees with respect to the facility extended under the Prepetition Credit Agreement, the Obligations (as defined in the Prepetition Credit Agreement), the Prepetition Liens, or otherwise, whether arising at law or at equity, including any challenge, recharacterization, subordination, avoidance, recovery, disallowance, reduction, or other claims arising under

	or pursuant to sections 105, 502, 510, 541, 542 through 553, inclusive, or 558 of the Bankruptcy Code or applicable state law equivalents. vii. Default. The Debtors are in default under the Prepetition Credit Agreement, and at least one event of default has occurred and is continuing under the Prepetition Credit Agreement.
Notice of an Event of Default Local Rule 4001–2(a)(i)(S)	The automatic stay in these Chapter 11 Cases otherwise applicable to the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) business days after the Termination Declaration Date (the "Remedies Notice Period"): (a) the DIP Agent shall be entitled to exercise its rights and remedies in accordance with the DIP Loan Documents and the Interim Order to satisfy the DIP Obligations, DIP Superpriority Claims, and DIP Liens, subject to the Carve Out; and (b) subject to the foregoing clause (a), the applicable Prepetition Secured Parties shall be entitled to exercise their respective rights and remedies to the extent available in accordance with the Prepetition Credit Agreement and the Interim Order with respect to the Trustee's use of Cash Collateral.
Liens on Chapter 5 Causes of Action Bankruptcy Rule 4001(c)(1)(B)(xi) Local Rule 4001– 2(a)(i)(U) DIP Term Sheet, p. 6	See "**Liens and Priorities**" and "**DIP Liens on Unencumbered Assets**" above.
Marshalling Waiver Local Rule 4001–2(a)(i)(X)	Subject to entry of the Final Order, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.
506(c) Waiver Bankruptcy Rule 4001(c)(1)(B)(x) Local Rule 4001– 2(a)(i)(V)	In light of the DIP Secured Parties' agreement to extend credit to the Trustee, on behalf of the Estates, on the terms described in the Interim Order, the DIP Secured Parties have negotiated for and the Trustee, the Debtors and the DIP Secured Parties will seek in the Final Order a waiver of the provisions of section 506(c) of the Bankruptcy Code in respect of the DIP Collateral, subject to the Carve Out.
Section 552(b)(1) "Equities of the Case" Waiver Local Rule	Subject to entry of the Final Order, the Prepetition Secured Parties shall be entitled to all the rights and benefits of section 552(b) of the Bankruptcy Code and have negotiated for, and the Trustee, as representative of the Estates, believes that Prepetition Secured Parties are entitled to, a waiver of the "equities of the case" exception under

4001– 2(a)(i)(W)	section 552(b) of the Bankruptcy Code, which shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the DIP Collateral (including the Prepetition Collateral).
Waiver/Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	**See "Notice of an Event of Default"** above.
Release, Waiver, or Limitation on Any Claim or Cause of Action Belonging to the Estate Bankruptcy Rule 4001-2(c)(1)(B)(viii)	See "**Trustee's Stipulations**" and "**Limitations on Investigations of Liens**" above. Additionally, upon the occurrence of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is withdrawn or filed and overruled): (w) any and all such Challenges by any party (including the Committee, any successor chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Chapter 11 Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Case) shall be deemed to be forever barred; (x) the Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Chapter 11 Cases and any Successor Case; (y) the Prepetition Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected liens and security interests, not subject to recharacterization, subordination, or avoidance; and (z) all of the stipulations and admissions contained in the Interim Order, including the Trustee's Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in the Interim Order shall be of full force and effect and forever binding upon the Trustee, the Debtors, the Estates, and all creditors, interest holders, and other parties in interest in these Chapter 11 Cases and any Successor Case(s). Furthermore, if any such Challenge is timely and properly filed under the Bankruptcy Rules then (a) any claim or action that is not brought shall forever be barred and (b) the stipulations and admissions contained in the Interim Order, including the Trustee's Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such Challenge prior to the Challenge Period Termination Date (and solely as to the plaintiff party that timely filed such Challenge and its successors and assigns and not, for the avoidance of doubt, any other party in interest).

	Nothing in the Interim Order vests or confers on any person (as defined in section 101 of the Bankruptcy Code), including any Committee appointed in these Chapter 11 Cases, standing or authority to pursue any cause of action belonging to the Estates, including any challenges (including a Challenge) with respect to the Prepetition Liens and the Obligations, and a separate order of the Court conferring such standing on any Committee or other party in interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party in interest; *provided*, *however*, that nothing herein prohibits the Prepetition Secured Parties from contesting any request to obtain standing on any other grounds permitted by applicable law.

BASIS FOR RELIEF

I. The Court Should Approve the DIP Credit Facility.

15. The Trustee's ability to maximize the value of the Estates hinges upon her access to the postpetition financing. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit outside the ordinary course of business, and (c) obtaining credit with specialized priority or on a secured basis. Pursuant to section 364(c) of the Bankruptcy Code, if the trustee cannot obtain postpetition credit on an unsecured basis, a court may authorize the trustee to obtain credit or incur debt that is entitled to superpriority administrative expense status, secured by a senior lien on unencumbered property or secured by a junior lien on encumbered property. *See* 11 U.S.C. § 364(c). Further, under section 364(d) of the Bankruptcy Code, courts also may authorize postpetition credit secured by a senior or equal lien on encumbered property if the trustee cannot obtain credit elsewhere and the interests of existing lienholders are adequately protected. *See* 11 U.S.C. § 364(d)(1).

A. Entry into the DIP Credit Facility Is an Exercise of the Trustee's Sound Business Judgment.

16. The Court should authorize the Trustee to enter into the DIP Credit Facility, obtain postpetition financing under the DIP Credit Facility, and continue using the Cash Collateral of the

Prepetition Secured Parties as a sound exercise of the Trustee's business judgment. Courts grant considerable deference to a trustee's business judgment in obtaining postpetition secured credit so long as the agreement to obtain such credit does not run afoul of the provisions and underlying policy considerations of the Bankruptcy Code. *See, e.g.*, *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of [the estate fiduciary] in the selection of the lender."); *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving postpetition loan and receivables facility because such facility "reflect[ed] sound and prudent business judgment"); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

17. Courts generally will not second-guess a trustee's business decisions when those decisions involve a minimum level of care in arriving at the decision on an informed basis, in good faith, and in the honest belief that the action was taken in the best interest of the estate. *See In re Los Angeles Dodgers LLC*, 457 B.R. at 313. To determine whether the business judgment test is met, "the court 'is required to examine whether a reasonable business person would make a similar decision under similar circumstances.'" *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (Bankr. D. Del. Aug. 15, 2007) (citation omitted); *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (noting that courts should not second-guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code"). Further, in

considering whether the terms of postpetition financings are fair and reasonable, courts consider the terms in light of the relative circumstances of both the estate and the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003); *see also In re Ellingsen MacLean Oil Co.*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing [an estate] may have to enter into "hard bargains" to acquire funds for its reorganization); *In re Johns-Manville Corp.*, 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) ("[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor [or trustee] and a presumption of reasonableness attaches to a debtor's [or trustee's] management decisions.").

18. The Trustee's entry into the DIP Credit Facility represents a sound exercise of her business judgment. The Trustee requires access to the DIP Credit Facility because access to the proceeds thereof will permit the Trustee to continue operating the Debtors' businesses, administer these Chapter 11 Case, pay professional fees, and take such actions as are necessary to maximize the value of the Estates. The terms of the DIP Credit Facility were thoroughly negotiated in good faith and at arm's length, resulting in proposed postpetition financing on terms that are most favorable to all parties, including each Estate and its stakeholders. Accordingly, the Court should authorize the Trustee's entry into the DIP Credit Facility as a reasonable exercise of the Trustee's business judgment.

B. No Comparable Alternative to the DIP Credit Facility Is Reasonably Available.

19. To show that the credit required is not obtainable on an unsecured basis, a trustee need only demonstrate "by a good faith effort that credit was not available without" the protections afforded to potential lenders by section 364(c) of the Bankruptcy Code. *In re Snowshoe Co., Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992). Moreover, in circumstances where only a few lenders likely can or will

extend the necessary credit to an estate, "it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *Sky Valley, Inc.*, 100 B.R. at 113.

20. Given the Estates' current financial condition, financing arrangements, and capital structure, the Trustee does not believe there are any actionable alternative sources of interim and long-term financing other than the DIP Lenders, and does not believe it to be possible that she could obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code. Among other issues, the Trustee and the Debtors' employes currently have only minimal access to the Debtors' book, records, and critical operational infrastructure, which would make it virtually impossible for an alternative lender to conduct an adequate degree of due diligence for a loan transaction of this size.

21. Further, the Prepetition Secured Parties would not consent to the Trustee's incurrence of priming financing by any other party than the DIP Lenders. Absent receiving such consent from the Prepetition Secured Parties, the Trustee would have faced a potentially costly and difficult non-consensual priming dispute between any potential postpetition priming lenders (assuming any such hypothetical lender exists) and the Prepetition Secured Parties.

22. In sum, considering the facts and circumstances of these Chapter 11 Cases, the Trustee's entry into the DIP Credit Facility is the only viable post-petition financing option for the Estates at this time.

C. The Trustee Should Be Authorized to Pay Any Fees Required by the DIP Credit Facility Documents.

23. In connection with the DIP Credit Facility, the Trustee has agreed, subject to Court approval, to pay certain fees, expenses, and other payments to the DIP Secured Parties. The

Trustee has also agreed to pay the fees and expenses of counsel and other professionals retained by the DIP Secured Parties as provided for in the DIP Credit Facility Documents.

24. In determining whether the terms of postpetition financing are fair and reasonable, courts consider the relative circumstances of both the estate and the potential lender. *See In re Farmland*, 294 B.R. at 886-89; *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Trust Co. (In re Ellingsen MacLean Oil Co., Inc.)*, 65 B.R. 358, 364–65 n.7 (W.D. Mich. 1986) (recognizing debtor may have to enter into "hard" bargains to acquire funds for its reorganization); *In re ION Media Networks, Inc.*, No. 09-13125, 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009) ("Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic terms."). The propriety of a proposed financing facility should also be considered in light of current market conditions. *See* Tr. of Record at 740:4-6, *In re Lyondell Chem. Co.*, No. 09 10023 (REG) (Bankr. S.D.N.Y. Feb. 27, 2009) ("[B]y reason of present market conditions, as disappointing as the [DIP financing] pricing terms are, I find the provisions [of a DIP financing facility that included a roll-up of prepetition secured debt] reasonable here and now.")

25. The Trustee submits that the interest, fees, and expenses to be paid under the DIP Credit Facility are consistent with the market and are reasonable and appropriate, particularly in light of the circumstances of these Chapter 11 Cases, and represent the most favorable terms available to the Trustee and the Estates. In particular, the interest rate and fees contemplated by the DIP Credit Facility are similar to the interest rate and fees in other post-petition financing arrangements approved by courts in this District and in other jurisdictions. *See In re Lucky Bucks*, Case No. 23-10758 (KBO) (D. Del. July 14, 2023) (approving $20.5 million new money DIP

Credit Facility with interest rate of SOFR + 10% (+ 2% for the default interest rate), 5% new money backstop fee, 4% commitment fee, and 3% exit fee); *In re Clovis Oncology, Inc.*, Case No. 22-11292 (JKS) (Jan. 24, 2023) (approving a $75 million DIP Credit Facility with 8% interest rate, 7% backstop fee, 1.5% upfront fee, and 1.5% contingent sale fee); *In re Phasebio Pharmaceuticals, Inc.*, Case No. 22-10995 (LSS) (Nov. 15, 2022) (approving a $15 million DIP Credit Facility with 14% interest rate, 2% commitment fee, and 5% exit fee).

26. The Trustee considered the DIP Credit Facility's pricing when determining, in her sound business judgment, that the DIP Credit Facility constituted the best actionable terms that provides the necessary postpetition financing for the Trustee to continue operating the Debtors' businesses and prosecute these Chapter 11 Cases. Accordingly, the Court should authorize the Trustee to pay the interest, costs, and expenses provided under the DIP Credit Facility Documents in connection with the DIP Credit Facility.

D. The Proposed "Roll-Up" of the DIP Credit Facility Is Appropriate.

27. Section 363 of the Bankruptcy Code permits a trustee to use, sell, or lease property, other than in the ordinary course of business, with court approval. It is well settled in the Third Circuit that such transactions should be approved when they are supported by a sound business purpose. *See In re Abbots Dairies, Inc.*, 788 F.2d 143 (3d Cir. 1986) (holding that in the Third Circuit, a debtor's use of assets outside the ordinary course of business under section 363(b) of the Bankruptcy Code should be approved if the debtor can demonstrate a sound business justification for the proposed transaction). The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

28. Repayment of prepetition debt (often referred to as a "roll-up") is a common feature in post-petition financing arrangements. Indeed, courts within this District regularly approve this practice. *See, e.g.*, *In re BYJU's Alpha, Inc.*, Case No. 24-10140 (JTD) (Bankr. D. Del. Apr. 8, 2024) (authorizing approximately $20 million new money DIP, conversion of certain prepetition obligations into DIP loans, and a roll-up of up to approximately $228 million); *In re PGX Holdings, Inc.*, Case No. 23-10718 (CTG) (Bankr. D. Del. Aug. 4, 2023) (authorizing approximately $12 million new money DIP and a roll-up of approximately $39.85 million); *In re Lucky Bucks, LLC*, Case No. 23-10758 (KBO) (Bankr. D. Del. July 14, 2023) (approving approximately $20.5 million new money DIP and a roll-up of approximately $61.5 million); *In re Charming Charlie Holdings Inc.*, Case No. 19-11534 (MFW) (Bankr. D. Del. July 11, 2019) (approving approximately $20 million new money DIP and a roll-up for approximately $40 million); *In re JAB Energy Solutions II, LLC*, Case No. 21-11226 (CTG) (Bankr. D. Del. Sept. 7, 2021) (approving approximately $720,000 new money DIP and a roll-up of approximately $3 million); *In re Radioshack Corp*, Case No. 15-10197 (BLS) (Bankr. D. Del. Mar. 12, 2015) (approving approximately $20 million new money DIP and a roll-up of approximately $250.3 million).

29. The Trustee submits that the Roll-Up, as set forth in the DIP Credit Facility, is appropriate in these Chapter 11 Cases. As a threshold matter, no creditors or other parties in interest are prejudiced by the Roll-Up because the Prepetition Secured Parties already have senior liens on substantially all of the Estates' assets. The Prepetition Secured Parties also made clear in their negotiations with the Trustee that the inclusion of this Roll-Up was an essential inducement to their willingness to extend the DIP Credit Facility. For these reasons, the Trustee respectfully

submits that the Roll-Up is a sound exercise of her business judgment, appropriate under the circumstances, and should be approved.

II. The Use of Cash Collateral Is Warranted and Necessary.

30. In addition to the DIP Credit Facility, the Trustee requires use of Cash Collateral to fund these Chapter 11 Cases and maximize the value of the Estates. The Trustee submits that, under the circumstances, her request to use Cash Collateral should be approved.

31. The Trustee's use of property of the Estates, including Cash Collateral, is governed by section 363(c) of the Bankruptcy Code. Section 363(c) provides, in pertinent part, that:

> The trustee may not use, sell, or lease cash collateral . . . unless—
>
> (A) each entity that has an interest in such cash collateral consents; or
> (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section [363].

11 U.S.C. § 363(c)(2).

32. Here, the Trustee has negotiated consensual use of Cash Collateral with the Prepetition Secured Parties. Because the Trustee has the consent of the only known entities with an interest in the Cash Collateral, the Court should approve such use under section 363(c)(2)(A) of the Bankruptcy Code. *In re Sorenson Communications, Inc.*, No. 14-10454 (BLS), 2014 WL 929351, at *5 (Bankr. D. Del. Mar. 4, 2014) ("The Debtors' access to sufficient working capital and liquidity through the use of Cash Collateral . . . is vital to the preservation and maintenance of the Debtors' going concern values and successful reorganization."); *In re WP Steel Venture LLC*, No. 12-11661 (KJC), 2012 WL 5288123 (Bankr. D. Del. 2012) ("The ability of the Debtors to obtain sufficient working capital and liquidity through the use of Cash Collateral . . . is vital to the preservation and maintenance of the value of the Debtors' assets.").

A. The Proposed Adequate Protection Is Reasonable and Appropriate.

33. Additionally, the Trustee submits that the agreed adequate protection package to be provided to the Prepetition Secured Parties is sufficient to approve the use of the Cash Collateral under section 363 of the Bankruptcy Code. Section 363(e) of the Bankruptcy Code provides for adequate protection of interests in property when a debtor uses cash collateral. Further, section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See* 11 U.S.C. § 362(d)(1); *see also In re Cont'l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996).

34. Generally, courts decide what constitutes adequate protection on a case-by-case basis. *See, e.g.*, *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994) ("[A] determination of whether there is adequate protection is made on a case by case basis."); *In re N.J. Affordable Homes Corp.*, No. 05-60442, 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006) ("The term 'adequate protection' is intended to be a flexible concept."); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992) (emphasizing that "the varying analyses and results contained in the . . . slew of cases demonstrate that what interest is entitled to adequate protection and what constitutes adequate protection must be decided on a case-by-case basis"); *see also In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) (explaining that adequate protection can take many forms and "must be determined based upon equitable considerations arising from the particular facts of each proceeding") (internal citation omitted).

35. Adequate protection may be provided in various forms, including a grant of replacement liens or administrative claims. *See, e.g.*, *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) ("The determination of adequate protection is a fact specific inquiry . . . left to the vagaries of each case."); *In re Realty Sw. Assocs.*, 140 B.R. 360, 366 (Bankr. S.D.N.Y. 1992); *In*

re Beker Indus. Corp., 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) (noting the application of adequate protection is case-specific, but "its focus is protection of the secured creditor from diminution in the value of its collateral during the reorganization process"). The critical purpose of adequate protection is to guard against the diminution of a secured creditor's collateral during the period when such collateral is being used by the trustee. *See In re 495 Central Park Ave. Corp.*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992) ("The goal of adequate protection is to safeguard the secured creditor from diminution in the value of its interest during the Chapter 11 reorganization.").

36. Here, the agreed adequate protection package to be provided to the Prepetition Secured Parties is sufficient to approve the use of the Cash Collateral. The Financing Orders will provide the Prepetition Secured Parties with adequate protection liens to the extent of any diminution in value, if any, of their interest in the prepetition collateral resulting from, as provided in the Bankruptcy Code, the use by the Trustee of such collateral, including the Cash Collateral, or the imposition or enforcement of the automatic stay pursuant to section 362(a) of the Bankruptcy Code (the "Diminution in Value"), as well as superpriority administrative expense claims to the extent of any Diminution in Value, reimbursement of reasonable and documented professional fees and expenses, and reporting obligations consistent with the Prepetition Credit Agreement. Moreover, the use of Cash Collateral to preserve the value of the prepetition collateral itself protects the Prepetition Secured Parties against diminution in value of that collateral.

B. The Scope of the Carve-Out Is Reasonable and Appropriate.

37. The Prepetition Secured Parties' respective interests in the prepetition collateral (including the Cash Collateral) are subject to the Carve Out. Without the Carve Out, the Trustee and other parties in interest may be deprived of certain rights and powers because the services for which such professionals may be paid in these Chapter 11 Cases would be restricted. *See, e.g.*, *In*

re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (observing that courts insist on carve-outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve Out does not directly or indirectly deprive the Estates or other parties in interest of possible rights and powers. Additionally, the Carve Out protects against administrative insolvency during the course of these Chapter 11 Cases by ensuring that assets remain for payment of the clerk of the Court, trustee fees, and professional fees of the Trustee.

C. The Intercompany Loans Should Be Approved.

38. The Trustee further requests that the Court authorize the Trustee, under section 363(b) and section 364(b) of the Bankruptcy Code and as of the Order for Relief Date, to effectuate any intercompany loans among the Estates that the Trustee, in consultation with the DIP Secured Parties and Prepetition Secured Partes, determines is necessary to preserve the value of the Estates. Section 364(b) of the Bankruptcy Code permits the Court to, after notice and a hearing, authorizing the Trustee to obtain unsecured credit or incur unsecured debt allowable under section 503(b)(1) as an administrative expense. Because the Estates are jointly and severally liable under the Prepetition Credit Agreement, they each have an interest in maximizing the value of the other Estates. The Trustee therefore believes, in an exercise of her reasonable business judgment, that the intercompany loans she has effectuated (and may in the future need to effectuate) among the Estates with the lenders' consent are necessary to preserving the value of the Estates, are in the best interests of the Estates, and should therefore be approved.

D. Interim Relief Should Be Granted.

39. Bankruptcy Rule 4001(b) permits a court to approve a debtor's request for use of cash collateral during the 14-day period following the filing of a motion requesting authorization to use cash collateral, "only . . . as is necessary to avoid immediate and irreparable harm to the

estate pending a final hearing." Bankruptcy Rule 4001(b)(2). In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions. *See, e.g.*, *In re Simasko Production Co.*, 47 B.R. 444, 449 (Bankr. D. Co. 1985); *see also In re Ames Dep't Stores Inc.*, 115 B.R. at 38. After the 14-day period, the request for use of cash collateral is not limited to those amounts necessary to prevent destruction of the debtor's business. A trustee is entitled to use cash collateral that it believes prudent in the operation of the debtor's business. *See, e.g.*, *Simasko*, 47 B.R. at 449; *Ames Dep't Stores*, 115 B.R. at 36.

40. As set forth above, pending the Final Hearing, the Trustee requires immediate access to Cash Collateral to fund the administrative costs of these Chapter 11 Cases. All of these expenses are required to maximize the value of the Estates. In addition, the agreed-upon Approved Budget ensures that the Trustee's use of Cash Collateral will not prejudice the Prepetition Secured Parties.

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

41. The relief requested herein contemplates a modification of the automatic stay solely to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees that may be reasonably required or necessary for the Trustee's performance of her obligations set forth in the Interim Order. Stay modifications of this kind are ordinary and standard features for the use of cash collateral and, in the Trustee's business judgment, are reasonable and fair under the circumstances.

WAIVER OF STAY UNDER BANKRUPTCY RULE 4001(a)(3)

42. The Trustee requests a waiver of the stay of the effectiveness of the order granting the relief requested herein pursuant to Bankruptcy Rule 4001(a)(3). Bankruptcy Rule 4001(a)(3) provides, "[a]n order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after entry of the order, unless the court

orders otherwise." The use of Cash Collateral is essential to prevent irreparable damage to the Estates. Accordingly, ample cause exists to justify the waiver of the 14-day stay imposed by Bankruptcy Rule 4001(a)(3), to the extent such stay applies.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

43. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As provided herein, and to implement the foregoing successfully, the Trustee requests that the Interim Order include a finding that she has established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

44. For this reason and those set forth above, the Trustee submits that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable to the Interim Order.

NOTICE

45. Notice of this Motion has been or will be provided to: (a) the U.S. Trustee; (b) the Debtors' counsel of record and registered agents; (c) the holders of the 20 largest known unsecured claims against the Debtors (on a consolidated basis, as and if identified); (d) the office of the attorney general for each of the states in which the Debtors operate; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the United States Department of Justice; (i) the Prepetition Agent and counsel thereto; (j) the Prepetition Secured Lenders and counsel thereto; (k) any other parties listed as a secured creditor on a UCC-1 financing statement filed with the Delaware Secretary of State against any Debtor that has not expired or been terminated; (l) Think

and Learn Private Limited and counsel thereto (to the extent known); (m) BYJU's Pte. Ltd.; (n) Great Learning Education Pte. Ltd.; (o) Whitehat Education Technology LLC; and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Trustee will serve copies of this Motion and an order entered in respect of this Motion as required by Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Trustee submits that no other or further notice is necessary. No previous motion for the relief sought herein has been made to this or any other court.

[*intentionally left blank*]

CONCLUSION

WHEREFORE, the Trustee respectfully requests entry of the Interim Order, substantially in the form annexed hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court may deem just and equitable.

Dated: October 29, 2024
Wilmington, Delaware

PASHMAN STEIN WALDER HAYDEN, P.C.

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Co-Counsel to the Trustee

Exhibit A

Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 11
EPIC! CREATIONS, INC., *et al.*,[1]	)	
	)	
Debtor.	)	Case No. 24-11161 (JTD)
	)	
	)	**Re: D.I.**

INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II) AUTHORIZING THE CHAPTER 11 TRUSTEE ON BEHALF OF THE DEBTORS' ESTATES TO OBTAIN POSTPETITION FINANCING, (III) GRANTING SENIOR POSTPETITION SECURITY INTERESTS, AND ACCORDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS PURSUANT TO SECTIONS 364(C) AND 364(D) OF THE BANKRUPTCY CODE, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] filed by Claudia Z. Springer, Esq., in her capacity as Chapter 11 Trustee (the "Trustee") on behalf of the estates (the "Estates") of the above-captioned debtors (the "Debtors") for entry of an interim order (this "Interim Order") 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, 6004, 9013, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 2002-1, 4001-1, 4001-2, and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), among other things:

(a) authorizing the Trustee, on behalf of the Estates of Debtors Epic! Creations, Inc., Neuron Fuel, Inc., and Tangible Play, Inc., in their capacity as borrowers (the Trustee, Estates, and Debtors collectively, the "DIP Borrowers"), to obtain postpetition financing commitments in connection with a senior-secured multiple-

[1] The Debtors in this Chapter 11 Case, along with the last four digits of the Debtors' federal tax identification number, are: Epic! Creations, Inc. (9113); Neuron Fuel, Inc. (8758); and Tangible Play, Inc. (9331).

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion or the DIP Credit Agreement, as applicable.

draw term loan facility in the maximum principal amount of up to $19 million, along with up to $133 million in Roll-Up Loans (as defined below) (the "DIP Facility" and, the commitments thereunder, the "DIP Commitments") subject to the terms and conditions set forth in that certain senior secured superpriority debtor-in-possession credit agreement, dated as of October [●], 2024, attached hereto as **Exhibit 1** (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "DIP Credit Agreement"), by and among the DIP Borrowers, as borrowers, the lenders from time to time party thereto (the "DIP Lenders"), and GLAS Trust Company LLC, as administrative and collateral agent (in such capacity, together with its successors and permitted assigns, the "DIP Agent" and, together with the DIP Lenders and all holders of all other DIP Obligations (as defined below), the "DIP Secured Parties"), consisting of:

(i) Interim New Money DIP Loans. Upon entry of this Interim Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $5 million (the "Interim New Money DIP Loan Commitments" and the term loans made thereunder, the "Interim New Money DIP Loans").

(ii) Final New Money DIP Loans. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount that will not, when combined with the Interim New Money DIP Loans, exceed $9.5 million (the "Final New Money DIP Loan Commitments" and the term loans made thereunder, the "Final New Money DIP Loans").

(iii) Uncommitted Accordion. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $9.5 million (the "Accordion New Money DIP Loan Commitments" and the term loans made thereunder, the "Accordion New Money DIP Loans" and together with the Interim New Money DIP Loans and the Final New Money DIP Loans, the "New Money DIP Loans").

(iv) Roll-Up Loans. Upon entry of the Final Order, senior secured term loans in the aggregate principal amount not to exceed $133 million consisting of, subject to the DIP Credit Agreement and at the sole option of each DIP Lender, for every dollar of New Money DIP Loans held by such DIP Lender or any of its affiliates at the time of election, up to seven dollars of loans under the Prepetition Credit Agreement held by such DIP Lender or any of its affiliates at the time of election (whether as a lender of record, by participation, or any other means), which such DIP Lender may irrevocably elect to convert into an equivalent amount of loans under the DIP Facility (the "Roll-Up Loans," and together with the New Money DIP Loans, the "DIP Loans"); *provided* that, for the avoidance of doubt, no roll-up election may be made on account of any Accordion New Money DIP Loans until such loans are actually committed and funded in accordance with the

terms of the DIP Credit Agreement.[3]

(v) To the extent that a DIP Lender elects to deliver a Roll-Up Notice, the Prepetition Secured Obligations of such DIP Lender rolled up in connection therewith shall be deemed to apply in accordance with and in the order set forth in Section 8.2 of the Prepetition Credit Agreement (Application of Funds). No reduction of the Prepetition Secured Obligations of a lower priority set forth in Section 8.2 of the Prepetition Credit Agreement owing to such DIP Lender shall be deemed to have occurred until all Prepetition Secured Obligations of a higher priority owing to such DIP Lender have been rolled up in full.[4] For the avoidance of doubt, the Loan Documents and the Prepetition Secured Obligations owed thereunder continue in full force and effect.

(b) authorizing the Trustee to enter into that certain First Amended and Restated Subordination and Intercreditor Agreement, dated as of October [●], 2024, by and among each of the DIP Borrowers, BYJU's Alpha, Inc. ("Alpha"), and GLAS Trust Company LLC (in its capacity as, among other things, the First Priority Agent, the Second Priority Agent, and the Collateral Agent (the "Intercreditor Agreement"), as an acknowledging party;

(c) authorizing the Trustee, on behalf of the Estates, to execute, deliver, and perform under the DIP Credit Agreement, the Intercreditor Agreement, and any other related documents, including pledge agreements, mortgages, guaranties, promissory notes, certificates, instruments, and such other documents that may be reasonably necessary, desirable or required to implement the DIP Facility and perform thereunder and/or that may be reasonably requested by the DIP Agent (collectively, as such may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "DIP Loan

[3] As more fully set forth in the DIP Credit Agreement, at any time after the Effective Date but no later than [[7] calendar days prior to the Maturity Date], each New Money Term Loan Lender shall have the right in its sole option to submit a Roll-Up Notice with respect to its (or any of its Affiliates' or Approved Funds') Prepetition Term Loans (which such Prepetition Term Loans may be held as a lender of record, by participation, or by any other means) in an amount up to the Applicable Roll-Up Amount. For the avoidance of doubt, a New Money Term Loan Lender may submit a Roll-Up Notice on more than one occasion as long as the aggregate principal amount of Prepetition Term Loans subject to all such Roll-Up Notices does not exceed the Applicable Roll-Up Amount of such New Money Term Loan Lender as of the date of such Roll-Up Notice.

The roll-up options set forth in the DIP Credit Agreement shall be attributable to and travel with (in the case of any assignment, participation, or transfer after the Effective Date) the funded New Money DIP Loans. Any exercise of the roll-up option affiliated with any dollar of New Money DIP Loans shall be noted by the Administrative Agent on the Register within three Business Days of receiving the relevant Roll-Up Notice.

[4] For sake of clarity, a DIP Lender shall be deemed to have rolled up Prepetition Secured Obligations owing first on account of fees, indemnities, and expenses (including, for the avoidance of doubt, fees and expenses owing pursuant to that certain cooperation agreement (as amended, supplemented, amended and restated or otherwise modified from time to time), dated as of August 1, 2023, by and among certain Prepetition Secured Lenders (the "Cooperation Agreement")), next Prepetition Secured Obligations owing on account of unpaid interest, and finally Prepetition Secured Obligations owing on account of unpaid principal.

Documents"), each of which shall be in form and substance satisfactory to the DIP Agent and the Required DIP Lenders; and to perform such other acts as may be reasonably necessary, desirable or appropriate in connection with the DIP Loan Documents;

(d) granting to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, (a) DIP Liens (as defined below) on all of the DIP Collateral (as defined below) pursuant to sections 364(c)(2), (c)(3), and (d) of the Bankruptcy Code, which DIP Liens shall be, subject to the Carve Out (as defined below), senior to all liens, security interests, and pledges on the DIP Collateral and (b) DIP Superpriority Claims pursuant to section 364(c)(1) of the Bankruptcy Code, subject and subordinate to the Carve Out;

(e) authorizing and directing the Trustee, on behalf of the Estates, to pay all principal, interest, fees, costs, expenses, and other amounts payable under the DIP Loan Documents as such become due and payable, as provided and in accordance therewith;

(f) authorizing the Trustee's use of the Cash Collateral, on behalf of the Estates, effective as of the Order for Relief Date and through and including the date of termination of the DIP Credit Agreement;

(g) authorizing the Trustee, on behalf of the Estates, to perform such other and further acts as may be necessary or desirable in connection with this Interim Order, the DIP Loan Documents (including the DIP Credit Agreement), and the transactions contemplated hereby and thereby, subject to this Interim Order and the Approved Budget, subject to the Permitted Disbursement Variance;

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

(i) granting adequate protection to the Prepetition Secured Parties as provided in this Interim Order;

(j) scheduling a final hearing on or about November 20, 2024 (the "Final Hearing") to consider entry of a final order that grants all of the relief requested in the Motion on a final basis (the "Final Order"), and approving the form of notice with respect to the Final Hearing; and

(k) providing for the immediate effectiveness of this Interim Order and waiving any applicable stay (including under Bankruptcy Rule 6004) to permit such immediate effectiveness.

Having considered the Motion, the *Declaration of Claudia Z. Springer in Support of First Day Motions* [D.I. 193] (the "First-Day Declaration"), the *Declaration of Jacob Grall in Support*

of Trustee's Postpetition Financing Motion [D.I. [●]] (the "Postpetition Financing Declaration"), the evidence submitted or proffered at the hearing on the Motion held on October 31, 2024 (the "Interim Hearing"); and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having determined that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A),(D), and (O) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having determined that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the Motion, the First-Day Declaration, the Postpetition Financing Declaration, and the arguments of counsel at the Interim Hearing; and the Court having found that the relief requested in the Motion is in the best interests of each Estate, creditors, and other parties in interest; and it appearing that the Trustee's entry into the DIP Facility is a sound and prudent exercise of the Trustee's business judgment; and the Court having found that the Trustee's immediate entry into the DIP Facility is necessary to avoid immediate and irreparable harm to the Estates; and the Court having found that proper and adequate notice of the Motion and the Interim Hearing thereon has been given under the circumstances and that no other or further notice is necessary for the relief requested in the Motion; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation to the Motion and all of the proceedings had before the Court in connection with the Motion, **THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**[5]

[3] Where appropriate in this Interim Order, findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact pursuant to Bankruptcy Rule 7052.

A. Order for Relief Date. On June 4, 2024 (the "Petition Date"), GLAS (as defined below) and certain prepetition lenders (the "Petitioning Creditors") filed involuntary petitions against the Debtors under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Court"). On September 16, 2024 (the "Order for Relief Date"), the Court entered the *Order for Relief in Involuntary Cases and Appointing Chapter 11 Trustee* [D.I. 147] (the "Order for Relief") granting the relief requested by the Petitioning Creditors and commencing the above-captioned chapter 11 cases (the "Chapter 11 Cases").

B. Chapter 11 Trustee. Pursuant to the Order for Relief and upon the *Application of the United States Trustee for Entry of an Order Approving the Appointment of Claudia Z. Springer as Chapter 11 Trustee* [D.I. 151] (the "Application") the Court entered the *Order Approving the Appointment of Claudia Z. Springer as Chapter 11 Trustee* [D.I. 180] (the "Trustee Order"). As a result of the Trustee Order, the Debtors are no longer in possession of the Estates and the Trustee was placed in possession of the Estates. As a result, the Trustee has the full authority and power to take, or cause the Estates, to enter into the DIP Facility and to take the actions reasonably necessary, desirable or appropriate for the Estates to enter into and perform the transactions approved herein.

C. Jurisdiction and Venue. This Court has jurisdiction over the Chapter 11 Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. § 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2)(A),(D), and (O). Venue of the Chapter 11 Case and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases 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, 6004, 9013, and 9014, and Local Rules 2002-1, 4001-1, 4001-2, and 9013-1.

D. Committee. As of the date hereof, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") has not appointed an official committee ("Committee") in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

E. Trustee's Stipulations. In requesting the DIP Facility and the use of Cash Collateral, and in exchange for and as a material inducement to the DIP Lenders and the Prepetition Secured Parties to agree to provide, or consent to, the DIP Facility, the Trustee's access to the Cash Collateral, and subordination of the Prepetition Liens to the Carve Out and the DIP Liens (which DIP Liens shall be subject to the Carve Out), and as a condition to providing financing under the DIP Facility and consenting to the use of Cash Collateral, subject to the rights of the parties in interest (other than the Trustee) set forth in this Interim Order, the Trustee permanently and irrevocably admits, stipulates, acknowledges, and agrees, as follows, subject to the Challenge Period (collectively, the "Trustee's Stipulations"):

(i) Prepetition Secured Parties. Alpha, as borrower, the Debtors, as guarantors, GLAS Trust Company LLC ("GLAS" or the "Prepetition Agent"), as administrative agent and collateral agent, the lenders party thereto (collectively, the "Prepetition Secured Lenders" and, together with GLAS, the "Prepetition Secured Parties"), among others, entered into that certain Credit and Guaranty Agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Prepetition Credit Agreement").

(ii) Prepetition Secured Obligations. As of the Petition Date, the Debtors were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim, or offset of any kind, in the aggregate amount of not less than $1,189,513,685 attributable to principal of loans outstanding under the Prepetition Credit Agreement, plus approximately $275,946,454 in outstanding accrued and unpaid premium, interest, fees, and expenses, and other amounts, contingent or otherwise, whenever arising or accruing, that may be due, owing, or chargeable in respect thereof, in each case, to the extent provided in the Prepetition Credit Agreement or the Loan Documents (as defined in the Prepetition Credit Agreement)

(the "Prepetition Secured Obligations").

(iii) Prepetition Collateral. As security for the prompt and complete payment and performance in full when due of all Prepetition Secured Obligations, the Debtors entered into a pledge and security agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Pledge and Security Agreement") with GLAS[6] under which the Debtors granted a security interest in the "Collateral" (as defined in the Pledge and Security Agreement) (such collateral, the "Prepetition Collateral" and such liens granted, the "Prepetition Liens") to GLAS for its benefit and for the benefit of the Prepetition Secured Parties. As of the Petition Date, the Prepetition Liens: (A) have been properly recorded and are valid, binding, enforceable, non-avoidable and fully perfected liens and security interests in the Prepetition Collateral; (B) are not subject to any offset, contest, objection, recovery, recoupment, reduction, defense, counterclaim, subordination, recharacterization, disgorgement, disallowance, avoidance, challenge, or any other claim or cause of action of any kind or nature whatsoever, whether under the Bankruptcy Code, applicable non-bankruptcy law, or other applicable law; (C) were granted to or for the benefit of the Prepetition Secured Parties for fair consideration and reasonably equivalent value, and were granted contemporaneously with, or covenanted to be provided as inducement for, the making of the loans and/or the commitments and other financial accommodations or consideration secured or obtained thereby; (D) without giving effect to this Interim Order, are senior with priority over any and all other liens on or security interests in the Prepetition Collateral; (E) encumber all of the Prepetition Collateral, as the same existed on the Petition Date; (F) are entitled to adequate protection as set forth herein; and are not subject to defense, counterclaim, recharacterization, subordination, avoidance, or recovery pursuant to the Bankruptcy Code or applicable non-bankruptcy law or regulation by any person or entity.

(iv) Cash Collateral. Any and all of the Estates' cash, including all amounts on deposit or maintained in any banking, checking, or other deposit accounts by the Debtors or the Trustee, any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral or deposited into the Debtors' or Trustee's banking, checking, or other deposit accounts after the Petition Date, and the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral"). The

[6] Tangible Play, Inc. was an original party to the Credit Agreement and the Pledge and Security Agreement. On July 19, 2022, Epic! Creations, Inc. and Neuron Fuel, Inc. each executed (i) a counterpart agreement, agreeing to become a Guarantor under the Credit Agreement and to be bound by all the terms thereof with the same force and effect as if originally named therein as a Guarantor, and (ii) a joinder agreement, pursuant to which each agreed to become a party to the Pledge and Security Agreement as a Grantor thereunder with the same force and effect as if originally named as a Grantor therein.

Prepetition Secured Parties are entitled to adequate protection of their respective interests in the Cash Collateral, for any Diminution in Value of their respective interests as of the Petition Date resulting from the use of Cash Collateral.

(v) Good Faith. The Prepetition Secured Parties and the DIP 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 requisite approvals of the DIP Facility and the use of Cash Collateral, including in respect of granting the DIP Liens and the Adequate Protection Liens, any challenges or objections to the use of Cash Collateral, and all documents relating to any and all transactions contemplated by the foregoing.

(vi) No Challenges/Claims. No offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Secured Obligations exist, and no portion of the Prepetition Liens or Prepetition Secured Obligations is subject to any challenge or defense including impairment, set-off, avoidance, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (equitable or otherwise), attack, offset, defense, counterclaims or cross-claims pursuant to the Bankruptcy Code or applicable non-bankruptcy law. The Debtors and their Estates have no valid claims (as such term is defined in section 101(5) of the Bankruptcy Code), objections, challenges, causes of action, and/or choses in action against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees with respect to the facility extended under the Prepetition Credit Agreement, the Obligations (as defined in the Prepetition Credit Agreement), the Prepetition Liens, or otherwise, whether arising at law or at equity, including any challenge, recharacterization, subordination, avoidance, recovery, disallowance, reduction, or other claims arising under or pursuant to sections 105, 502, 510, 541, 542 through 553, inclusive, or 558 of the Bankruptcy Code or applicable state law equivalents.

(vii) Default. The Debtors are in default under the Prepetition Credit Agreement, and at least one event of default has occurred and is continuing under the Prepetition Credit Agreement.

F. Cash Collateral. All of the Estates' cash, including any cash in deposit accounts of the Debtors or the Trustee, wherever located, constitutes Cash Collateral of the Prepetition Secured Parties. The Prepetition Secured Parties consent to the Trustee's use, on behalf of the Estates, of the Cash Collateral in accordance with and subject to the terms and conditions provided for in this

Interim Order, effective as of the date of the Trustee's appointment. The Trustee, on behalf of the Estates, has agreed to provide each Prepetition Secured Party with adequate protection of its respective interest in the Cash Collateral for any Diminution in Value thereof as of the Petition Date.

G. Findings Regarding Intercompany Borrowing. The Trustee caused the Estate of Tangible Play, Inc. to borrow $1,500 on October 3, 2024, $45,000 on October 9, 2024, and $10,000 on October 26, 2024 from the Estate of Epic! Creations, Inc. to fund its payroll obligations. Such use of Cash Collateral is hereby ratified, constitutes an actual and necessary cost of preserving the Estate of Tangible Play, Inc., and is deemed to have given rise to a postpetition intercompany claim of the Estate of Epic! Creations Inc. against the Estate of Tangible Play, Inc. that is entitled to administrative expense status in these Chapter 11 Cases (together with any other intercompany claims which may arise during these Chapter 11 Cases, the "Intercompany Claims")

H. Findings Regarding Postpetition Financing and Use of Cash Collateral.

(a) The Trustee, on behalf of the Estates, has requested from each of the DIP Lenders, and the DIP Lenders are willing to provide financing to the Estates subject to: (i) this Interim Order; (ii) Court approval of the terms and conditions of the DIP Facility and the DIP Loan Documents; (iii) satisfaction or waiver of the closing conditions and the funding conditions set forth in the DIP Loan Documents; and (iv) findings by this Court that the DIP Facility is essential to the Estates, that the DIP Secured Parties are extending credit to the Estates pursuant to the DIP Loan Documents in good faith, and that the DIP Secured Parties' claims, superpriority claims, security interests, and liens and other protections granted pursuant to this Interim Order and the DIP Loan Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(b) The Trustee, on behalf of each Estate, has an immediate and critical need to obtain (i) postpetition financing pursuant to the DIP Facility and (ii) permission to use Cash Collateral (subject to the Approved Budget and the Permitted Disbursement Variance), in order to, among other things, pay postpetition wages and salaries, stabilize operations, pay professional fees, and pursue an orderly and value-maximizing sale process for the benefit of the Debtors' stakeholders. The Estates do not have sufficient available sources of working capital and financing to preserve the value of their businesses without the ability to borrow under the DIP Facility and use Cash Collateral. The Estates will be immediately and irreparably harmed if financing under the DIP Facility is not obtained pursuant to the terms of this Interim Order and, as applicable, the DIP Loan Documents, or if the Trustee, on behalf of the Estates, is unable to use Cash Collateral. Entry of this Interim Order is necessary and appropriate to avoid such harm to the Estates and other parties in interest.

(c) The Trustee, on behalf of each Estate, is unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the terms of the DIP Facility. The Trustee, on behalf of each Estate, is unable to obtain, pursuant to sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code, (i) unsecured credit allowable under section 503(b) of the Bankruptcy Code as an administrative expense, (ii) credit secured solely by a lien on property of such Estate that is not otherwise subject to a lien, or (iii) credit secured solely by a junior lien on property of such Estate that is subject to a lien. The Trustee, on behalf of each Estate, is further unable to obtain secured credit under section 364(d)(1) of the Bankruptcy Code without as provided for herein (1) granting to the DIP Secured Parties the rights, remedies, privileges, benefits, and protections provided herein and in the DIP Loan Documents, including the DIP Liens and the DIP Superpriority Claims (as defined below) and (2) granting the Prepetition Secured

Parties the rights, remedies, privileges, benefits, and protections provided herein, including the Adequate Protection Liens. The Roll-Up Loans are an integral part of the DIP Facility, without which the DIP Lenders would be unwilling to extend the New Money DIP Loan Commitments.

(d) The DIP Facility and this Interim Order have been negotiated in good faith and at arm's length among the Trustee, on behalf of the Estates, and the DIP Secured Parties, and all of the Estates' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Loan Documents, including all loans made to the Estates pursuant to the DIP Loan Documents and all other obligations under the DIP Loan Documents (collectively, the "DIP Obligations") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and 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, and any liens or claims granted to, or payments made to, the DIP Agent or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(e) Subject to paragraph 9 of this Interim Order, the Trustee, on behalf of the Estates, has agreed to provide to the Prepetition Secured Parties pursuant to sections 105, 361, 362, and 363(e) of the Bankruptcy Code, adequate protection of their respective interests in the Prepetition Collateral, including Cash Collateral as of the Petition Date, for any diminution in the value thereof.

(f) Subject to paragraph 9 of this Interim Order, in light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, upon entry of the Final Order, each Prepetition Secured Party shall be entitled to the rights and benefits of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to such parties with respect to the proceeds, products, offspring, or profits of any of the DIP Collateral or such Prepetition Collateral, as applicable.

(g) The Prepetition Secured Parties have consented to, conditioned on the entry of this Interim Order, the Trustee's incurrence of the DIP Facility on behalf of each Estate, and proposed use of Cash Collateral on the terms and conditions set forth in this Interim Order, including the terms of the adequate protection provided for in this Interim Order.

I. Section 506(c). In light of the DIP Secured Parties' agreement to extend credit to the Trustee, on behalf of the Estates, on the terms described herein, the DIP Secured Parties have negotiated for and the Trustee, the Debtors and the DIP Secured Parties will seek in the Final Order a waiver of the provisions of section 506(c) of the Bankruptcy Code in respect of the DIP Collateral, subject to the Carve Out.

J. Business Judgment and Good Faith Pursuant to Section 364(e). The terms and conditions of the DIP Facility, the DIP Loan Documents, and the fees paid and to be paid thereunder to the DIP Secured Parties, are fair, reasonable, and the best available to the Trustee under the circumstances, are ordinary and appropriate for secured postpetition financing to chapter 11 trustees, reflect the Trustee's exercise of prudent business judgment consistent with her fiduciary duties as representative of the Estates, and are supported by reasonably equivalent value

and fair consideration. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Estates, creditors, and other stakeholders. The terms and conditions of the DIP Facility and the use of Cash Collateral were negotiated in good faith and at arm's length among the Trustee, on behalf of the Estates, the DIP Secured Parties, and the Prepetition Secured Parties with the assistance and counsel of their respective advisors. Credit to be extended under the DIP Facility shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Secured Parties within the meaning of section 364(e) of the Bankruptcy Code and shall be entitled to the full protection of section 364(e). The Prepetition Secured Parties have agreed to the use of Cash Collateral in good faith, and the Prepetition Secured Parties shall be entitled to the full protection of section 363(m) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal. Based on the Motion, the First-Day Declaration, the Postpetition Financing Declaration, and on the record presented at the Interim Hearing, the terms of the DIP Facility are fair and reasonable, reflect the Trustee's prudent exercise of business judgment as representative of the Estates, and constitute reasonably equivalent value and fair consideration.

K. Notice. Notice of the relief requested in the Motion and the Interim Hearing has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, whether by facsimile, email, overnight courier, and/or hand delivery, to certain parties in interest, including: (a) the U.S. Trustee; (b) the Debtors' counsel of record and registered agents; (c) the holders of the 20 largest known unsecured claims against the Debtors (on a consolidated basis, as and if identified); (d) the office of the attorney general for each of the states in which the Debtors operate; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the

United States Department of Justice; (i) the Prepetition Agent and counsel thereto; (j) the Prepetition Secured Lenders and counsel thereto; (k) any other parties listed as a secured creditor on a UCC-1 financing statement filed with the Delaware Secretary of State against any Debtor that has not expired or been terminated; (l) Think and Learn Private Limited and counsel thereto (to the extent known); (m) BYJU's Pte. Ltd.; (n) Great Learning Education Pte. Ltd.; (o) Whitehat Education Technology LLC; and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002. No other or further notice of the Motion with respect to the relief requested at the Interim Hearing or entry of this Interim Order is or shall be required.

L. Immediate Entry. The Trustee, on behalf of the Estates, has requested immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2), 4001(c)(2), and 6003. Absent entry of this Interim Order, the Estates would be immediately and irreparably harmed. This Court concludes that entry of this Interim Order is in the best interests of the Estates and their stakeholders and sufficient cause exists for immediate entry of this Interim Order.

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

IT IS HEREBY ORDERED that:

1. Interim Financing Approved. The Motion is GRANTED on an interim basis as set forth herein.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of this Interim Order, to the extent not withdrawn or resolved, are OVERRULLED on the merits.

3. Trustee Authority. The Trustee is hereby authorized and empowered to take, or cause the Estates to take, any actions reasonably necessary, desirable or appropriate for the Estates

to enter into the DIP Facility and perform, or cause the Estates to perform, any duties or obligations thereunder; *provided* that any such actions shall be in accordance with this Interim Order, the Approved Budget, and the terms of the DIP Loan Documents, including the DIP Credit Agreement.

4. Authorization of the DIP Facility and the DIP Loan Documents.

(a) The Trustee, on behalf of the DIP Borrowers, is hereby immediately authorized and empowered to enter into, and execute and deliver, the DIP Loan Documents, including the DIP Credit Agreement, and such additional documents, instruments, certificates, and agreements as may be reasonably required or requested by the DIP Secured Parties or the Prepetition Secured Parties to (i) implement the terms or effectuate the purposes of this Interim Order and the DIP Loan Documents and to effectuate the funding of the Interim New Money DIP Loans on an interim basis and deemed repayment of a corresponding amount of Prepetition Secured Obligations, and (ii) subject to entry of the Final Order, implement the terms or effectuate the purposes of the Final Order, and the DIP Loan Documents and to effectuate the funding of the Final New Money DIP Loans, the Accordion New Money DIP Loans, and the Roll-Up Loans on a final basis and deemed repayment of a corresponding amount of Prepetition Secured Obligations To the extent not entered into as of the date hereof, the Trustee, on behalf of the Estates, and the DIP Secured Parties shall negotiate the DIP Loan Documents in good faith, and in all respects such DIP Loan Documents shall be, subject to the terms of this Interim Order and the Final Order, consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent (acting at the direction of the "Required Lenders" (as defined in the DIP Credit Agreement) under and pursuant to the DIP Credit Agreement (collectively, the "Required DIP Lenders")) and the Required DIP Lenders. Upon entry of this Interim Order, the DIP Credit Agreement and other DIP Loan Documents shall govern and control the DIP Facility. The DIP

Agent is hereby authorized to execute and enter into its respective obligations under the DIP Loan Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Loan Documents shall constitute valid and binding obligations of the Estates enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the DIP Loan Documents and this Interim Order, the terms and conditions of this Interim Order shall govern and control.

(b) Upon entry of this Interim Order, the Trustee, on behalf of each of the Estates, is hereby authorized to borrow the Interim New Money DIP Loans subject to, and in accordance with, this Interim Order.

(c) Pursuant to the terms of this Interim Order and the DIP Loan Documents, proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Loan Documents and this Interim Order, and in accordance with the Approved Budget, subject to the Permitted Disbursement Variance (as defined in the DIP Credit Agreement). Attached as **Exhibit 3** to this Interim Order and incorporated herein by reference is a budget prepared by the Trustee and approved by the Required DIP Lenders in accordance with the DIP Credit Agreement (the "Approved Budget").

(d) In furtherance of the foregoing and without further approval of this Court, the Trustee, on behalf of the Estates, is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted solely to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents (including the DIP Credit Agreement, any security and pledge agreement, and any mortgage to the extent contemplated thereby or by the DIP Credit Agreement), and to pay all fees (including all amounts owed to the DIP Lenders and the DIP Agent under the DIP Loan Documents) that may be reasonably required or necessary for

the Trustee's performance, on behalf of the Estates, of her obligations under the DIP Facility, including:

(i) the execution, delivery, and performance of the DIP Loan Documents, including the DIP Credit Agreement, the Security Agreement (as defined in the DIP Credit Agreement), and any other Security Documents (as defined in the DIP Credit Agreement);

(ii) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Loan Documents (in each case in accordance with the terms of the applicable DIP Loan Documents and in form and substance acceptable to the Debtors, the DIP Agent, and the Required DIP Lenders), it being understood that no further Court approval shall be required for amendments, waivers, consents, or other modifications to and under the DIP Loan Documents or the DIP Obligations that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder;

(iii) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees referred to in the DIP Loan Documents, including all fees and other amounts owed to the DIP Agent; and

(iv) the performance of all other acts required under or in connection with the DIP Loan Documents.

(e) Upon entry of this Interim Order and subject and subordinate to the Carve Out, such DIP Loan Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Estates enforceable against the Estates, and the Trustee in her capacity as representative of the Estates, in accordance with their respective terms and the terms of this Interim Order for all purposes during these Chapter 11 Cases and any other proceeding superseding or relating thereto (each, a "Successor Case"). No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Loan Documents, or this Interim Order, subject to paragraph 9 of this Interim Order, shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law

(including under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (i) to or on behalf of the DIP Agent on behalf of any DIP Secured Parties or (ii) subject to paragraph 9 of this Interim Order, to or on behalf of any Prepetition Secured Parties, in each case, pursuant to the DIP Loan Documents, the provisions of this Interim Order, or any subsequent order of this Court shall be received free and clear of any claim, charge, assessment, or other liability, including any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code.

5. Approved Budget. The proceeds of the DIP Facility and Cash Collateral shall be used solely in accordance with the Approved Budget subject to the Permitted Disbursement Variance. In the event the Trustee deems it necessary to use DIP Loans or cash that constitutes Cash Collateral outside the categories of expenses permitted under the Approved Budget, the Trustee may make such request to the DIP Agent. Any variation or modification to the Approved Budget shall be subject in all respects to the DIP Agent's consent in consultation with the DIP Lenders.

6. Inspection Rights. In addition to, and without limiting, whatever rights to access the Prepetition Secured Parties have under the Prepetition Credit Agreement, upon reasonable prior written notice (email being sufficient) and during normal business hours, the Trustee shall permit representatives, agents, and employees of the Prepetition Secured Parties and the DIP Secured Parties to (a) have reasonable access to and inspect and copy the Estates' books and records, including all records and files pertaining to the Prepetition Collateral and the Adequate Protection

Collateral, (b) have reasonable access to and inspect the Estate's properties, and (c) discuss the Estates' affairs, finances, and condition with the Trustee and her financial advisors.

7. DIP Superpriority Claims. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims of the DIP Secured Parties against the Estates (the "DIP Superpriority Claims") to the extent set forth in the Bankruptcy Code, with priority over any and all administrative expenses, adequate protection claims, diminution claims, and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise to the extent allowable under the Bankruptcy Code, which allowed claims shall for the 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 shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and their Estates and all proceeds thereof, including any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code, if any (the "Avoidance Actions").

8. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the Trustee of mortgages, security agreements, control agreements, pledge agreements, financing statements, or other similar documents, or the possession or control by the DIP Agent or any DIP Lender of, or over, any DIP Collateral (as defined below), the following security interests and liens

are hereby granted by the Trustee, on behalf of the Estates, to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause 8(a) and (b) below being collectively referred to as the "DIP Collateral"), subject and subordinate only to (x) valid, perfected and unavoidable liens, if any, existing as of the Petition Date that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date by operation of law or permitted by the Prepetition Credit Agreement, liens on assets that did not constitute Prepetition Collateral, and (y) the Carve Out (all such liens and security interests granted to the DIP Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Loan Documents, the "DIP Liens"):

(a) First Priority Lien on Any Unencumbered Property. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Estates, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to Prepetition Liens, including, but not limited to: the Prepetition Collateral; postpetition revenues; insurance; bank accounts and other security or deposit accounts(including, for the avoidance of doubt, any accounts opened prior to, on, or after the Petition Date); all equity interests; all intercompany claims, accounts, and receivables (and all rights associated therewith); all rights, interests, and obligations in and to any cause of action with respect to fraud, fraudulent conveyance, breach of fiduciary duties, or other causes of action (collectively, the "Litigation Claims"); and any and all proceeds, products, rents, and profits of all of the foregoing.

(b) Liens Priming the Prepetition Liens. Subject and subordinate only to the Carve Out, pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing,

enforceable, fully-perfected first priority senior priming security interest in and lien upon all assets and property of the Estates, subject to paragraph (c) below.

(c) Liens Junior to Certain Other Liens. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Estates (other than the property described in clauses (a) or (b) of this paragraph 8, as to which the liens and security interests in favor of the DIP Lenders will be as described in such clauses).

(d) Adequate Protection. Subject to paragraph 9 below, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, the Trustee, on behalf of the Estates, has agreed to provide the Prepetition Secured Parties adequate protection of their interests in the Prepetition Collateral (including Cash Collateral), solely to the extent of and in an amount equal to the aggregate diminution in value of such interests from and after the Petition Date (each such diminution, a "Diminution in Value"), resulting from the imposition of the priming DIP Liens on the Prepetition Collateral, the Carve Out, and the Trustee's use, on behalf of the Estates, of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay (each Prepetition Secured Party's claim for such Diminution in Value, an "Adequate Protection Claim"). For the avoidance of doubt, all adequate protection rights and obligations set forth in this Interim Order shall apply retroactively to the Petition Date.

(e) Adequate Protection Collateral. "Adequate Protection Collateral" shall mean, collectively, all of the Estate's property and assets (whether now owned or after-acquired, and whether real or personal, tangible, or intangible), including, without limitation: the Prepetition

Collateral; the Litigation Claims; postpetition revenues; insurance; bank accounts and other security or deposit accounts (including, for the avoidance of doubt, any accounts opened prior to, on, or after the Petition Date); all equity interests; all intercompany claims, accounts, and receivables (and all rights associated therewith); and any and all proceeds, products, rents, and profits of all of the foregoing.

(f) Adequate Protection Liens. As security for any Diminution in Value of the Prepetition Collateral, subject and subordinate only to (a) the Carve Out, (b)(i) any valid, perfected and unavoidable liens, if any, existing as of the Petition Date that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date by operation of law or permitted by the Prepetition Credit Agreement and (ii) any liens that are perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code, or (c) the DIP Liens, additional and replacement, valid, binding, enforceable, non-avoidable, and effective and automatically perfected postpetition security interests in and liens as of the date of this Interim Order (collectively, the "Adequate Protection Liens"), without the necessity of the execution by the Trustee (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, or other similar documents, on all DIP Collateral.

(g) Adequate Protection Superpriority Claims. As further adequate protection, and to the fullest extent provided by sections 503(b), 507(a), and 507(b) of the Bankruptcy Code, the Adequate Protection Claims shall be, subject and subordinate to the Carve Out, allowed superpriority administrative expense claims against the Estates in these Chapter 11 Cases ("Adequate Protection Superpriority Claims").

(h) Adequate Protection Payments. As further adequate protection, the Trustee, on behalf of the Estates, is authorized, but not directed, to pay in accordance with the terms of

paragraph 18 of this Interim Order, all reasonable and documented fees and expenses (the "Adequate Protection Fees") of the Prepetition Secured Parties, whether incurred before or after the Order for Relief Date, to the extent not duplicative of any fees and/or expenses paid pursuant to paragraph 4(d)(iii) hereof, including all reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Loan Documents and this Interim Order, including, for the avoidance of doubt, of: (i) Kirkland & Ellis LLP, as counsel to the DIP Agent, and Prepetition Agent, (ii) Pachulski Stang Ziehl & Jones LLP, as counsel to the DIP Agent and Prepetition Agent, and (iii) Reed Smith LLP, as counsel to the DIP Agent and Prepetition Agent; *provided* that, for the avoidance of doubt and notwithstanding anything to the contrary herein, no Lender Professional shall be entitled to reimbursement of fees and expenses otherwise satisfied pursuant to the Cooperation Agreement (collectively, the "Adequate Protection Payments"). None of the Adequate Protection Fees or Adequate Protection Payments shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(i) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Trustee or any other party to contest such request. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during these Chapter 11 Cases.

(j) Reporting Requirements. As additional adequate protection to the Prepetition Secured Parties, the Trustee, on behalf of the Estates, shall comply with all reporting requirements set forth in the DIP Credit Agreement and shall provide all such reports, documents, and other information to the Prepetition Agent and the DIP Agent.

9. Carve Out.

(a) Priority of Carve Out. Each of the Prepetition Liens, Adequate Protection Liens, Adequate Protection Claims, DIP Liens, and DIP Superpriority Claims shall each be subject to and subordinate to payment of the Carve Out. The Carve Out shall have such priority claims and liens over all assets of the Estates, including any DIP Collateral and Prepetition Collateral.

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the 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 $50,000 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 (the "Allowed Professional Fees") incurred by persons or firms retained by the Trustee pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "Trustee Professionals") and an official committee of unsecured creditors (if any) pursuant to section 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Trustee Professionals, the "Professional Persons") at any time before or on the first business day following delivery by the 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; and (iv) Allowed Professional Fees of Professional

Persons in an aggregate amount not to exceed $[●][7] incurred after the first business day following delivery by the DIP Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "Post-Carve Out Trigger Notice Cap"). For purposes of the foregoing, "Carve Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent to the Trustee, her lead restructuring counsel, the U.S. Trustee, and counsel to the Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

(c) Carve Out Reserves. On the day on which a Carve Out Trigger Notice is given by the DIP Agent to the Trustee with a copy to counsel to the Committee (if any) (the "Termination Declaration Date"), the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing with respect to the proceeds in the Escrow Account by the Trustee for Delayed Draw Term Loans under the Delayed Draw Term Loan Commitment (each, as defined in the DIP Credit Agreement) (on a pro rata basis based on the then outstanding Delayed Draw Term Loan Commitments), in an amount equal to the then unpaid amounts of the Allowed Professional Fees (any such amounts actually advanced shall constitute Delayed Draw Term Loans) and (ii) also constitute a demand to the Trustee to utilize all cash on hand as of such date and any available cash thereafter held by the Estates to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The Trustee shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such then unpaid Allowed Professional Fees (the "Pre-Carve Out Trigger Notice Reserve") prior to any and all other

[7] Subject to further negotiation. The Trustee has requested a $2.5 million Post Carve-Out Trigger Notice Cap and the DIP Lenders are proposing $1 million.

claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Trustee for Delayed Draw Term Loans under the Delayed Draw Term Loan Commitment (on a pro rata basis based on the then outstanding Delayed Draw Term Loan Commitments), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute Delayed Draw Term Loans) and (ii) constitute a demand to the Trustee to utilize all cash on hand as of such date and any available cash thereafter held by any Estate, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The Trustee shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "Post-Carve Out Trigger Notice Reserve" and, together with the Pre-Carve Out Trigger Notice Reserve, the "Carve Out Reserves") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such Delayed Draw Term Lenders (as defined in the DIP Credit Agreement), notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Trustee to satisfy any or all of the conditions precedent for Delayed Draw Term Loans under the Delayed Draw Term Facility, any termination of the Delayed Draw Term Loan Commitments following an Event of Default, or the occurrence of the Maturity Date, each Delayed Draw Term Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such Delayed Draw Term Lender's pro rata share with respect to such borrowing in accordance with the Delayed Draw Term Facility. All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above (the "Pre-Carve Out Amounts"), but not, for the

avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. All funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "Post-Carve Out Amounts"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Loan Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Secured Parties, as applicable. Notwithstanding anything to the contrary in the DIP Loan Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent and the Prepetition Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Estates until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Loan

Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Trustee from the Carve Out Reserves shall not constitute Term Loans (as defined in the DIP Credit Agreement) or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Estates. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any prepetition facilities under the Prepetition Credit Agreement, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, and the 507(b) claim, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Secured Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. 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.

(e) No Direct Obligation To Pay Allowed Professional Fees. None of the DIP Agent, 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 these Chapter 11 Cases or any Successor Case(s) under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, 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 Estates have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out on or After the Termination Declaration Date. 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 Loan Documents, the Bankruptcy Code, and applicable law.

10. Reservation of Rights. The failure or delay of the Prepetition Agent, the DIP Agent, the Prepetition Secured Parties, or the Prepetition Agent to exercise rights and remedies under this Interim Order or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

11. Challenge Period. Subject to the Challenge Period (as defined herein), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the Trustee's Stipulations, shall be binding upon the Trustee, the Debtors, the Estates, and any of their respective successors in all circumstances and for all purposes, and the Trustee and the Estates are deemed to have irrevocably waived and relinquished all Challenges (as defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including the Trustee's Stipulations, shall be binding upon all other parties in interest, including the Debtors, any Committee, and any other person acting on behalf of the Estates, unless and to the extent that a party in interest with proper standing granted by order of the Court, has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (a) seeking to avoid, object to, or otherwise challenge the findings or the Trustee's Stipulations, including regarding: (i) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of any of the Prepetition Secured Parties; (ii) the validity, enforceability, allowability,

priority, secured status, or amount of the Obligations; (iii) asserting or prosecuting any so-called "lender liability" claims, avoidance actions, or any other claim, counter claim, cause of action, objection, contest or defense, of any kind or nature whatsoever, whether arising under the Bankruptcy Code, applicable law, or otherwise, against any of the Prepetition Secured Parties or their respective representatives (any such claim, a "Challenge") and (b) in which the Court enters a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed Challenge. A Challenge must be filed on or prior to 75 days following entry of the Interim Order (the "Challenge Period" and the date of expiration of the Challenge Period, the "Challenge Period Termination Date"). If any of these Chapter 11 Cases converts to chapter 7, prior to the Challenge Period Termination Date, the Challenge Period Termination Date shall be extended for the chapter 7 trustee by an additional 14 days. If any of these Chapter 11 Cases converts to chapter 7 following the commencement of a timely Challenge by a Committee appointed in such Chapter 11 Case, then the chapter 7 trustee may continue such Challenge in lieu of, and as successor to, the Committee. Upon the occurrence of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is withdrawn or filed and overruled): (w) any and all such Challenges by any party (including the Committee, any successor chapter 11 trustee, and/or any examiner or other estate representative appointed in these Chapter 11 Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Case) shall be deemed to be forever barred; (x) the Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Chapter 11 Cases and any Successor Case; (y) the Prepetition Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected liens and security interests, not subject to

recharacterization, subordination, or avoidance; and (z) all of the stipulations and admissions contained in this Interim Order, including the Trustee's Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Trustee, the Debtors, the Estates, and all creditors, interest holders, and other parties in interest in these Chapter 11 Cases and any Successor Case(s). Furthermore, if any such Challenge is timely and properly filed under the Bankruptcy Rules then (a) any claim or action that is not brought shall forever be barred and (b) the stipulations and admissions contained in this Interim Order, including the Trustee's Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such Challenge prior to the Challenge Period Termination Date (and except as set forth herein, solely as to the plaintiff party that timely filed such Challenge and its successors and assigns and not, for the avoidance of doubt, any other party in interest). Nothing in this Interim Order vests or confers on any person (as defined in section 101 of the Bankruptcy Code), including any Committee appointed in these Chapter 11 Cases, standing or authority to pursue any cause of action belonging to the Estates, including any challenges (including a Challenge) with respect to the Prepetition Liens and the Obligations, and a separate order of the Court conferring such standing on any Committee or other party in interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party in interest; *provided*, *however*, that nothing herein prohibits the Prepetition Secured Parties or the Trustee from contesting any request to obtain standing on any other grounds permitted by applicable law.

12. Termination Declaration Date. On the Termination Declaration Date, (a) all DIP Obligations shall be immediately due and payable and all New Money DIP Loan Commitments will terminate; (b) all authority to use Cash Collateral shall cease; *provided*, *however*, that during the Remedies Notice Period (as defined below), the Trustee, on behalf of the Estates, may use Cash Collateral solely to fund the Carve Out and pay payroll and other expenses critical to the administration of the Estates strictly in accordance with the Approved Budget, subject to the Permitted Disbursement Variance; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Loan Documents in accordance with this Interim Order.

13. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Loan Documents, shall constitute an event of default (collectively, the "Events of Default"): (a) the failure of any of the Estates, or the Trustee on the Estates' behalf, to perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order, (b) the failure of the Estates, or the Trustee on the Estates' behalf, to comply with any of the Required Milestones (as defined below), or (c) the occurrence of an "Event of Default" under the DIP Credit Agreement, in each case unless waived by the Required DIP Lenders or DIP Agent, as applicable.

14. Milestones. Failure by the Trustee, on the Estates' behalf, to comply with those certain case milestones referred to in the definition of "In-Court Milestones" in the DIP Credit Agreement (collectively, the "Required Milestones"), which are attached hereto as **Exhibit 2**, shall constitute an "Event of Default" in accordance with the terms of the DIP Credit Agreement unless waived by the Required DIP Lenders in accordance with the terms of the DIP Loan Documents.

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default or the Termination Declaration Date, unless

such Event of Default has been waived by the DIP Agent or Required DIP Lenders, as applicable, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from, the Court, subject to the terms of this Interim Order and the Remedies Notice Period (defined below), (a) the DIP Agent may send a Carve Out Trigger Notice to the parties set forth in paragraph 9(b) declaring (i) all DIP Obligations owing under the DIP Loan Documents to be immediately accelerated and due and payable for all purposes, rights, and remedies, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Trustee, on behalf of the Estates, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Trustee, on behalf of the Estates, to the extent any such commitment remains under the DIP Facility, (iii) termination of the DIP Facility and the DIP Loan Documents as to any future liability or obligation of the DIP Agent and the DIP Lenders, but without affecting any of the DIP Liens, DIP Superpriority Claims or the DIP Obligations, (iv) the Carve Out shall be triggered, and (v) interest under the DIP Facility shall accrue at the default rate, as provided in the DIP Loan Documents and (b) subject to paragraph 9, the Prepetition Agent may declare a termination, reduction, or restriction on the ability of the Trustee, on behalf of any of the Estates, to use Cash Collateral. The automatic stay in these Chapter 11 Cases otherwise applicable to the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) business days after the Termination Declaration Date (the "Remedies Notice Period"): (a) the DIP Agent shall be entitled to exercise its rights and remedies in accordance with the DIP Loan Documents and this Interim Order to satisfy the DIP Obligations, DIP Superpriority Claims, and DIP Liens, subject to the Carve Out; and (b) subject to the foregoing clause (a), the applicable Prepetition Secured Parties shall be entitled to exercise

their respective rights and remedies to the extent available in accordance with the Prepetition Credit Agreement and this Interim Order with respect to the Trustee's use of Cash Collateral.

16. Limitation on Charging Expenses Against Collateral. No expenses of administration of these Chapter 11 Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from (a) the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, or the DIP Lenders or (b) the Prepetition Collateral (except to the extent of the Carve Out) or the Prepetition Secured Parties, in each case, pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. Subject to the terms and conditions of this Interim Order and in accordance with the Approved Budget, subject to the Permitted Disbursement Variance, the Trustee, on behalf of the Estates, is hereby authorized, effective as of the date of the Trustee's appointment, to use the Cash Collateral from the Order for Relief Date through and including the date of the Final Hearing. Except on the terms and conditions of this Interim Order, the Trustee, as representative of the Estates, shall be enjoined and prohibited from at any time using the Cash Collateral absent further order of the Court.

18. Expenses and Indemnification.

(a) The Trustee, on behalf of the Estates, is hereby authorized to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Loan Documents as such amounts become due and without need to

obtain further Court approval, including backstop, closing, arrangement, or commitment payments (including all payments and other amounts owed to the DIP Lenders), administrative agent's fees and collateral agent's fees (including all fees and other amounts owed to the DIP Agent and the Prepetition Agent), the reasonable and documented fees and disbursements of counsel and other professionals to the extent set forth in paragraph 4(d)(ii) and 8(h) of this Interim Order, arising after the Order for Relief Date, all to the extent provided in this Interim Order or the DIP Loan Documents; *provided* that, for the avoidance of doubt and notwithstanding anything to the contrary herein, no Lender Professional shall be entitled to reimbursement of fees and expenses otherwise satisfied pursuant to the Cooperation Agreement. Notwithstanding the foregoing, the Trustee, on behalf of the Estates, is authorized to pay on the Effective Date (as defined in the DIP Credit Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel to the DIP Lenders, the DIP Agent, the Prepetition Agent, and the Prepetition Secured Lenders, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the Prepetition Agent, or the Prepetition Secured Lenders to be subject to the procedures set forth in paragraph 18(b).

(b) The Trustee, on behalf of the Estates, shall be obligated to pay all fees and expenses described above, which obligations owed to the DIP Secured Parties shall constitute DIP Obligations. The Trustee, on behalf of the Estates, shall pay the reasonable and documented professional fees, expenses, and disbursements of professionals to the extent provided for in paragraphs 4(d)(ii) and 8(h) of this Interim Order (collectively, the "Lender Professionals" and each, a "Lender Professional") no later than ten business days (the "Review Period") after the receipt by counsel for the Trustee, the Committee (if any), or the U.S. Trustee of each of the invoices therefor (the "Invoiced Fees") and without the necessity of filing formal fee applications

or complying with the U.S. Trustee Guidelines, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of these Chapter 11 Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege or protection, or any other evidentiary privilege or protection recognized under applicable law.

(c) The Trustee, on behalf of the Estates, the Committee (if any), or the U.S. Trustee may dispute the payment of any portion of the Invoiced Fees (the "Disputed Invoiced Fees") if, within the Review Period, the Trustee, the Committee (if any), or the U.S. Trustee notifies the submitting party in writing setting forth the specific objections to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten days' prior written notice to the submitting party of any hearing on such motion or other pleading). Any hearing to consider such an objection to the payment of any fees, costs, or expenses set forth in a professional fee invoice hereunder shall be limited to the reasonableness of the fees, costs, and expenses that are the subject of the objection. For the avoidance of doubt, the Trustee shall promptly pay in full all Invoiced Fees other than the Disputed Invoiced Fees.

(d) In addition, the Trustee, on behalf of each of the Estates, hereby indemnifies and holds harmless the Prepetition Secured Parties and the DIP Secured Parties (and each of their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing) in respect of any claim or liability (exclusive of Disputed Invoiced Fees that are the subject of a successful challenge) incurred in or related to negotiating, implementing, documenting, or obtaining requisite approvals of the DIP Facility or the use of Cash Collateral, including in respect of the granting of the Adequate Protection Liens and all documents related to and all transactions contemplated by the foregoing; provided however that such indemnification shall not cover claims or liabilities based upon fraud or intentional misconduct.

19. 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.

20. Section 507(b) Reservation. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Trustee, on behalf of the Estates, or any other party to contest such request. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Cash Collateral during these Chapter 11 Cases.

21. Perfection of the DIP Liens and the Adequate Protection Liens. With respect to the DIP Liens and the Adequate Protection Liens, the Prepetition Agent is hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, depository

account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Subject to paragraph 9 of this Interim Order, whether the Prepetition Agent or the DIP Agent shall (at the direction of the applicable required lenders) choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute, or subordination. If the Prepetition Agent or the DIP Agent (in each case at the direction of the applicable required lenders) determines to file or execute any financing statements, agreements, notice of liens, or similar instruments against any of the Debtors, the Trustee, on behalf of the applicable Estates(s), shall cooperate and assist in any such execution and/or filings as reasonably requested by the Prepetition Agent or the DIP Agent (in each case at the direction of the applicable required lenders), and the automatic stay shall be modified solely to allow such filings as provided for in this Interim Order.

22. A certified copy of this Interim Order may (at the direction of the applicable required lenders) be filed with or recorded in filing or recording offices by the Prepetition Agent or the DIP Agent in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording; *provided*, *however*, that notwithstanding the date of any such filing, the date of such perfection shall be the date of entry of this Interim Order.

23. Preservation of Rights Granted Under this Interim Order. In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal, any liens or claims granted to the DIP Secured Parties or the respective Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall

be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the respective Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

24. Notwithstanding any order dismissing these Chapter 11 Cases or converting these Chapter 11 Cases to a case under chapter 7 entered at any time, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Claims, the Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations are indefeasibly paid in full in cash (unless otherwise satisfied in a manner agreed to by the Required DIP Lenders and the DIP Agent (acting at the direction of the Required DIP Lenders)). To the fullest extent permitted by law, the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in the foregoing sentence.

25. Subject to paragraph 9 of this Interim Order and to the Carve Out, none of the DIP Liens or Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest granted in any of these Chapter 11 Cases or arising after the Petition Date, and none of the DIP Liens or the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Estates under section 551 of the Bankruptcy Code.

26. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral (including Cash Collateral), or the Carve Out or

proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), analyze, initiate, assert, prosecute, join, commence, threaten, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Loan Documents, the Prepetition Credit Agreement, the Loan Documents, or this Interim Order, including for the payment of any services rendered by the professionals retained by the Trustee, on behalf of the Estates, or the Committee in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral, the Prepetition Collateral, or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Secured Parties related to the DIP Obligations or the Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Obligations, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' liens or security interests in the DIP Collateral or the Prepetition Collateral, as applicable; or (iii) for

monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Obligations, respectively, or by or on behalf of the DIP Agent and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent or the DIP Lenders related to the DIP Obligations or the DIP Liens or (y) any of the Prepetition Liens or any other rights or interests of any of the Prepetition Secured Parties related to the Obligations or the Prepetition Liens.

27. Reservation of Rights Under the Intercreditor Agreement. Except as expressly provided in this Interim Order, nothing in this Interim Order shall amend, modify, or waive the terms or provisions of the Intercreditor Agreement, and all parties' rights and remedies under the Intercreditor Agreement are preserved.

28. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Loan Documents unless all of the conditions precedent to the

making of such extensions of credit under the applicable DIP Loan Documents have been satisfied in full or waived in accordance with such DIP Loan Documents.

29. Use of DIP Facility Proceeds. From and after the date of entry of this Interim Order, the Trustee, on behalf of the Estates, shall be permitted to use advances of credit under the DIP Facility only for the purposes specifically set forth in this Interim Order and the DIP Loan Documents, and only in compliance with the Approved Budget, subject to the Permitted Disbursement Variance, if required by the DIP Loan Documents, and the terms and conditions in this Interim Order and the DIP Loan Documents.

30. Repayment of DIP Superpriority Claims. Notwithstanding anything to the contrary herein or in the other DIP Loan Documents, the Trustee, on behalf of the Estates, shall indefeasibly pay to each holder of a DIP Superpriority Claim cash equal to the full amount of such DIP Superpriority Claim on the effective date of a chapter 11 plan, unless such holder of a DIP Superpriority Claim consents to a different treatment with respect to such DIP Superpriority Claim. The requirements set forth in this paragraph 30 may not be amended without the prior written consent of each holder of a DIP Superpriority Claim adversely affected thereby.

31. Proceeds of Subsequent Financing. If the Trustee, the Debtors, any subsequent trustee, any examiner, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Case, shall obtain credit or incur debt pursuant to sections 364(b), 364(c), or 364(d) of the Bankruptcy Code in violation of the DIP Loan Documents at any time prior to the indefeasible repayment in full in cash of all DIP Obligations (other than unasserted contingent obligations that expressly survive termination of the DIP Loan Documents) and the termination of the DIP Lenders' obligations to extend credit under the DIP Facility, then, after satisfaction of the Carve Out, and unless otherwise agreed by the DIP Secured Parties, all cash proceeds derived from

such credit or debt shall immediately be turned over to the DIP Secured Parties to be distributed in accordance with this Interim Order and the DIP Loan Documents.

32. Payments Held in Trust. Except as expressly permitted in this Interim Order or the DIP Loan Documents, including in respect of the Carve Out, in the event that any person or entity receives any payment on account of a security interest in the DIP Collateral or receives any DIP Collateral or any proceeds of DIP Collateral prior to indefeasible payment in full in cash of all DIP Obligations under the DIP Loan Documents, and termination of the DIP Facility in accordance with the DIP Credit Agreement, 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 Secured Parties, for application in accordance with the DIP Credit Agreement and this Interim Order.

33. Credit Bidding. Subject to Section 363(k) of the Bankruptcy Code, the DIP Agent, at the direction of the Required Lenders, shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the DIP Obligations and the Adequate Protection Superpriority Claims, or any of them, and the Prepetition Agent, at the direction of the requisite Prepetition Secured Lenders, shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the Prepetition Secured Obligations, or any of them, in each case in connection with any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including (without limitation) any sale occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, without the need for further court order authorizing the same. Each of the DIP Secured Parties and the Prepetition Secured Parties (or any

such party's designee) shall be considered a "Qualified Bidder" with respect to its respective rights to acquire all or any of the assets by credit bid. The Trustee shall not object to the DIP Agent, on behalf of the DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Lenders, from credit bidding up to the full amount of the applicable outstanding DIP Obligations (including any Adequate Protection Superpriority Claims) or Prepetition Secured Obligations, in each case including any accrued interest, fees, and expenses, in any sale of any DIP Collateral or Prepetition Collateral, as applicable, whether such sale is effectuated through sections 363 or 1129 of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise.

34. Binding Effect; Successors and Assigns. Subject to the Challenge Period, the DIP Loan 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 Trustee, the Debtors, the DIP Secured Parties, the Prepetition Secured Parties, any official committee appointed in the Chapter 11 Cases, and each of their respective successors and permitted assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the Estates, 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 Estates or their respective property , any Successor Case, or upon dismissal of any of these Chapter 11 Cases or any Successor Case) to the extent permitted by applicable law and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; *provided* that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person subsequently appointed for the Estates.

35. Limitation of Liability. In determining to make any loan under the DIP Loan Documents or permitting the use of Cash Collateral, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or the Estates or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors or the Estates (as such terms, or any 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). Further, nothing in this Interim Order or in the DIP Loan Documents shall in any way be construed or be interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the pre- or postpetition activities of any of the Debtors or the Estates.

36. Proofs of Claim. Neither the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, nor the DIP Secured Parties will be required to file proofs of claim in these Chapter 11 Cases, and the Trustee's Stipulations shall be deemed to constitute a timely filed proof of claim against the Debtors and the Estates.

37. No Marshaling. Subject to entry of the Final Order, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

38. Equities of the Case. Subject to entry of the Final Order, the Prepetition Secured Parties shall be entitled to all the rights and benefits of section 552(b) of the Bankruptcy Code and have negotiated for, and the Trustee, as representative of the Estates, believes that Prepetition Secured Parties are entitled to, a waiver of the "equities of the case" exception under section 552(b) of the Bankruptcy Code, which shall not apply to the Prepetition Secured Parties with respect to

proceeds, product, offspring, or profits of any of the DIP Collateral (including the Prepetition Collateral).

39. Authorization & Allowance of Intercompany Claims. Effective as of the Order for Relief Date, the Trustee is authorized, but not directed, to consummate any intercompany transactions among the Estates that she, after consultation with the DIP Secured Parties and Prepetition Secured Parties, determines is necessary to preserve the value of the Estates. All Intercompany Claims arising out of such transactions, including without limitation the Intercompany Claims described in paragraph E hereof, shall be allowed against the applicable Estate(s) as administrative expense claims entitled to priority under section 503(b)(1)(A) of the Bankruptcy Code.

40. Necessary Actions. The Trustee, on behalf of the Estates, is authorized to take any and all actions as are reasonable or appropriate to implement the terms of this Interim Order.

41. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

42. The requirements of Bankruptcy Rule 6004(a) are waived or are inapplicable due to Bankruptcy Rules 4001(b)(2) and (c)(2).

43. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon entry of this Interim Order.

44. Headings. All paragraph headings used in this Interim Order are for ease of reference only and are not to affect the construction hereof or to be taken into consideration in the interpretation hereof.

45. Final DIP Hearing. The Final Hearing shall be November 20, 2024, at 11:00 a.m., prevailing Eastern Time. The Trustee shall provide notice of the Final Hearing to the Notice Parties (as defined below). Any party-in-interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon the following: (a) the Trustee, Claudia Z. Springer, Novo Advisors, LLC, 401 N. Franklin St., Suite 4 East, Chicago, IL 60654; (b) counsel for the Trustee, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654, Attn: Catherine Steege (CSteege@jenner.com); Melissa Root (MRoot@jenner.com); (c) co-counsel for the Trustee, Pashman Stein Walder Hayden, P.C., 824 N. Market Street, Suite 800, Wilmington, Delaware, 19801-1242, Attn: Henry J. Jaffe (hjaffe@pashmanstein.com) and Joseph C. Barsalona II (jbarsalona@pashmanstein.com); (d) counsel for GLAS, (i) Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654, Attn: Patrick J. Nash Jr. (patrick.nash@kirkland.com) (ii) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Brian Schartz, P.C. (bschartz@kirkland.com) and Jordan Elkin (jordan.elkin@kirkland.com); (e) co-counsel for GLAS, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19801, Attn: Laura Davis Jones (ljones@pszjlaw.com); (f) co-counsel for GLAS, Reed Smith LLP, 599 Lexington Avenue, 22nd Floor, New York, New York 10022, Attn: David A. Pisciotta (dpisciotta@reedsmith.com); (g) counsel for the Petitioning Lender Creditors, Cahill, Gordon & Reindel LLP, 32 Old Slip, New York, NY 10005, Attn: Joel Moss (jmoss@cahill.com); (h) cocounsel for the Petitioning Lender Creditors, Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Attn: G. David Dean (ddean@coleschotz.com); (i) the U.S. Trustee, Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey (linda.casey@usdoj.gov); and (j) counsel to any official committee of unsecured creditors

appointed in these Chapter 11 Cases (each a "Notice Party," and, collectively the "Notice Parties"), and shall be filed with the Clerk of the United States Bankruptcy Court, District of Delaware, no later than November 13, 2024 at 4:00 p.m. (prevailing Eastern Time). If no objections are timely filed, the Court may enter the Interim Order without further notice or hearing.

46. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Exhibit 1

DIP Credit Agreement

(To be filed separately before the Interim Hearing)

Exhibit 2

Required Milestones

The DIP Facility is subject to the following Milestones, which may be extended or waived as approved in writing by the DIP Agent at the direction of the Required Lenders (email from counsel to the Administrative Agent being sufficient):

a) On or before November 1, 2024, the Interim DIP Order shall have been entered by the Bankruptcy Court.

b) On or before November 7, 2024, the Trustee shall have engaged a business broker or investment banker that is satisfactory to the Administrative Agent (at the direction of the Required Lenders) in its sole discretion to administer the marketing and sale process for some, all, or substantially all of the Epic Assets, the Neuron Fuel Assets, and the Tangible Play Assets through one or more transactions (the "Sale Process").

c) On or before November 15, 2024, the Trustee shall have decided whether to shutdown business operations, and all operations related thereto, of Tangible Play, Inc., and, if so, established a workplan in connection therewith, which such determination and workplan shall be reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

d) On or before November 15, 2024, the Trustee shall have filed a motion in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders), seeking entry of an order approving the bidding procedures for the Sale Process (the "Bidding Procedures Motion").

e) On or before November 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Epic (the "Epic Assets").

f) On or before November 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Epic Assets.

g) On or before December 2, 2024, the Final DIP Order shall have been entered by the Bankruptcy Court.

h) On or before December 6, 2024, the order approving the Bidding Procedures Motion (the "Bidding Procedures Order"), in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) shall have been entered by the Bankruptcy Court.

i) On or before December 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity

Interests of Neuron Fuel (the "Neuron Fuel Assets") and all or substantially all of the assets or Equity Interests of Tangible Play (the "Tangible Play Assets").

j) On or before December 16, 2024, the deadline for potential bidders to submit binding bids in connection with the sale of the Epic Assets shall have occurred.

k) On or before December 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Neuron Fuel Assets and the Tangible Play Assets.

l) On or before December 18, 2024, the Trustee shall have conducted an auction for the sale of all or substantially all of the Epic Assets (if necessary) and shall have selected one or more successful bidder(s).

m) On or before December 23, 2024, the Bankruptcy Court shall have entered one or more order(s) approving the sale(s) (each, a "Sale Order") provided for in the purchase agreement(s) between the Trustee (on behalf of Epic! Creations, Inc.) and the winning bidder(s) with respect to the applicable Epic Assets in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

n) On or before December 30, 2024, the Trustee shall have consummated the transaction(s) approved by the Sale Order with respect to the Epic Assets.

o) On or before January 16, 2025, the deadline for potential bidders to submit binding bids in connection with the sale of the Neuron Fuel Assets and the Tangible Play Assets shall have occurred.

p) On or before January 20, 2025, the Trustee shall have conducted an auction for the sale of all or substantially all of the Neuron Fuel Assets and the Tangible Play assets (if necessary) and shall have selected one or more respective successful bidder(s).

q) On or before January 24, 2025, the Bankruptcy Court shall have entered one or more Sale Order(s) approving the sale(s) provided for in the purchase agreement(s) between the Trustee (on behalf of Neuron Fuel and Tangible Play, as applicable) and the winning bidder(s) with respect to the applicable Neuron Fuel Assets and the applicable Tangible Play Assets in form and substance satisfactory to the Administrative Agent (at the direction of the Required Lenders).

r) On or before January 31, 2025, the Trustee shall have consummated the transaction(s) approved by the Sale Order(s) with respect to the Neuron Fuel Assets and the Tangible Play Assets.

s) On or before March 31, 2025, the effective date of an Acceptable Plan shall have occurred.

Exhibit 3

Initial Approved DIP Budget

(To be filed separately before the Interim Hearing)

Exhibit B

DIP Term Sheet

DIP Term Sheet

The table below sets forth certain key terms of the DIP Facility from existing co-op lenders in connection with the Chapter 11 proceedings for Epic! Creations, Inc., Tangible Play, Inc. and Neuron Fuel Inc. (collectively, the "Debtors")

Term	Description
Borrowers / Guarantors	• Claudia Z. Springer, as Chapter 11 Trustee of Epic! Creations, Inc., on behalf of the Estate of Debtor Epic! Creations, Inc., Claudia Z. Springer, as Chapter 11 Trustee of Neuron Fuel, Inc., on behalf of the Estate of Debtor Neuron Fuel, Inc., Claudia Z. Springer, as Chapter 11 Trustee of Tangible Play, Inc., on behalf of the Estate of Debtor Tangible Play (the Trustee, Estates, and Debtors collectively, the DIP Borrowers)
Security / Priority	• Secured by perfected, first priority, senior priming liens on and security interest in all of the assets of the Borrowers • Super Priority Administrative Expense Claim
DIP Lenders	• Provided by Petitioning Lender Creditors and made available to all co-op lenders under that certain Credit and Guaranty Agreement, dated as of November 24, 2021
Backstop Parties	• Petitioning Lender Creditors
Administrative Agent	• GLAS Trust Company LLC
Facility Size	• $9.5 million of new money deposited into an escrow account (up to $5 million available on an interim basis)
Optional Roll-Up	• DIP Lenders may elect (after entry of final DIP order approving roll-up) to roll-up 7.0x of prepetition term loans for every dollar of new money funded at any time prior to 7 days before the Maturity Date
Uncommitted Accordion	• Uncommitted accordion for an aggregate amount of up to $9.5 million funded on a first-out basis based on same allocation percentages as the Facility Size for DIP Lenders with consent of 51% of DIP Lenders – The amounts funded shall be on no less favorable terms than existing DIP (including option of roll-up, which for the avoidance of doubt will not be on a first-out basis)
Interest Rate	• Total Rate: Term SOFR + 10.00% – Cash Rate: Term SOFR + 1.00% – PIK Rate: 9.00%
Maturity Date	• The earlier of (i) 6 months from entry of the DIP Order, (ii) consummation of a plan of reorganization or liquidation, (iii) acceleration of the DIP loans under the DIP documents and (iv) consummation of 363 sale for all or substantially all of the Debtors' assets
Transaction Fees	• Backstop Fee: 6% payable in kind on Effective Date of DIP Credit Agreement • Exit Fee: 4% on account of new money loans only (including any funded accordion amounts and excluding any roll-up loans)
Amortization	• None
Prepayment Premium	• None
Cash Sweep	• First $2 million of receipts received on account of Epic! Creations, Inc. to be used to prepay the DIP amounts outstanding

Note: The summary of the terms set forth herein is qualified in all respects by the DIP orders and DIP credit agreement. To the extent of any conflict between this term sheet and the DIP orders or the DIP credit agreement, the DIP orders and DIP credit agreement shall control.

DIP Term Sheet (cont.)

Term	Description
Use of Proceeds	• DIP Facility to be used for working capital, general corporate purposes and any Chapter 11 costs strictly in accordance with an Approved DIP Budget
Milestones	• Milestones subject to extension depending on status of business stabilization / bidder progress in sale process: – Entry of acceptable interim DIP order by November 1, 2024 – Selection of business broker or investment banker that is satisfactory to the DIP Lenders in their sole discretion by November 7, 2024 – Determination on shutdown plan (and deliverance of workplan if applicable) of Tangible Play, Inc. by November 15, 2024 – Filing of acceptable bidding procedures motion by November 15, 2024 – Delivery of virtual data room, CIM and other marketing materials for Epic Creations, Inc. ("Epic") by November 15, 2024 – Launch sale process by November 16, 2024 for Epic and December 16, 2024 for Tangible Play, Inc. ("Tangible Play") and Neuron Fuel, Inc. ("Neuron Fuel") – Entry of acceptable final DIP order by December 2, 2024 – Entry of acceptable bidding procedures order by December 6, 2024 – Delivery of virtual data room, CIM and other marketing materials for Tangible Play and Neuron Fuel by December 15, 2024 – Deadline for bidders to submit binding bids by December 16, 2024 for Epic and January 16, 2025 for Tangible Play and Neuron Fuel – Auction (if required) by December 18, 2024 for Epic and January 20, 2025 for Tangible Play and Neuron Fuel – Filing of sale order by December 23, 2024 for Epic and January 24, 2025 for Tangible Play and Neuron Fuel – Consummation of proposed sale transaction by December 30, 2024 for Epic and January 31, 2025 for Tangible Play and Neuron Fuel – Consummation of plan of liquidation by March 31, 2025
Affirmative Covenants	• Formulation and delivery of, and use of all cash in compliance with, an Approved DIP Budget • Updated 13-week cash flow forecasts of receipts and disbursements delivered every 2-weeks • Report of any variances from the latest 13-week forecast delivered every 2-weeks • Reasonable access to management and the Debtors' advisors • Company shall maintain all unwithdrawn DIP proceeds received in an approved escrow account – Company must submit withdrawal notices at least 3 business days prior to withdrawal with such notice including a funds flow and delivery of an updated budget showing cash availability dropping below $500,000 within a two-week period (the withdrawal amount can be no more than the shortfall from $500,000) – The withdrawal notice may be rejected with consent from 51% of DIP Lenders if compliance is not met • Other affirmative covenants customary for facility of this size and type
Negative Covenants	• Permitted Disbursement Variance as set forth in the DIP Credit Agreement • Negative covenants customary for facility of this size and type

Note: The summary of the terms set forth herein is qualified in all respects by the DIP orders and DIP credit agreement. To the extent of any conflict between this term sheet and the DIP orders or the DIP credit agreement, the DIP orders and DIP credit agreement shall control.

DIP Term Sheet (cont.)

Term	Description
Conditions Precedent	• Prior to funding, Debtors must dismiss with prejudice the New York litigation pending against GLAS Trust Company LLC and Redwood Capital Management, LLC
Events of Default	• Usual and customary
Other	• Drag feature with consent of 51% of DIP Lenders • Intercreditor agreements to be revised to account for structure in a manner acceptable to DIP Lenders

Note: The summary of the terms set forth herein is qualified in all respects by the DIP orders and DIP credit agreement. To the extent of any conflict between this term sheet and the DIP orders or the DIP credit agreement, the DIP orders and DIP credit agreement shall control.

Exhibit B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 11
EPIC! CREATIONS, INC., *et al.*,[1]	)	
	)	
Debtor.	)	Case No. 24-11161 (JTD)
	)	
	)	**Re: D.I. 221**

INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II) AUTHORIZING THE CHAPTER 11 TRUSTEE ON BEHALF OF THE DEBTORS' ESTATES TO OBTAIN POSTPETITION FINANCING, (III) GRANTING SENIOR POSTPETITION SECURITY INTERESTS, AND ACCORDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS PURSUANT TO SECTIONS 364(C) AND 364(D) OF THE BANKRUPTCY CODE, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] filed by Claudia Z. Springer, Esq., in her capacity as Chapter 11 Trustee (the "Trustee") on behalf of the estates (the "Estates") of the above-captioned debtors (the "Debtors") for entry of an interim order (this "Interim Order") 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, 6004, 9013, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 2002-1, 4001-1, 4001-2, and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), among other things:

(a) authorizing the Trustee, on behalf of the Estates of Debtors Epic! Creations, Inc., Neuron Fuel, Inc., and Tangible Play, Inc., in their capacity as borrowers (the Trustee, Estates, and Debtors collectively, the "DIP Borrowers," and in their capacity as guarantors, the "DIP Guarantors"), to obtain postpetition financing

[1] The Debtors in this Chapter 11 Case, along with the last four digits of the Debtors' federal tax identification number, are: Epic! Creations, Inc. (9113); Neuron Fuel, Inc. (8758); and Tangible Play, Inc. (9331).

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion or the DIP Credit Agreement, as applicable.

commitments in connection with a senior-secured multiple-draw term loan facility in the maximum principal amount of up to $19 million, along with up to $133 million in Roll-Up Loans (as defined below) (the "DIP Facility" and, the commitments thereunder, the "DIP Commitments") subject to the terms and conditions set forth in that certain senior secured superpriority debtor-in-possession credit agreement, dated as of October [●], 2024, attached hereto as **Exhibit 1** (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "DIP Credit Agreement"), by and among the DIP Borrowers, as borrowers, the lenders from time to time party thereto (the "DIP Lenders"), and GLAS Trust Company LLC, as administrative and collateral agent (in such capacity, together with its successors and permitted assigns, the "DIP Agent" and, together with the DIP Lenders and all holders of all other DIP Obligations (as defined below), the "DIP Secured Parties"), consisting of:

(i) Interim New Money DIP Loans. Upon entry of this Interim Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $5 million (the "Interim New Money DIP Loan Commitments" and the term loans made thereunder, the "Interim New Money DIP Loans").

(ii) Final New Money DIP Loans. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount that will not, when combined with the Interim New Money DIP Loans, exceed $9.5 million (the "Final New Money DIP Loan Commitments" and the term loans made thereunder, the "Final New Money DIP Loans").

(iii) Uncommitted Accordion. Upon entry of the Final Order, senior secured multiple-draw term loans in the aggregate principal amount not to exceed $9.5 million (the "Accordion New Money DIP Loan Commitments" and the term loans made thereunder, the "Accordion New Money DIP Loans" and together with the Interim New Money DIP Loans and the Final New Money DIP Loans, the "New Money DIP Loans").

(iv) Roll-Up Loans. Upon entry of the Final Order, senior secured term loans in the aggregate principal amount not to exceed $133 million consisting of, subject to the DIP Credit Agreement and at the sole option of each DIP Lender, for every dollar of New Money DIP Loans held by such DIP Lender or any of its affiliates at the time of election, up to seven dollars of loans under the Prepetition Credit Agreement held by such DIP Lender or any of its affiliates at the time of election (whether as a lender of record, by participation, or any other means), which such DIP Lender may irrevocably elect to convert into an equivalent amount of loans under the DIP Facility (the "Roll-Up Loans," and together with the New Money DIP Loans, the "DIP Loans"); *provided* that, for the avoidance of doubt, no roll-up election may be made on account of any Accordion New Money DIP Loans until such loans are actually committed and funded in accordance with the

terms of the DIP Credit Agreement.[3]

(v) To the extent that a DIP Lender elects to deliver a Roll-Up Notice, the Prepetition Secured Obligations of such DIP Lender rolled up in connection therewith shall be deemed to apply in accordance with and in the order set forth in Section 8.2 of the Prepetition Credit Agreement (Application of Funds). No reduction of the Prepetition Secured Obligations of a lower priority set forth in Section 8.2 of the Prepetition Credit Agreement owing to such DIP Lender shall be deemed to have occurred until all Prepetition Secured Obligations of a higher priority owing to such DIP Lender have been rolled up in full.[4] For the avoidance of doubt, the Loan Documents and the Prepetition Secured Obligations owed thereunder continue in full force and effect.

(b) authorizing the Trustee to enter into that certain First Amended and Restated Subordination and Intercreditor Agreement, dated as of October [●], 2024, by and among each of the DIP Borrowers, BYJU's Alpha, Inc. ("Alpha"), and GLAS Trust Company LLC (in its capacity as, among other things, the First Priority Agent, the Second Priority Agent, and the Collateral Agent (the "Intercreditor Agreement"), as an acknowledging party;

(c) authorizing the Trustee, on behalf of the Estates, to execute, deliver, and perform under the DIP Credit Agreement, the Intercreditor Agreement, and any other related documents, including pledge agreements, mortgages, guaranties, promissory notes, certificates, instruments, and such other documents that may be reasonably necessary, desirable or required to implement the DIP Facility and perform thereunder and/or that may be reasonably requested by the DIP Agent (collectively, as such may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "DIP Loan

[3] As more fully set forth in the DIP Credit Agreement, at any time after the Effective Date but no later than 7 calendar days prior to the Maturity Date, each New Money Term Loan Lender shall have the right in its sole option to submit a Roll-Up Notice with respect to its (or any of its Affiliates' or Approved Funds') Prepetition Term Loans (which such Prepetition Term Loans may be held as a lender of record, by participation, or by any other means) in an amount up to the Applicable Roll-Up Amount. For the avoidance of doubt, a New Money Term Loan Lender may submit a Roll-Up Notice on more than one occasion as long as the aggregate principal amount of Prepetition Term Loans subject to all such Roll-Up Notices does not exceed the Applicable Roll-Up Amount of such New Money Term Loan Lender as of the date of such Roll-Up Notice.

The roll-up options set forth in the DIP Credit Agreement shall be attributable to and travel with (in the case of any assignment, participation, or transfer after the Effective Date) the funded New Money DIP Loans. Any exercise of the roll-up option affiliated with any dollar of New Money DIP Loans shall be noted by the Administrative Agent on the Register within three Business Days of receiving the relevant Roll-Up Notice.

[4] For sake of clarity, a DIP Lender shall be deemed to have rolled up Prepetition Secured Obligations owing first on account of fees, indemnities, and expenses (including, for the avoidance of doubt, fees and expenses owing pursuant to that certain cooperation agreement (as amended, supplemented, amended and restated or otherwise modified from time to time), dated as of August 1, 2023, by and among certain Prepetition Secured Lenders (the "Cooperation Agreement")), next Prepetition Secured Obligations owing on account of unpaid interest, and finally Prepetition Secured Obligations owing on account of unpaid principal.

Documents"), each of which shall be in form and substance satisfactory to the DIP Agent and the Required DIP Lenders; and to perform such other acts as may be reasonably necessary, desirable or appropriate in connection with the DIP Loan Documents;

(d) granting to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, (a) DIP Liens (as defined below) on all of the DIP Collateral (as defined below) pursuant to sections 364(c)(2), (c)(3), and (d) of the Bankruptcy Code, which DIP Liens shall be, subject to the Carve Out (as defined below), senior to all liens, security interests, and pledges on the DIP Collateral and (b) DIP Superpriority Claims pursuant to section 364(c)(1) of the Bankruptcy Code, subject and subordinate to the Carve Out;

(e) authorizing and directing the Trustee, on behalf of the Estates, to pay all principal, interest, fees, costs, expenses, and other amounts payable under the DIP Loan Documents as such become due and payable, as provided and in accordance therewith;

(f) authorizing the Trustee's use of the Cash Collateral, on behalf of the Estates, effective as of the Order for Relief Date and through and including the date of termination of the DIP Credit Agreement;

(g) authorizing the Trustee, on behalf of the Estates, to perform such other and further acts as may be necessary or desirable in connection with this Interim Order, the DIP Loan Documents (including the DIP Credit Agreement), and the transactions contemplated hereby and thereby, subject to this Interim Order and the Approved Budget, subject to the Permitted Disbursement Variance;

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

(i) granting adequate protection to the Prepetition Secured Parties as provided in this Interim Order;

(j) scheduling a final hearing on or about November 20, 2024 (the "Final Hearing") to consider entry of a final order that grants all of the relief requested in the Motion on a final basis (the "Final Order"), and approving the form of notice with respect to the Final Hearing; and

(k) providing for the immediate effectiveness of this Interim Order and waiving any applicable stay (including under Bankruptcy Rule 6004) to permit such immediate effectiveness.

Having considered the Motion, the *Declaration of Claudia Z. Springer in Support of First Day Motions* [D.I. 193] (the "First-Day Declaration"), the *Declaration of Jacob Grall in Support*

of Trustee's Postpetition Financing Motion [D.I. 222] (the "Postpetition Financing Declaration"), the evidence submitted or proffered at the hearing on the Motion held on October 31, 2024 (the "Interim Hearing"); and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having determined that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A),(D), and (O) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having determined that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the Motion, the First-Day Declaration, the Postpetition Financing Declaration, and the arguments of counsel at the Interim Hearing; and the Court having found that the relief requested in the Motion is in the best interests of each Estate, creditors, and other parties in interest; and it appearing that the Trustee's entry into the DIP Facility is a sound and prudent exercise of the Trustee's business judgment; and the Court having found that the Trustee's immediate entry into the DIP Facility is necessary to avoid immediate and irreparable harm to the Estates; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation to the Motion and all of the proceedings had before the Court in connection with the Motion, **THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**[5]

A. Order for Relief Date. On June 4, 2024 (the "Petition Date"), GLAS (as defined below) and certain prepetition lenders (the "Petitioning Creditors") filed involuntary petitions

[3] Where appropriate in this Interim Order, findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact pursuant to Bankruptcy Rule 7052.

against the Debtors under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Court"). On September 16, 2024 (the "Order for Relief Date"), the Court entered the *Order for Relief in Involuntary Cases and Appointing Chapter 11 Trustee* [D.I. 147] (the "Order for Relief") granting the relief requested by the Petitioning Creditors and commencing the above-captioned chapter 11 cases (the "Chapter 11 Cases").

B. Chapter 11 Trustee. Pursuant to the Order for Relief and upon the *Application of the United States Trustee for Entry of an Order Approving the Appointment of Claudia Z. Springer as Chapter 11 Trustee* [D.I. 151] (the "Application") the Court entered the *Order Approving the Appointment of Claudia Z. Springer as Chapter 11 Trustee* [D.I. 180] (the "Trustee Order"). As a result of the Trustee Order, the Debtors are no longer in possession of the Estates and the Trustee was placed in possession of the Estates. As a result, the Trustee has the full authority and power to take, or cause the Estates, to enter into the DIP Facility and to take the actions reasonably necessary, desirable or appropriate for the Estates to enter into and perform the transactions approved herein.

C. Jurisdiction and Venue. This Court has jurisdiction over the Chapter 11 Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. § 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2)(A),(D), and (O). Venue of the Chapter 11 Case and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases 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, 6004, 9013, and 9014, and Local Rules 2002-1, 4001-1, 4001-2, and 9013-1.

D. Committee. As of the date hereof, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") has not appointed an official committee ("Committee") in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

E. Trustee's Stipulations. In requesting the DIP Facility and the use of Cash Collateral, and in exchange for and as a material inducement to the DIP Lenders and the Prepetition Secured Parties to agree to provide, or consent to, the DIP Facility, the Trustee's access to the Cash Collateral, and subordination of the Prepetition Liens to the Carve Out and the DIP Liens (which DIP Liens shall be subject to the Carve Out), and as a condition to providing financing under the DIP Facility and consenting to the use of Cash Collateral, subject to the rights of the parties in interest (other than the Trustee) set forth in this Interim Order, the Trustee permanently and irrevocably admits, stipulates, acknowledges, and agrees, as follows, subject to the Challenge Period (collectively, the "Trustee's Stipulations"):

(i) Prepetition Secured Parties. Alpha, as borrower, the Debtors, as guarantors, GLAS Trust Company LLC ("GLAS" or the "Prepetition Agent"), as administrative agent and collateral agent, the lenders party thereto (collectively, the "Prepetition Secured Lenders" and, together with GLAS, the "Prepetition Secured Parties"), among others, entered into that certain Credit and Guaranty Agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Prepetition Credit Agreement").

(ii) Prepetition Secured Obligations. As of the Petition Date, the Debtors were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim, or offset of any kind, in the aggregate amount of not less than $1,189,513,685 attributable to principal of loans outstanding under the Prepetition Credit Agreement, plus approximately $275,946,454 in outstanding accrued and unpaid premium, interest, fees, and expenses, and other amounts, contingent or otherwise, whenever arising or accruing, that may be due, owing, or chargeable in respect thereof, in each case, to the extent provided in the Prepetition Credit Agreement or the Loan Documents (as defined in the Prepetition Credit Agreement) (the "Prepetition Secured Obligations").

(iii) Prepetition Collateral. As security for the prompt and complete payment and performance in full when due of all Prepetition Secured Obligations,

the Debtors entered into a pledge and security agreement dated November 24, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Pledge and Security Agreement") with GLAS[6] under which the Debtors granted a security interest in the "Collateral" (as defined in the Pledge and Security Agreement) (such collateral, the "Prepetition Collateral" and such liens granted, the "Prepetition Liens") to GLAS for its benefit and for the benefit of the Prepetition Secured Parties. As of the Petition Date, the Prepetition Liens: (A) have been properly recorded and are valid, binding, enforceable, non-avoidable and fully perfected liens and security interests in the Prepetition Collateral; (B) are not subject to any offset, contest, objection, recovery, recoupment, reduction, defense, counterclaim, subordination, recharacterization, disgorgement, disallowance, avoidance, challenge, or any other claim or cause of action of any kind or nature whatsoever, whether under the Bankruptcy Code, applicable non-bankruptcy law, or other applicable law; (C) were granted to or for the benefit of the Prepetition Secured Parties for fair consideration and reasonably equivalent value, and were granted contemporaneously with, or covenanted to be provided as inducement for, the making of the loans and/or the commitments and other financial accommodations or consideration secured or obtained thereby; (D) without giving effect to this Interim Order, are senior with priority over any and all other liens on or security interests in the Prepetition Collateral; (E) encumber all of the Prepetition Collateral, as the same existed on the Petition Date; (F) are entitled to adequate protection as set forth herein; and are not subject to defense, counterclaim, recharacterization, subordination, avoidance, or recovery pursuant to the Bankruptcy Code or applicable non-bankruptcy law or regulation by any person or entity.

(iv) Cash Collateral. Any and all of the Estates' cash, including all amounts on deposit or maintained in any banking, checking, or other deposit accounts by the Debtors or the Trustee, any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral or deposited into the Debtors' or Trustee's banking, checking, or other deposit accounts after the Petition Date, and the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral"). The Prepetition Secured Parties are entitled to adequate protection of their respective interests in the Cash Collateral, for any Diminution in Value of their respective interests as of the Petition Date resulting from the use of

[6] Tangible Play, Inc. was an original party to the Credit Agreement and the Pledge and Security Agreement. On July 19, 2022, Epic! Creations, Inc. and Neuron Fuel, Inc. each executed (i) a counterpart agreement, agreeing to become a Guarantor under the Credit Agreement and to be bound by all the terms thereof with the same force and effect as if originally named therein as a Guarantor, and (ii) a joinder agreement, pursuant to which each agreed to become a party to the Pledge and Security Agreement as a Grantor thereunder with the same force and effect as if originally named as a Grantor therein.

Cash Collateral.

(v) Good Faith. The Prepetition Secured Parties and the DIP 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 requisite approvals of the DIP Facility and the use of Cash Collateral, including in respect of granting the DIP Liens and the Adequate Protection Liens, any challenges or objections to the use of Cash Collateral, and all documents relating to any and all transactions contemplated by the foregoing.

(vi) No Challenges/Claims. No offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Secured Obligations exist, and no portion of the Prepetition Liens or Prepetition Secured Obligations is subject to any challenge or defense including impairment, set-off, avoidance, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (equitable or otherwise), attack, offset, defense, counterclaims or cross-claims pursuant to the Bankruptcy Code or applicable non-bankruptcy law. The Debtors and their Estates have no valid claims (as such term is defined in section 101(5) of the Bankruptcy Code), objections, challenges, causes of action, and/or choses in action against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees with respect to the facility extended under the Prepetition Credit Agreement, the Obligations (as defined in the Prepetition Credit Agreement), the Prepetition Liens, or otherwise, whether arising at law or at equity, including any challenge, recharacterization, subordination, avoidance, recovery, disallowance, reduction, or other claims arising under or pursuant to sections 105, 502, 510, 541, 542 through 553, inclusive, or 558 of the Bankruptcy Code or applicable state law equivalents.

(vii) Default. The Debtors are in default under the Prepetition Credit Agreement, and at least one event of default has occurred and is continuing under the Prepetition Credit Agreement.

F. Cash Collateral. All of the Estates' cash, including any cash in deposit accounts of the Debtors or the Trustee, wherever located, constitutes Cash Collateral of the Prepetition Secured Parties. The Prepetition Secured Parties consent to the Trustee's use, on behalf of the Estates, of the Cash Collateral in accordance with and subject to the terms and conditions provided for in this Interim Order, effective as of the date of the Trustee's appointment. The Trustee, on behalf of the

Estates, has agreed to provide each Prepetition Secured Party with adequate protection of its respective interest in the Cash Collateral for any Diminution in Value thereof as of the Petition Date.

G. Findings Regarding Intercompany Borrowing. The Trustee caused the Estate of Tangible Play, Inc. to borrow $1,500 on October 3, 2024, $45,000 on October 9, 2024, and $10,000 on October 26, 2024 from the Estate of Epic! Creations, Inc. to fund its payroll obligations. Such use of Cash Collateral is hereby ratified, constitutes an actual and necessary cost of preserving the Estate of Tangible Play, Inc., and is deemed to have given rise to a postpetition intercompany claim of the Estate of Epic! Creations Inc. against the Estate of Tangible Play, Inc. that is entitled to administrative expense status in these Chapter 11 Cases (together with any other intercompany claims which may arise during these Chapter 11 Cases, the "Intercompany Claims"). The Trustee, on behalf of the Estates, has agreed that the Prepetition Secured Parties shall have Adequate Protection Liens on the Intercompany Claims, and the Intercompany Claims shall constitute DIP Collateral.

H. Findings Regarding Postpetition Financing and Use of Cash Collateral.

(a) The Trustee, on behalf of the Estates, has requested from each of the DIP Lenders, and the DIP Lenders are willing to provide financing to the Estates subject to: (i) this Interim Order; (ii) Court approval of the terms and conditions of the DIP Facility and the DIP Loan Documents; (iii) satisfaction or waiver of the closing conditions and the funding conditions set forth in the DIP Loan Documents; and (iv) findings by this Court that the DIP Facility is essential to the Estates, that the DIP Secured Parties are extending credit to the Estates pursuant to the DIP Loan Documents in good faith, and that the DIP Secured Parties' claims, superpriority claims, security interests, and liens and other protections granted pursuant to this Interim Order and the

DIP Loan Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(b) The Trustee, on behalf of each Estate, has an immediate and critical need to obtain (i) postpetition financing pursuant to the DIP Facility and (ii) permission to use Cash Collateral (subject to the Approved Budget and the Permitted Disbursement Variance), in order to, among other things, pay postpetition wages and salaries, stabilize operations, pay professional fees, and pursue an orderly and value-maximizing sale process for the benefit of the Debtors' stakeholders. The Estates do not have sufficient available sources of working capital and financing to preserve the value of their businesses without the ability to borrow under the DIP Facility and use Cash Collateral. The Estates will be immediately and irreparably harmed if financing under the DIP Facility is not obtained pursuant to the terms of this Interim Order and, as applicable, the DIP Loan Documents, or if the Trustee, on behalf of the Estates, is unable to use Cash Collateral. Entry of this Interim Order is necessary and appropriate to avoid such harm to the Estates and other parties in interest.

(c) The Trustee, on behalf of each Estate, is unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the terms of the DIP Facility. The Trustee, on behalf of each Estate, is unable to obtain, pursuant to sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code, (i) unsecured credit allowable under section 503(b) of the Bankruptcy Code as an administrative expense, (ii) credit secured solely by a lien on property of such Estate that is not otherwise subject to a lien, or (iii) credit secured solely by a junior lien on property of such Estate that is subject to a lien. The Trustee, on behalf of each Estate, is further unable to obtain secured credit under section 364(d)(1) of the Bankruptcy Code without as provided for herein (1) granting to the DIP Secured Parties the rights, remedies, privileges,

benefits, and protections provided herein and in the DIP Loan Documents, including the DIP Liens and the DIP Superpriority Claims (as defined below) and (2) granting the Prepetition Secured Parties the rights, remedies, privileges, benefits, and protections provided herein, including the Adequate Protection Liens. The Roll-Up Loans are an integral part of the DIP Facility, without which the DIP Lenders would be unwilling to extend the New Money DIP Loan Commitments.

(d) The DIP Facility and this Interim Order have been negotiated in good faith and at arm's length among the Trustee, on behalf of the Estates, and the DIP Secured Parties, and all of the Estates' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Loan Documents, including all loans made to the Estates pursuant to the DIP Loan Documents and all other obligations under the DIP Loan Documents (collectively, the "DIP Obligations") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and 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, and any liens or claims granted to, or payments made to, the DIP Agent or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(e) Subject to paragraph 11 of this Interim Order, the Trustee, on behalf of the Estates, has agreed to provide to the Prepetition Secured Parties pursuant to sections 105, 361, 362, and 363(e) of the Bankruptcy Code, adequate protection of their respective interests in the

Prepetition Collateral, including Cash Collateral as of the Petition Date, for any diminution in the value thereof.

(f) Subject to paragraph 11 of this Interim Order, in light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, upon entry of the Final Order, each Prepetition Secured Party shall be entitled to the rights and benefits of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to such parties with respect to the proceeds, products, offspring, or profits of any of the DIP Collateral or such Prepetition Collateral, as applicable.

(g) The Prepetition Secured Parties have consented to, conditioned on the entry of this Interim Order, the Trustee's incurrence of the DIP Facility on behalf of each Estate, and proposed use of Cash Collateral on the terms and conditions set forth in this Interim Order, including the terms of the adequate protection provided for in this Interim Order.

I. Section 506(c). In light of the DIP Secured Parties' agreement to extend credit to the Trustee, on behalf of the Estates, on the terms described herein, the DIP Secured Parties have negotiated for and the Trustee, the Debtors and the DIP Secured Parties will seek in the Final Order a waiver of the provisions of section 506(c) of the Bankruptcy Code in respect of the DIP Collateral, subject to the Carve Out.

J. Business Judgment and Good Faith Pursuant to Section 364(e). The terms and conditions of the DIP Facility, the DIP Loan Documents, and the fees paid and to be paid thereunder to the DIP Secured Parties, are fair, reasonable, and the best available to the Trustee under the circumstances, are ordinary and appropriate for secured postpetition financing to chapter

11 trustees, reflect the Trustee's exercise of prudent business judgment consistent with her fiduciary duties as representative of the Estates, and are supported by reasonably equivalent value and fair consideration. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Estates, creditors, and other stakeholders. The terms and conditions of the DIP Facility and the use of Cash Collateral were negotiated in good faith and at arm's length among the Trustee, on behalf of the Estates, the DIP Secured Parties, and the Prepetition Secured Parties with the assistance and counsel of their respective advisors. Credit to be extended under the DIP Facility shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Secured Parties within the meaning of section 364(e) of the Bankruptcy Code and shall be entitled to the full protection of section 364(e). The Prepetition Secured Parties have agreed to the use of Cash Collateral in good faith, and the Prepetition Secured Parties shall be entitled to the full protection of section 363(m) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal. Based on the Motion, the First-Day Declaration, the Postpetition Financing Declaration, and on the record presented at the Interim Hearing, the terms of the DIP Facility are fair and reasonable, reflect the Trustee's prudent exercise of business judgment as representative of the Estates, and constitute reasonably equivalent value and fair consideration.

K. Notice. Notice of the relief requested in the Motion and the Interim Hearing has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, whether by facsimile, email, overnight courier, and/or hand delivery, to certain parties in interest, including: (a) the U.S. Trustee; (b) the Debtors' counsel of record and registered agents; (c) the holders of the 20 largest known unsecured claims against the Debtors (on a consolidated basis, as and if identified); (d) the office of the attorney general for each of the states in which the

Debtors operate; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the United States Department of Justice; (i) the Prepetition Agent and counsel thereto; (j) the Prepetition Secured Lenders and counsel thereto; (k) any other parties listed as a secured creditor on a UCC-1 financing statement filed with the Delaware Secretary of State against any Debtor that has not expired or been terminated; (l) Think and Learn Private Limited and counsel thereto (to the extent known); (m) BYJU's Pte. Ltd.; (n) Great Learning Education Pte. Ltd.; (o) Whitehat Education Technology LLC; and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002.

L. Immediate Entry. The Trustee, on behalf of the Estates, has requested immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2), 4001(c)(2), and 6003. Absent entry of this Interim Order, the Estates would be immediately and irreparably harmed. This Court concludes that entry of this Interim Order is in the best interests of the Estates and their stakeholders and sufficient cause exists for immediate entry of this Interim Order.

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

IT IS HEREBY ORDERED that:

1. Interim Financing Approved. The Motion is GRANTED on an interim basis as set forth herein.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of this Interim Order, to the extent not withdrawn or resolved, are OVERRULLED on the merits.

3. Trustee Authority. The Trustee is hereby authorized and empowered to take, or cause the Estates to take, any actions reasonably necessary, desirable or appropriate for the Estates to enter into the DIP Facility and perform, or cause the Estates to perform, any duties or obligations thereunder; *provided* that any such actions shall be in accordance with this Interim Order, the Approved Budget, and the terms of the DIP Loan Documents, including the DIP Credit Agreement.

4. Authorization of the DIP Facility and the DIP Loan Documents.

(a) The Trustee, on behalf of the DIP Borrowers, is hereby immediately authorized and empowered to enter into, and execute and deliver, the DIP Loan Documents, including the DIP Credit Agreement, and such additional documents, instruments, certificates, and agreements as may be reasonably required or requested by the DIP Secured Parties or the Prepetition Secured Parties to (i) implement the terms or effectuate the purposes of this Interim Order and the DIP Loan Documents and to effectuate the funding of the Interim New Money DIP Loans on an interim basis and deemed repayment of a corresponding amount of Prepetition Secured Obligations, and (ii) subject to entry of the Final Order, implement the terms or effectuate the purposes of the Final Order, and the DIP Loan Documents and to effectuate the funding of the Final New Money DIP Loans, the Accordion New Money DIP Loans, and the Roll-Up Loans on a final basis and deemed repayment of a corresponding amount of Prepetition Secured Obligations To the extent not entered into as of the date hereof, the Trustee, on behalf of the Estates, and the DIP Secured Parties shall negotiate the DIP Loan Documents in good faith, and in all respects such DIP Loan Documents shall be, subject to the terms of this Interim Order and the Final Order, consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent (acting at the direction of the "Required Lenders" (as defined in the DIP Credit Agreement) under and pursuant to the DIP Credit Agreement (collectively, the "Required DIP

Lenders")) and the Required DIP Lenders. Upon entry of this Interim Order, the DIP Credit Agreement and other DIP Loan Documents shall govern and control the DIP Facility. The DIP Agent is hereby authorized to execute and enter into its respective obligations under the DIP Loan Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Loan Documents shall constitute valid and binding obligations of the Estates enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the DIP Loan Documents and this Interim Order, the terms and conditions of this Interim Order shall govern and control.

(b) Upon entry of this Interim Order, the Trustee, on behalf of each of the Estates, is hereby authorized to borrow the Interim New Money DIP Loans subject to, and in accordance with, this Interim Order.

(c) Pursuant to the terms of this Interim Order and the DIP Loan Documents, proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Loan Documents and this Interim Order, and in accordance with the Approved Budget, subject to the Permitted Disbursement Variance (as defined in the DIP Credit Agreement). Attached as **Exhibit 3** to this Interim Order and incorporated herein by reference is a budget prepared by the Trustee and approved by the Required DIP Lenders in accordance with the DIP Credit Agreement (the "Approved Budget").

(d) In furtherance of the foregoing and without further approval of this Court, the Trustee, on behalf of the Estates, is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted solely to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents (including the DIP Credit Agreement, any security and pledge agreement, and any mortgage to the extent contemplated thereby or by the

DIP Credit Agreement), and to pay all fees (including all amounts owed to the DIP Lenders and the DIP Agent under the DIP Loan Documents) that may be reasonably required or necessary for the Trustee's performance, on behalf of the Estates, of her obligations under the DIP Facility, including:

(i) the execution, delivery, and performance of the DIP Loan Documents, including the DIP Credit Agreement, the Security Agreement (as defined in the DIP Credit Agreement), and any other Security Documents (as defined in the DIP Credit Agreement);

(ii) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Loan Documents (in each case in accordance with the terms of the applicable DIP Loan Documents and in form and substance acceptable to the Debtors, the DIP Agent, and the Required DIP Lenders), it being understood that no further Court approval shall be required for amendments, waivers, consents, or other modifications to and under the DIP Loan Documents or the DIP Obligations that do not materially amend the DIP Credit Agreement, the DIP Loan Documents or the Pledge and Security Agreement;

(iii) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees referred to in the DIP Loan Documents, including all fees and other amounts owed to the DIP Agent; and

(iv) the performance of all other acts required under or in connection with the DIP Loan Documents.

(e) Upon entry of this Interim Order and subject and subordinate to the Carve Out, such DIP Loan Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Estates enforceable against the Estates, and the Trustee in her capacity as representative of the Estates, in accordance with their respective terms and the terms of this Interim Order for all purposes during these Chapter 11 Cases and any other proceeding superseding or relating thereto (each, a "Successor Case"). No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Loan Documents, or this Interim Order, subject to paragraph 11 of this Interim Order, shall be stayed, restrained,

voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (i) to or on behalf of the DIP Agent on behalf of any DIP Secured Parties or (ii) subject to paragraph 11 of this Interim Order, to or on behalf of any Prepetition Secured Parties, in each case, pursuant to the DIP Loan Documents, the provisions of this Interim Order, or any subsequent order of this Court shall be received free and clear of any claim, charge, assessment, or other liability, including any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code.

(f) The Trustee, on behalf of each of the DIP Guarantors, is hereby authorized and directed to jointly, severally, and unconditionally guarantee, and upon entry of this Interim Order shall be deemed to have guaranteed, in full, all of the DIP Obligations of the DIP Borrowers.

5. Approved Budget. The proceeds of the DIP Facility and Cash Collateral shall be used solely in accordance with the Approved Budget subject to the Permitted Disbursement Variance. In the event the Trustee deems it necessary to use DIP Loans or cash that constitutes Cash Collateral outside the categories of expenses permitted under the Approved Budget, the Trustee may make such request to the DIP Agent. Any variation or modification to the Approved Budget shall be subject in all respects to the DIP Agent's consent in consultation with the DIP Lenders.

6. Inspection Rights. In addition to, and without limiting, whatever rights to access the Prepetition Secured Parties have under the Prepetition Credit Agreement, upon reasonable prior

written notice (email being sufficient) and during normal business hours, the Trustee shall permit representatives, agents, and employees of the Prepetition Secured Parties and the DIP Secured Parties to (a) have reasonable access to and inspect and copy the Estates' books and records, including all records and files pertaining to the Prepetition Collateral and the Adequate Protection Collateral, (b) have reasonable access to and inspect the Estate's properties, and (c) discuss the Estates' affairs, finances, and condition with the Trustee and her financial advisors.

7. DIP Superpriority Claims. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims of the DIP Secured Parties against the Estates (the "DIP Superpriority Claims") to the extent set forth in the Bankruptcy Code, with priority over any and all administrative expenses, adequate protection claims, diminution claims, and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, to the extent permitted under the Bankruptcy Code, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(b), 506(c) (subject to the entry of the Final Order), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise to the extent allowable under the Bankruptcy Code, which allowed claims shall for the 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 shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and their Estates and all proceeds thereof, including, subject to entry of the Final Order, any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code, if any (the "Avoidance Actions").

8. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the Trustee of mortgages, security agreements, control agreements, pledge agreements, financing statements, or other similar documents, or the possession or control by the DIP Agent or any DIP Lender of, or over, any DIP Collateral (as defined below), the following security interests and liens are hereby granted by the Trustee, on behalf of the Estates, to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause (8(a) and (b) below being collectively referred to as the "DIP Collateral"), subject and subordinate only to (x) valid, perfected and unavoidable liens, if any, (a) existing as of the Petition Date that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date or permitted by the Prepetition Credit Agreement and (b) granted as of the Petition Date but perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date and (y) the Carve Out (all such liens and security interests granted to the DIP Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Loan Documents, the "DIP Liens"):

(a) First Priority Lien on Any Unencumbered Property. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Estates, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to any valid prepetition liens or security interests, including, but not limited to: the Prepetition Collateral; postpetition revenues; insurance; bank accounts and other security or deposit accounts (including, for the avoidance of doubt, any accounts opened prior to, on, or after the Petition Date);

all equity interests; all intercompany claims, accounts, and receivables (and all rights associated therewith); all rights, interests, and obligations in and to any cause of action with respect to fraud, fraudulent conveyance, breach of fiduciary duties, or other causes of action (collectively, the "Litigation Claims"); and any and all proceeds, products, rents, and profits of all of the foregoing.

(b) Liens Priming the Prepetition Liens. Subject and subordinate only to the Carve Out, pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all assets and property of the Estates, subject to paragraph (c) below.

(c) Liens Junior to Certain Other Liens. Subject and subordinate only to the Carve Out, pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Estates subject and subordinate only to (x) valid, perfected and unavoidable liens, if any, (a) existing as of the Petition Date that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date or permitted by the Prepetition Credit Agreement and (b) granted as of the Petition Date but perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date and (y) the Carve Out (other than the property described in clauses (a) or (b) of this paragraph 8, as to which the liens and security interests in favor of the DIP Lenders will be as described in such clauses).

(d) Adequate Protection. Subject to paragraph 11 below, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, the Trustee, on behalf of the Estates, has agreed to provide the Prepetition Secured Parties adequate protection of their interests in the Prepetition Collateral (including Cash

Collateral), solely to the extent of and in an amount equal to the aggregate diminution in value of such interests from and after the Petition Date (each such diminution, a "Diminution in Value"), resulting from the imposition of the priming DIP Liens on the Prepetition Collateral, the Carve Out, and the Trustee's use, on behalf of the Estates, of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay (each Prepetition Secured Party's claim for such Diminution in Value, an "Adequate Protection Claim"). For the avoidance of doubt, all adequate protection rights and obligations set forth in this Interim Order shall apply retroactively to the Petition Date.

(e) Adequate Protection Collateral. "Adequate Protection Collateral" shall mean, collectively, all of the Estate's property and assets (whether now owned or after-acquired, and whether real or personal, tangible, or intangible), including, without limitation: the Prepetition Collateral; the Litigation Claims; postpetition revenues; insurance; bank accounts and other security or deposit accounts (including, for the avoidance of doubt, any accounts opened prior to, on, or after the Petition Date); all equity interests; all intercompany claims, accounts, and receivables (and all rights associated therewith); and any and all proceeds, products, rents, and profits of all of the foregoing.

(f) Adequate Protection Liens. As security for any Diminution in Value of the Prepetition Collateral, subject and subordinate only to (a) the Carve Out, (b)(i) any valid, perfected and unavoidable liens, if any, existing as of the Petition Date that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date and (ii) any liens that are perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code that are senior to the liens or security interests of the Prepetition Secured Parties as of the Petition Date, or (c) the DIP Liens, additional and replacement, valid, binding, enforceable, non-avoidable,

and effective and automatically perfected postpetition security interests in and liens as of the date of this Interim Order (collectively, the "Adequate Protection Liens"), without the necessity of the execution by the Trustee (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, or other similar documents, on all DIP Collateral.

(g) Adequate Protection Superpriority Claims. As further adequate protection, and to the fullest extent provided by sections 503(b), 507(a), and 507(b) of the Bankruptcy Code, the Adequate Protection Claims shall be, subject and subordinate to the Carve Out, allowed superpriority administrative expense claims against the Estates in these Chapter 11 Cases ("Adequate Protection Superpriority Claims").

(h) Adequate Protection Payments. As further adequate protection, the Trustee, on behalf of the Estates, is authorized, but not directed, to pay in accordance with the terms of paragraph 18 of this Interim Order, all reasonable and documented fees and expenses (the "Adequate Protection Fees") of the Prepetition Secured Parties, whether incurred before or after the Order for Relief Date, to the extent not duplicative of any fees and/or expenses paid pursuant to paragraph 4(d)(iii) hereof, including all reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Loan Documents and this Interim Order, including, for the avoidance of doubt, of: (i) Kirkland & Ellis LLP, as counsel to the DIP Agent, and Prepetition Agent, (ii) Pachulski Stang Ziehl & Jones LLP, as counsel to the DIP Agent and Prepetition Agent, and (iii) Reed Smith LLP, as counsel to the DIP Agent and Prepetition Agent; *provided* that, for the avoidance of doubt and notwithstanding anything to the contrary herein, no Lender Professional shall be entitled to reimbursement of fees and expenses otherwise satisfied pursuant to the Cooperation Agreement (collectively, the "Adequate Protection

Payments"). None of the Adequate Protection Fees or Adequate Protection Payments shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(i) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Trustee or any other party to contest such request. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during these Chapter 11 Cases.

(j) Reporting Requirements. As additional adequate protection to the Prepetition Secured Parties, the Trustee, on behalf of the Estates, shall comply with all reporting requirements set forth in the DIP Credit Agreement and shall provide all such reports, documents, and other information to the Prepetition Agent and the DIP Agent.

9. Carve Out.

(a) Priority of Carve Out. Each of the Prepetition Liens, Adequate Protection Liens, Adequate Protection Claims, DIP Liens, and DIP Superpriority Claims shall each be subject to and subordinate to payment of the Carve Out. The Carve Out shall have such priority claims and liens over all assets of the Estates, including any DIP Collateral and Prepetition Collateral.

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the 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 $50,000 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 (the "Allowed Professional Fees") incurred by persons or firms retained by the Trustee pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "Trustee Professionals") and an official committee of unsecured creditors (if any) pursuant to section 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Trustee Professionals, the "Professional Persons") at any time before or on the first business day following delivery by the 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; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed $1 million incurred after the first business day following delivery by the DIP Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "Post-Carve Out Trigger Notice Cap"). For purposes of the foregoing, "Carve Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent to the Trustee, her lead restructuring counsel, the U.S. Trustee, and counsel to the Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

(c) Carve Out Reserves. On the day on which a Carve Out Trigger Notice is given by the DIP Agent to the Trustee with a copy to counsel to the Committee (if any)

(the "Termination Declaration Date"), the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing with respect to the proceeds in the Escrow Account by the Trustee for Delayed Draw Term Loans under the Delayed Draw Term Loan Commitment (each, as defined in the DIP Credit Agreement) (on a pro rata basis based on the then outstanding Delayed Draw Term Loan Commitments), in an amount equal to the then unpaid amounts of the Allowed Professional Fees (any such amounts actually advanced shall constitute Delayed Draw Term Loans) and (ii) also constitute a demand to the Trustee to utilize all cash on hand as of such date and any available cash thereafter held by the Estates to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The Trustee shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such then unpaid Allowed Professional Fees (the "Pre-Carve Out Trigger Notice Reserve") prior to any and all other claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Trustee for Delayed Draw Term Loans under the Delayed Draw Term Loan Commitment (on a pro rata basis based on the then outstanding Delayed Draw Term Loan Commitments), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute Delayed Draw Term Loans) and (ii) constitute a demand to the Trustee to utilize all cash on hand as of such date and any available cash thereafter held by any Estate, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The Trustee shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "Post-Carve Out Trigger Notice Reserve" and, together with the Pre-Carve Out Trigger Notice Reserve, the "Carve Out Reserves") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such

Delayed Draw Term Lenders (as defined in the DIP Credit Agreement), notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Trustee to satisfy any or all of the conditions precedent for Delayed Draw Term Loans under the Delayed Draw Term Facility, any termination of the Delayed Draw Term Loan Commitments following an Event of Default, or the occurrence of the Maturity Date, each Delayed Draw Term Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such Delayed Draw Term Lender's pro rata share with respect to such borrowing in accordance with the Delayed Draw Term Facility. All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above (the "Pre-Carve Out Amounts"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. All funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "Post-Carve Out Amounts"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Lenders, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the

contrary in the DIP Loan Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Secured Parties, as applicable. Notwithstanding anything to the contrary in the DIP Loan Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent and the Prepetition Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Estates until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Loan Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Trustee from the Carve Out Reserves shall not constitute Term Loans (as defined in the DIP Credit Agreement) or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Estates. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any prepetition facilities under the Prepetition Credit Agreement, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, and the 507(b) claim, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Secured Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. 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.

(e) No Direct Obligation To Pay Allowed Professional Fees. None of the DIP Agent, 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 these Chapter 11 Cases or any Successor Case(s) under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, 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 Estates have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out on or After the Termination Declaration Date. 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 Loan Documents, the Bankruptcy Code, and applicable law.

10. Reservation of Rights. The failure or delay of the Prepetition Agent, the DIP Agent, the Prepetition Secured Parties, or the Prepetition Agent to exercise rights and remedies under this Interim Order or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

11. Challenge Period. Subject to the Challenge Period (as defined herein), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the

Trustee's Stipulations, shall be binding upon the Trustee, the Debtors, the Estates, and any of their respective successors in all circumstances and for all purposes, and the Trustee and the Estates are deemed to have irrevocably waived and relinquished all Challenges (as defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including the Trustee's Stipulations, shall be binding upon all other parties in interest, including the Debtors, any Committee, and any other person acting on behalf of the Estates, unless and to the extent that a party in interest with proper standing granted by order of the Court, has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (a) seeking to avoid, object to, or otherwise challenge the findings or the Trustee's Stipulations, including regarding: (i) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of any of the Prepetition Secured Parties; (ii) the validity, enforceability, allowability, priority, secured status, or amount of the Obligations; (iii) asserting or prosecuting any so-called "lender liability" claims, avoidance actions, or any other claim, counter claim, cause of action, objection, contest or defense, of any kind or nature whatsoever, whether arising under the Bankruptcy Code, applicable law, or otherwise, against any of the Prepetition Secured Parties or their respective representatives (any such claim, a "Challenge") and (b) in which the Court enters a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed Challenge. A Challenge must be filed on or prior to 75 days following entry of the Interim Order (the "Challenge Period" and the date of expiration of the Challenge Period, the "Challenge Period Termination Date"). If any of these Chapter 11 Cases converts to chapter 7, prior to the Challenge Period Termination Date, the Challenge Period Termination Date shall be extended for the chapter 7 trustee by an additional 14 days. If any of these Chapter 11 Cases converts to chapter 7 following the commencement of a timely Challenge by a Committee

appointed in such Chapter 11 Case, then the chapter 7 trustee may continue such Challenge in lieu of, and as successor to, the Committee. Upon the occurrence of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is withdrawn or filed and overruled): (w) any and all such Challenges by any party (including the Committee, any successor chapter 11 trustee, and/or any examiner or other estate representative appointed in these Chapter 11 Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Case) shall be deemed to be forever barred; (x) the Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Chapter 11 Cases and any Successor Case; (y) the Prepetition Liens shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected liens and security interests, not subject to recharacterization, subordination, or avoidance; and (z) all of the stipulations and admissions contained in this Interim Order, including the Trustee's Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Trustee, the Debtors, the Estates, and all creditors, interest holders, and other parties in interest in these Chapter 11 Cases and any Successor Case(s). Furthermore, if any such Challenge is timely and properly filed under the Bankruptcy Rules then (a) any claim or action that is not brought shall forever be barred and (b) the stipulations and admissions contained in this Interim Order, including the Trustee's Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such Challenge prior to the Challenge Period Termination Date (and except as set forth herein, solely as to the

plaintiff party that timely filed such Challenge and its successors and assigns and not, for the avoidance of doubt, any other party in interest). Nothing in this Interim Order vests or confers on any person (as defined in section 101 of the Bankruptcy Code), including any Committee appointed in these Chapter 11 Cases, standing or authority to pursue any cause of action belonging to the Estates, including any challenges (including a Challenge) with respect to the Prepetition Liens and the Obligations, and a separate order of the Court conferring such standing on any Committee or other party in interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party in interest; *provided*, *however*, that nothing herein prohibits the Prepetition Secured Parties or the Trustee from contesting any request to obtain standing on any other grounds permitted by applicable law.

12. Termination Declaration Date. On the Termination Declaration Date, (a) all DIP Obligations shall be immediately due and payable and all New Money DIP Loan Commitments will terminate; (b) all authority to use Cash Collateral shall cease; *provided*, *however*, that during the Remedies Notice Period (as defined below), the Trustee, on behalf of the Estates, may use Cash Collateral solely to fund the Carve Out and pay payroll and other expenses critical to the administration of the Estates strictly in accordance with the Approved Budget, subject to the Permitted Disbursement Variance; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Loan Documents in accordance with this Interim Order.

13. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Loan Documents, shall constitute an event of default (collectively, the "Events of Default"): (a) the failure of any of the Estates, or the Trustee on the Estates' behalf, to perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order, (b) the failure of the

Estates, or the Trustee on the Estates' behalf, to comply with any of the Required Milestones (as defined below), or (c) the occurrence of an "Event of Default" under the DIP Credit Agreement, in each case unless waived by the Required DIP Lenders or DIP Agent, as applicable.

14. Milestones. Failure by the Trustee, on the Estates' behalf, to comply with those certain case milestones referred to in the definition of "In-Court Milestones" in the DIP Credit Agreement (collectively, the "Required Milestones"), which are attached hereto as **Exhibit 2**, shall constitute an "Event of Default" in accordance with the terms of the DIP Credit Agreement unless waived by the Required DIP Lenders in accordance with the terms of the DIP Loan Documents. Notwithstanding anything to the contrary herein or in the DIP Loan Documents, the Required Milestones are hereby approved on an interim basis only and all parties' rights are reserved to object to the Required Milestones by the deadline to object to entry of the Final Order.

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default or the Termination Declaration Date, unless such Event of Default has been waived by the DIP Agent or Required DIP Lenders, as applicable, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from, the Court, subject to the terms of this Interim Order and the Remedies Notice Period (defined below), (a) the DIP Agent may send a Carve Out Trigger Notice to the parties set forth in paragraph 9(b) declaring (i) all DIP Obligations owing under the DIP Loan Documents to be immediately accelerated and due and payable for all purposes, rights, and remedies, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Trustee, on behalf of the Estates, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Trustee, on behalf of the Estates, to the extent any such commitment remains under the DIP Facility, (iii) termination of the

DIP Facility and the DIP Loan Documents as to any future liability or obligation of the DIP Agent and the DIP Lenders, but without affecting any of the DIP Liens, DIP Superpriority Claims or the DIP Obligations, (iv) the Carve Out shall be triggered, and (v) interest under the DIP Facility shall accrue at the default rate, as provided in the DIP Loan Documents and (b) subject to paragraph 11, the Prepetition Agent may declare a termination, reduction, or restriction on the ability of the Trustee, on behalf of any of the Estates, to use Cash Collateral. The automatic stay in these Chapter 11 Cases otherwise applicable to the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) business days after the Termination Declaration Date (the "Remedies Notice Period"), unless otherwise ordered by the Court during the Remedies Notice Period: (a) the DIP Agent shall be entitled to exercise its rights and remedies in accordance with the DIP Loan Documents and this Interim Order to satisfy the DIP Obligations, DIP Superpriority Claims, and DIP Liens, subject to the Carve Out; and (b) subject to the foregoing clause (a), the applicable Prepetition Secured Parties shall be entitled to exercise their respective rights and remedies to the extent available in accordance with the Prepetition Credit Agreement and this Interim Order with respect to the Trustee's use of Cash Collateral.

16. Limitation on Charging Expenses Against Collateral. Subject to entry of the Final Order, no expenses of administration of these Chapter 11 Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from (a) the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, or the DIP Lenders or (b) the Prepetition Collateral (except to the extent of the Carve Out) or the Prepetition Secured Parties, in each case, pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and

no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. Subject to the terms and conditions of this Interim Order and in accordance with the Approved Budget, subject to the Permitted Disbursement Variance, the Trustee, on behalf of the Estates, is hereby authorized, effective as of the date of the Trustee's appointment, to use the Cash Collateral from the Order for Relief Date through and including the date of the Final Hearing. Except on the terms and conditions of this Interim Order, the Trustee, as representative of the Estates, shall be enjoined and prohibited from at any time using the Cash Collateral absent further order of the Court.

18. Expenses and Indemnification.

(a) The Trustee, on behalf of the Estates, is hereby authorized to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Loan Documents as such amounts become due and without need to obtain further Court approval, including backstop, closing, arrangement, or commitment payments (including all payments and other amounts owed to the DIP Lenders), administrative agent's fees and collateral agent's fees (including all fees and other amounts owed to the DIP Agent and the Prepetition Agent), the reasonable and documented fees and disbursements of counsel and other professionals to the extent set forth in paragraph 4(d)(iii) and 8(h) of this Interim Order, arising after the Order for Relief Date, all to the extent provided in this Interim Order or the DIP Loan Documents; *provided* that, for the avoidance of doubt and notwithstanding anything to the contrary herein, no Lender Professional shall be entitled to reimbursement of fees and expenses otherwise satisfied pursuant to the Cooperation Agreement. Notwithstanding the foregoing, the Trustee, on behalf of the Estates, is authorized to pay on the Effective Date (as defined in the DIP Credit

Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel to the DIP Lenders, the DIP Agent, the Prepetition Agent, and the Prepetition Secured Lenders, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the Prepetition Agent, or the Prepetition Secured Lenders to be subject to the procedures set forth in paragraph 18(b).

(b) The Trustee, on behalf of the Estates, shall be obligated to pay all fees and expenses described above, which obligations owed to the DIP Secured Parties shall constitute DIP Obligations. The Trustee, on behalf of the Estates, shall pay the reasonable and documented professional fees, expenses, and disbursements of professionals to the extent provided for in paragraphs 4(d)(iii) and 8(h) of this Interim Order (collectively, the "Lender Professionals" and each, a "Lender Professional") no later than ten business days (the "Review Period") after the receipt by counsel for the Trustee, the Committee (if any), or the U.S. Trustee of each of the invoices therefor (the "Invoiced Fees") and without the necessity of filing formal fee applications or complying with the U.S. Trustee Guidelines, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of these Chapter 11 Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege

or protection, or any other evidentiary privilege or protection recognized under applicable law; *provided* that during the Review Period the Trustee, the Committee (if any), or the U.S. Trustee may request additional information to the extent necessary to assess the reasonableness of the Invoiced Fees.

(c) The Trustee, on behalf of the Estates, the Committee (if any), or the U.S. Trustee may dispute the payment of any portion of the Invoiced Fees (the "Disputed Invoiced Fees") if, within the Review Period, the Trustee, the Committee (if any), or the U.S. Trustee notifies the submitting party in writing setting forth the specific objections to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten days' prior written notice to the submitting party of any hearing on such motion or other pleading). Any hearing to consider such an objection to the payment of any fees, costs, or expenses set forth in a professional fee invoice hereunder shall be limited to the reasonableness of the fees, costs, and expenses that are the subject of the objection. For the avoidance of doubt, the Trustee shall promptly pay in full all Invoiced Fees other than the Disputed Invoiced Fees.

(d) In addition, the Trustee, on behalf of each of the Estates, hereby indemnifies and holds harmless the Prepetition Secured Parties and the DIP Secured Parties (and each of their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing) in respect of any claim or liability (exclusive of Disputed Invoiced Fees that are the subject of a successful challenge and fees incurred in connection with defending Disputed Invoiced Fees (regardless the outcome of such dispute)) incurred in or related to negotiating, implementing, documenting, or obtaining requisite approvals of the DIP Facility or the use of Cash Collateral, including in respect of the

granting of the Adequate Protection Liens and all documents related to and all transactions contemplated by the foregoing; provided however that such indemnification shall not cover claims or liabilities based upon fraud, intentional misconduct or gross negligence.

19. 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.

20. Section 507(b) Reservation. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Trustee, on behalf of the Estates, or any other party to contest such request. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Cash Collateral during these Chapter 11 Cases.

21. Perfection of the DIP Liens and the Adequate Protection Liens. With respect to the DIP Liens and the Adequate Protection Liens, the Prepetition Agent is hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, depository account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Subject to paragraph 11 of this Interim Order, whether the Prepetition Agent or the DIP Agent shall (at the direction of the applicable required lenders) choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute, or subordination. If the Prepetition Agent or the DIP Agent (in each case at the direction of the

applicable required lenders) determines to file or execute any financing statements, agreements, notice of liens, or similar instruments against any of the Debtors, the Trustee, on behalf of the applicable Estates(s), shall cooperate and assist in any such execution and/or filings as reasonably requested by the Prepetition Agent or the DIP Agent (in each case at the direction of the applicable required lenders), and the automatic stay shall be modified solely to allow such filings as provided for in this Interim Order.

22. A certified copy of this Interim Order may (at the direction of the applicable required lenders) be filed with or recorded in filing or recording offices by the Prepetition Agent or the DIP Agent in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording; *provided*, *however*, that notwithstanding the date of any such filing, the date of such perfection shall be the date of entry of this Interim Order.

23. Preservation of Rights Granted Under this Interim Order. In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal, any liens or claims granted to the DIP Secured Parties or the respective Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the respective Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

24. Notwithstanding any order dismissing these Chapter 11 Cases or converting these Chapter 11 Cases to a case under chapter 7 entered at any time, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Claims, the

Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations are indefeasibly paid in full in cash (unless otherwise satisfied in a manner agreed to by the Required DIP Lenders and the DIP Agent (acting at the direction of the Required DIP Lenders)). To the fullest extent permitted by law, the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in the foregoing sentence.

25. Subject to paragraph 11 of this Interim Order and to the Carve Out, none of the DIP Liens or Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest granted in any of these Chapter 11 Cases or arising after the Petition Date, and none of the DIP Liens or the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Estates under section 551 of the Bankruptcy Code.

26. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral (including Cash Collateral), or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), analyze, initiate, assert, prosecute, join, commence, threaten, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, assigns, or successors, with respect to

any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Loan Documents, the Prepetition Credit Agreement, the Loan Documents, or this Interim Order, including for the payment of any services rendered by the professionals retained by the Trustee, on behalf of the Estates, or the Committee in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral, the Prepetition Collateral, or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Secured Parties related to the DIP Obligations or the Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Obligations, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' liens or security interests in the DIP Collateral or the Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability

of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Obligations, respectively, or by or on behalf of the DIP Agent and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent or the DIP Lenders related to the DIP Obligations or the DIP Liens or (y) any of the Prepetition Liens or any other rights or interests of any of the Prepetition Secured Parties related to the Obligations or the Prepetition Liens; *provided* that no more than $50,000 of the proceeds of the DIP Facility, the DIP Collateral or the Prepetition Collateral, including the Cash Collateral, may be used by any Committee appointed in these Chapter 11 Cases, if any, during the Challenge Period solely to investigate, but not to object to, challenge, prosecute, or litigate (including by way of formal discovery) the validity, enforceability, perfection, priority, or extent of the Prepetition Liens or any potential Challenge against the Prepetition Secured Parties.

27. Reservation of Rights Under the Intercreditor Agreement. Except as expressly provided in this Interim Order, nothing in this Interim Order shall amend, modify, or waive the terms or provisions of the Intercreditor Agreement, and all parties' rights and remedies under the Intercreditor Agreement are preserved.

28. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Loan Documents unless all of the conditions precedent to the

making of such extensions of credit under the applicable DIP Loan Documents have been satisfied in full or waived in accordance with such DIP Loan Documents.

29. Use of DIP Facility Proceeds. From and after the date of entry of this Interim Order, the Trustee, on behalf of the Estates, shall be permitted to use advances of credit under the DIP Facility only for the purposes specifically set forth in this Interim Order and the DIP Loan Documents, and only in compliance with the Approved Budget, subject to the Permitted Disbursement Variance, if required by the DIP Loan Documents, and the terms and conditions in this Interim Order and the DIP Loan Documents.

30. Repayment of DIP Superpriority Claims. Notwithstanding anything to the contrary herein or in the other DIP Loan Documents, the Trustee, on behalf of the Estates, shall indefeasibly pay to each holder of a DIP Superpriority Claim cash equal to the full amount of such DIP Superpriority Claim on the effective date of a chapter 11 plan, unless such holder of a DIP Superpriority Claim consents to a different treatment with respect to such DIP Superpriority Claim. The requirements set forth in this paragraph 30 may not be amended without the prior written consent of each holder of a DIP Superpriority Claim adversely affected thereby.

31. Proceeds of Subsequent Financing. If the Trustee, the Debtors, any subsequent trustee, any examiner, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Case, shall obtain credit or incur debt pursuant to sections 364(b), 364(c), or 364(d) of the Bankruptcy Code in violation of the DIP Loan Documents at any time prior to the indefeasible repayment in full in cash of all DIP Obligations (other than unasserted contingent obligations that expressly survive termination of the DIP Loan Documents) and the termination of the DIP Lenders' obligations to extend credit under the DIP Facility, then, after satisfaction of the Carve Out, and unless otherwise agreed by the DIP Secured Parties, all cash proceeds derived from

such credit or debt shall immediately be turned over to the DIP Secured Parties to be distributed in accordance with this Interim Order and the DIP Loan Documents.

32. Payments Held in Trust. Based upon the exceptional circumstances presented in these Chapter 11 Cases, except as expressly permitted in this Interim Order or the DIP Loan Documents, including in respect of the Carve Out, in the event that any person or entity receives any payment on account of a security interest in the DIP Collateral or receives any DIP Collateral or any proceeds of DIP Collateral prior to indefeasible payment in full in cash of all DIP Obligations under the DIP Loan Documents, and termination of the DIP Facility in accordance with the DIP Credit Agreement and with 11 U.S.C. §542(a), 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 Secured Parties, for application in accordance with the DIP Credit Agreement and this Interim Order.

33. Credit Bidding. Subject to paragraph 11 of this Interim Order and Section 363(k) of the Bankruptcy Code, the DIP Agent, at the direction of the Required Lenders, shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the DIP Obligations and the Adequate Protection Superpriority Claims, or any of them, and the Prepetition Agent, at the direction of the requisite Prepetition Secured Lenders, shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the Prepetition Secured Obligations, or any of them, in each case in connection with any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including (without limitation) any sale occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy

Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, without the need for further court order authorizing the same. Each of the DIP Secured Parties and the Prepetition Secured Parties (or any such party's designee) shall be considered a "Qualified Bidder" with respect to its respective rights to acquire all or any of the assets by credit bid. The Trustee shall not object to the DIP Agent, on behalf of the DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Lenders, from credit bidding up to the full amount of the applicable outstanding DIP Obligations (including any Adequate Protection Superpriority Claims) or Prepetition Secured Obligations, in each case including any accrued interest, fees, and expenses, in any sale of any DIP Collateral or Prepetition Collateral, as applicable, whether such sale is effectuated through sections 363 or 1129 of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise.

34. Binding Effect; Successors and Assigns. Subject to the Challenge Period, the DIP Loan 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 Trustee, the Debtors, the DIP Secured Parties, the Prepetition Secured Parties, any official committee appointed in the Chapter 11 Cases, and each of their respective successors and permitted assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the Estates, 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 Estates or their respective property , any Successor Case, or upon dismissal of any of these Chapter 11 Cases or any Successor Case) to the extent permitted by applicable law and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; *provided* that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of

Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person subsequently appointed for the Estates.

35. Limitation of Liability. In determining to make any loan under the DIP Loan Documents or permitting the use of Cash Collateral, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or the Estates or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors or the Estates (as such terms, or any 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). Further, nothing in this Interim Order or in the DIP Loan Documents shall in any way be construed or be interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the pre- or postpetition activities of any of the Debtors or the Estates.

36. Proofs of Claim. Neither the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, nor the DIP Secured Parties will be required to file proofs of claim in these Chapter 11 Cases, and the Trustee's Stipulations shall be deemed to constitute a timely filed proof of claim against the Debtors and the Estates.

37. No Marshaling. Subject to entry of the Final Order, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

38. Equities of the Case. Subject to entry of the Final Order, the Prepetition Secured Parties shall be entitled to all the rights and benefits of section 552(b) of the Bankruptcy Code and have negotiated for, and the Trustee, as representative of the Estates, believes that Prepetition

Secured Parties are entitled to, a waiver of the "equities of the case" exception under section 552(b) of the Bankruptcy Code, which shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the DIP Collateral (including the Prepetition Collateral).

39. Authorization & Allowance of Intercompany Claims. Subject to entry of the Final Order, effective as of the Order for Relief Date, the Trustee is authorized, but not directed, to consummate any intercompany transactions among the Estates that she, after consultation with the DIP Secured Parties and Prepetition Secured Parties, determines is necessary to preserve the value of the Estates. All Intercompany Claims arising out of such transactions, including without limitation the Intercompany Claims described in paragraph E hereof, shall be allowed against the applicable Estate(s) as administrative expense claims entitled to priority under section 503(b)(1)(A) of the Bankruptcy Code. For the avoidance of doubt, the Prepetition Secured Parties shall have Adequate Protection Liens on the Intercompany Claims, and the Intercompany Claims shall constitute DIP Collateral.

40. Necessary Actions. The Trustee, on behalf of the Estates, is authorized to take any and all actions as are reasonable or appropriate to implement the terms of this Interim Order.

41. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

42. The requirements of Bankruptcy Rule 6004(a) are waived or are inapplicable due to Bankruptcy Rules 4001(b)(2) and (c)(2).

43. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon entry of this Interim Order.

44. Headings. All paragraph headings used in this Interim Order are for ease of reference only and are not to affect the construction hereof or to be taken into consideration in the interpretation hereof.

45. Final DIP Hearing. The Final Hearing shall be November 20, 2024, at 11:00 a.m., prevailing Eastern Time. The Trustee shall provide notice of the Final Hearing to the Notice Parties (as defined below). Any party-in-interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon the following: (a) the Trustee, Claudia Z. Springer, Novo Advisors, LLC, 401 N. Franklin St., Suite 4 East, Chicago, IL 60654; (b) counsel for the Trustee, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654, Attn: Catherine Steege (CSteege@jenner.com); Melissa Root (MRoot@jenner.com); (c) co-counsel for the Trustee, Pashman Stein Walder Hayden, P.C., 824 N. Market Street, Suite 800, Wilmington, Delaware, 19801-1242, Attn: Henry J. Jaffe (hjaffe@pashmanstein.com) and Joseph C. Barsalona II (jbarsalona@pashmanstein.com); (d) counsel for GLAS, (i) Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654, Attn: Patrick J. Nash Jr. (patrick.nash@kirkland.com) (ii) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Brian Schartz, P.C. (bschartz@kirkland.com) and Jordan Elkin (jordan.elkin@kirkland.com); (e) co-counsel for GLAS, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19801, Attn: Laura Davis Jones (ljones@pszjlaw.com); (f) co-counsel for GLAS, Reed Smith LLP, 599 Lexington Avenue, 22nd Floor, New York, New York 10022, Attn: David A. Pisciotta (dpisciotta@reedsmith.com); (g) counsel for the Petitioning Lender Creditors, Cahill, Gordon & Reindel LLP, 32 Old Slip, New York, NY 10005, Attn: Joel Moss (jmoss@cahill.com); (h) cocounsel for the Petitioning Lender Creditors, Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Attn: G.

David Dean (ddean@coleschotz.com); (i) the U.S. Trustee, Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey (linda.casey@usdoj.gov); and (j) counsel to any official committee of unsecured creditors appointed in these Chapter 11 Cases (each a "Notice Party," and, collectively the "Notice Parties"), and shall be filed with the Clerk of the United States Bankruptcy Court, District of Delaware, no later than November 13, 2024 at 4:00 p.m. (prevailing Eastern Time). If no objections are timely filed, the Court may enter the Interim Order without further notice or hearing.

46. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: October 31st, 2024
Wilmington, Delaware

JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

DIP Credit Agreement

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AND GUARANTY AGREEMENT

Dated as of [●], 2024 among

Claudia Z. Springer, as Chapter 11 Trustee of Epic! Creations, Inc., on behalf of the Estate of Debtor Epic! Creations, Inc.,

Claudia Z. Springer, as Chapter 11 Trustee of Neuron Fuel, Inc., on behalf of the Estate of Debtor Neuron Fuel, Inc.,

Claudia Z. Springer, as Chapter 11 Trustee of Tangible Play, Inc., on behalf of the Estate of Debtor Tangible Play, Inc.

the Lenders party hereto

GLAS TRUST COMPANY LLC
as Administrative Agent and as Collateral Agent

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This SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AND GUARANTY AGREEMENT, dated as of [●], 2024, is by and among Claudia Z. Springer, as Chapter 11 Trustee of Epic! Creations, Inc., on behalf of the Estate of Debtor Epic! Creations, Inc., Claudia Z. Springer, as Chapter 11 Trustee of Neuron Fuel, Inc., on behalf of the Estate of Debtor Neuron Fuel, Inc., Claudia Z. Springer, as Chapter 11 Trustee of Tangible Play, Inc., on behalf of the Estate of Debtor Tangible Play, Inc., each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), and GLAS TRUST COMPANY LLC, a limited liability company organized and existing under the laws of the State of New Hampshire, as Administrative Agent and as Collateral Agent.

RECITALS:

WHEREAS, each capitalized term used and not otherwise defined herein shall have the meaning assigned to it in Article I hereof.

WHEREAS, each Borrower has requested that the Lenders provide a senior secured superpriority debtor-in-possession term loan credit facility in an aggregate principal amount of up to $76,000,000, consisting of: (i) initial new money term loans in an aggregate principal amount not to exceed $9,500,000 and (ii) term loans resulting from the exchange of certain Prepetition Term Loan Obligations for term loans under this Agreement, in each case subject to the conditions set forth herein and in the Interim DIP Order or Final DIP Order, as applicable (with an option to increase the term loan commitments subject to the conditions set forth in Section 2.20).

WHEREAS, on June 4–5, 2024 (as applicable, the "Petition Date"), certain of the Lenders (the "Petitioning Lender Creditors") filed involuntary petitions against each of Epic! Creations, Inc., a Delaware corporation ("Epic!"), Tangible Play, Inc., a Delaware corporation ("Tangible Play"), Neuron Fuel, Inc., a Delaware corporation ("Neuron Fuel" and, together with Epic! and Tangible Play, the "Debtors" and each, a "Debtor") under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

WHEREAS, on September 16, 2024, the Bankruptcy Court entered the *Order for Relief in Involuntary Cases and Appointment Chapter 11 Trustee* [Docket No. 147], commencing the chapter 11 cases of the Debtors (the "Chapter 11 Cases") and ordering the appointment of a chapter 11 trustee.

WHEREAS, on October 7, 2024, the Bankruptcy Court entered an order [Docket No. 180] appointing Claudia Z. Springer (in such capacity as chapter 11 trustee of the estate of the Debtors, and not in her individual capacity, the "Trustee" and together with the estates of each Debtor, and each Debtor, collectively, the "Borrowers" and each, a "Borrower") as chapter 11 trustee in the Chapter 11 Cases, and the Trustee has retained possession of the assets of the Borrowers and is authorized under the Bankruptcy Code to continue the operations of their businesses.

WHEREAS, prior to the Petition Date, the Lenders (together with the other Prepetition Term Loan Lenders (as defined below)) provided loans and other financial accommodations to BYJU's Alpha, Inc., a Delaware limited liability company, as the borrower ("Alpha") pursuant to that certain Credit and Guaranty Agreement, dated as of November 24, 2021 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Prepetition Term Loan Credit Agreement," and together with all other Loan Documents (as defined in the Prepetition Term Loan Credit Agreement), in each case as amended, amended and restated, supplemented or otherwise modified from time to time, the "Prepetition Term Loan Documents," and the outstanding loans and all other Obligations (as defined therein) thereunder, the "Prepetition Term Loans"), by and among Think and Learn Private Limited, a company established under the laws of India with corporate identification number U80903KA2011PTC061427 (the "Parent Guarantor"), Alpha, as borrower , certain other subsidiaries of the Parent Guarantor, including the Debtors,

each lender party thereto from time to time (the "Prepetition Term Loan Lenders"), and GLAS Trust Company LLC, as administrative agent (in such capacity, the "Prepetition Term Loan Administrative Agent" and collateral agent;

WHEREAS, Debtors guaranteed the obligations of Alpha under the Prepetition Term Loan Documents and granted liens and security interests in certain of their assets pursuant to the Prepetition Term Loan Documents;

WHEREAS, on the Petition Date, the Prepetition Term Loan Lenders under the Prepetition Term Loan Credit Agreement were owed not less than $1,189,513,685 in outstanding principal balance of Prepetition Term Loans, plus interest, fees, costs and expenses and all other Prepetition Term Loan Obligations under the Prepetition Term Loan Credit Agreement.

WHEREAS, the proceeds of Borrowings (as defined below) hereunder are to be used for the purposes described in Section 5.8 hereof during the pendency of the Chapter 11 Cases and, subject to Section 5.8, pursuant to and in accordance with the Approved Budget.

WHEREAS, subject to the terms hereof and the Interim DIP Order and Final DIP Order, each Borrower has agreed to secure all of its Obligations under the Loan Documents by granting to the Administrative Agent and Collateral Agent, for the benefit of the Collateral Agent and the other Secured Parties, a security interest in and lien upon all of their existing and after-acquired property.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Defined Terms. As used in this Agreement, the following terms used herein, including in the preamble, recitals, appendices, schedules and exhibits hereto, shall have the meaning specified below:

"Acceptable Plan" means a Chapter 11 Plan, the provisions of which are in form and substance satisfactory to the Administrative Agent (at the direction of the Required Lenders) and which contain market standard exculpations, indemnities and releases in favor of the Agents, the Lenders, the other Secured Parties, the Escrow Agent and their respective Related Parties in such capacities (as reasonably determined by the Administrative Agent (at the direction of the Required Lenders)).

"Acceptable Sale" has the meaning set forth in Section 8.1(o)(ii).

"Acquisition" means any transaction or series of related transactions resulting in the acquisition by the Loan Parties or any of their Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all or substantially all of the Equity Interests of, or a business line or unit or a division of, any Person.

"Action" means any charge, claim, action, complaint, petition, investigation, appeal, suit, litigation or other similar proceeding initiated or conducted by a mediator, arbitrator or Governmental Authority, whether administrative, civil, regulatory or criminal, and whether at law or in equity, or otherwise under any applicable law.

"Additional Agreement" has the meaning set forth in Section 9.1.

"Administrative Agent" means GLAS Trust Company LLC, in its capacity as administrative agent for the Lenders hereunder, or any successor administrative agent.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Affiliated Lender" means the Loan Parties or any of their Subsidiaries to the extent that such Person is (or is to become) a Lender.

"Agent" means each of the Administrative Agent and the Collateral Agent and collectively, the "Agents".

"Agent Parties" has the meaning set forth in Section 10.1.

"Agent-Related Person" has the meaning set forth in Section 10.3(d).

"Agreement" means this Senior Secured Superpriority Debtor-In-Possession Credit and Guaranty Agreement, as the same may hereafter be modified, supplemented, extended, amended, restated or amended and restated from time to time.

"Alpha DIP Credit Agreement" means that certain Senior Secured Superpriority Debtor-In-Possession Credit and Guaranty Agreement, dated as of April 9, 2024 (as amended, restated, amended and restated or otherwise modified from time to time), by and among BYJU's Alpha, Inc., a Delaware corporation, each lender from time to time party thereto and GLAS Trust Company, LLC, as administrative agent and collateral agent.

"Ancillary Document" has the meaning set forth in Section 10.15.

"Anti-Corruption Laws" means all laws, rules and regulations of any jurisdiction applicable to the Loan Parties or any of their Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

"Applicable Percentage" means, with respect to any Lender, the percentage of the total New Money Term Loan Commitments or New Money Term Loans of all Classes hereunder represented by the aggregate amount of such Lender's New Money Term Loan Commitments or New Money Term Loans of all Classes hereunder; *provided* that if any Defaulting Lender exists at such time, the Applicable Percentage shall be calculated disregarding such Defaulting Lender's New Money Term Loan Commitment.

"Applicable Rate" means, for any day, a rate *per annum* equal to 10.00%.

"Applicable Roll-Up Amount" has the meaning set forth in Section 2.1(b)(i).

"Approved Budget" means (a) a rolling 13-week cash flow forecast of the Loan Parties containing line items of sufficient detail to reflect the Loan Parties' projected receipts and disbursements for the

applicable 13-week period, and (b) following the first such forecast, a proposed revision to the Approved Budget covering the 13-week period beginning on the first Business Day to occur after the Specified Reference Date, together with a Variance Report, in each case, prepared by the Borrowers in the form attached hereto as Exhibit C and consented to by the Required Lenders (which consent may be given via e-mail) as the same shall be updated, modified or supplemented from time to time as provided in Section 3.25.

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Asset Sale" means a sale, lease (as lessor or sublessor), sale and leaseback, exchange, transfer or other Disposition to, any Person, in one transaction or a series of transactions, of any part of any Borrower's or any of their Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including the Equity Interests of any of the Borrowers' Subsidiaries, other than:

(a) Dispositions of cash, Cash Equivalents, inventory, ancillary services or goods held for sale, sold, leased or licensed out in the ordinary course of business;

(b) [reserved];

(c) [reserved];

(d) [reserved];

(e) Dispositions of property or assets in connection with casualty (or other insured damage) or condemnation events or any taking under power of eminent domain or by similar proceeding, or consisting of or subsequent to a total loss or constructive total loss of such property or asset;

(f) Dispositions of past due accounts receivable in connection with the collection, write-down or compromise thereof in the ordinary course of business and the sale or discount without recourse by the Borrowers or their Subsidiaries of accounts receivable or notes receivable arising in the ordinary course of business in connection with the compromise or collection thereof or in connection with the bankruptcy or reorganization of the applicable account debtors and dispositions of any securities received in any such bankruptcy or reorganization;

(g) [reserved];

(h) Dispositions permitted by Section 6.3(a);

(i) [reserved];

(j) [reserved];

(k) [reserved];

(l) [reserved]; and

(m) any conveyance, transfer, exchange or disposition of assets which would constitute a Restricted Payment permitted under Section 6.3 or an Investment permitted under Section 6.7.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.4), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Authorized Agent" has the meaning set forth in Section 10.9(f).

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period".

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bankruptcy Code" means Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"Bankruptcy Court" has the meaning assigned to such term in the recitals of this Agreement.

"Bankruptcy Event" means any insolvency, bankruptcy, dissolution, liquidation, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), judicial management or similar proceeding or arrangement.

"Base Rate" means, at any time, the greatest of (a) the Prime Rate at such time, (b) 1/2 of 1.00% in excess of the Federal Funds Effective Rate at such time, and (c) Term SOFR for a one-month tenor in effect on such day *plus* 1.00%; *provided* that in no event shall the Base Rate be less than zero. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate, or Term SOFR shall be effective as of the opening of business on the day of such change in the Prime Rate, the Federal Funds Effective Rate, or Term SOFR, respectively. If for any reason Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or Term SOFR at such time for any reason, including the inability of Administrative Agent to obtain sufficient quotations in accordance with the terms hereof, the Base Rate shall be determined without regard to clause (b) or (c), as applicable, of the first sentence of this definition until the circumstances giving rise to such inability no longer exist.

"Benchmark" means, initially, the Term SOFR Reference Rate; *provided* that, if a Benchmark Transition Event and the related Benchmark Replacement Date have occurred with respect to the Term SOFR Reference Rate or the other then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.11.

"Benchmark Replacement" means, with respect to any Benchmark Transition Event, for any then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and each Borrower giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for syndicated credit facilities denominated in Dollars and (b) the related Benchmark Replacement Adjustment; *provided* that, if the Benchmark Replacement as determined above would be less than 1.00% per annum, the Benchmark Replacement will be deemed to be 1.00% per annum for the purposes of this Agreement and the other Loan Documents.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for each applicable Interest Period and any Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and each Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in Dollars at such time (for the avoidance of doubt, such Benchmark Replacement Adjustment shall not be in the form of a reduction to the Applicable Rate).

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event", the first date on which such Benchmark (or the published component used in the calculation thereof) has been or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) have been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; *provided* that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, if such Benchmark is a term rate, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the

occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component), or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, if such Benchmark is a term rate, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Start Date" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day (or such shorter or longer period of time as each Borrower and the Administrative Agent may reasonably agree) prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"Benchmark Unavailability Period" means, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.11 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.11.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Beneficiary" means each Agent and Lender.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"Bidding Procedures Motion" has the meaning set forth in Section 5.17(d).

"Bidding Procedures Motion" has the meaning set forth in Section 5.17(h).

"Bloomberg Currency Website" means the website on the Internet at www.bloomberg.com/markets/currencies/fxc.html (or any successor website reasonably identified by the Administrative Agent).

"Borrower" has the meaning specified in the Preamble. "Borrowers" has the meaning correlative thereto.

"Borrower Sale" has the meaning set forth in Section 5.20.

"Borrowing" means Term Loans of the same Class, made, converted or continued on the same date. "Borrowings" has the meaning correlative thereto.

"Borrowing Date" means the date of funding any New Money Term Loans.

"Borrowing Request" means a request by any Borrower for a Borrowing in accordance with Section 2.3.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed.

"Business Liability" means debts, liabilities and obligations (including Taxes), whether accrued or fixed, absolute or contingent, matured or unmatured, deferred or actual, determined or determinable, known or unknown, including those arising under any law, action or governmental order and those arising under any agreement or contract.

"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases (and not operating leases) on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; *provided* that, (a) all obligations that are or would have been treated as operating leases for purposes of GAAP prior to December 31, 2018 shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purposes of the Loan Documents (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with GAAP (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations in the financial statements to be delivered pursuant to the Loan Documents and (b) any lease (whether such lease is in existence as of December 31, 2018 or entered into thereafter) that would constitute

a capital lease in conformity with GAAP as in effect on December 31, 2018 (assuming for purposes hereof that any such future leases were in existence on December 31, 2018) shall be considered capital leases (without giving effect to the adoption or effectiveness of any changes in, or changes in the application of, GAAP after December 31, 2018 with respect thereto), and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

"Carve-Out" shall have the meaning assigned to such term in the Interim DIP Order or the Final DIP Order, as applicable.

"Cash" means any cash treated as such according to GAAP and as shown in the relevant annual financial statements or quarterly financial statements.

"Cash Collateral" shall have the meaning assigned to such term in the Interim DIP Order or the Final DIP Order, as applicable.

"Cash Equivalents" means:

(a) Dollars or money in other currencies received in the ordinary course of business, including all money held in current and savings accounts or held as demand deposits;

(b) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations maturing within 12 months from the date of acquisition;

(c) (i) time deposits, fixed deposits, money market deposits and certificates of deposit, (ii) bankers' acceptances, and (iii) overnight bank deposits, in each case, with any bank or trust company organized or licensed under the laws of the United States of America or any State thereof or any foreign commercial bank having a combined capital and surplus of not less than (A) $500,000,000, in the case of any bank or trust company organized or licensed under the laws of the United States of America, and (B) $100,000,000 (or the Dollar Equivalent as of the date of determination), in the case of any foreign commercial bank; *provided* that the maximum maturity of any such individual investment shall not exceed 12 months from the date of acquisition;

(d) repurchase obligations with a term of not more than 30 days for underlying securities of the type described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above;

(e) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(f) commercial paper rated at least "P-2" by Moody's or "A-2" by S&P or the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization;

(g) securities with maturities of 12 months or less from the date of acquisition which (or the issuer of which) are rated at least "A" or "A-1" by S&P or "A2" or "P-1" by Moody's or the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization;

(h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or any political subdivision thereof having a rating of at least "A-

3" by Moody's or "A-" by S&P or the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization;

(i) readily marketable direct obligations issued by any foreign government or any political subdivision thereof having a rating of at least "A-3" by Moody's or "A-" by S&P or the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization;

(j) money market funds at least 90% of the assets of which consist of investments of the type described in clauses (a) through (i) above;

(k) auction rate securities issued by any domestic corporation or any domestic government instrumentality, in each case rated at least "A-1" by S&P or at least "P-1" by Moody's or the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization and maturing within six months of the date of acquisition (or with interest rates or dividend yields that are reset at least every 35 days); and

(l) in the case of the Borrowers or any Subsidiary of the Borrowers that is not incorporated or organized under the laws of the United States of America, any state thereof or in the District of Columbia, other short-term investments that are analogous to the foregoing, are of comparable credit quality and are customarily used by companies in the jurisdiction of the Borrowers or such Subsidiary for cash management purposes.

"Change in Law" means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Chapter 11 Cases" shall have the meaning assigned to such term in the recitals of this Agreement.

"Chapter 11 Plan" means a plan of reorganization or liquidation with respect to the Debtors pursuant to chapter 11 of the Bankruptcy Code.

"Charges" has the meaning set forth in Section 10.13.

"Class", when used in reference to any Term Loan or Borrowing, refers to whether such Term Loan, or the Term Loans comprising such Borrowing, are New Money Term Loans or Roll-Up Loans.

"Code" means the U.S. Internal Revenue Code of 1986.

"Collateral" means "DIP Collateral" as defined in the Interim DIP Order or Final DIP Order, as applicable.

"Collateral Agent" means GLAS Trust Company LLC, in its capacity as collateral agent for the Secured Parties hereunder, or any successor collateral agent.

"Collateral and Guarantee Requirement" means, at any time, subject to the Interim DIP Order or the Final DIP Order, as applicable and all other applicable limitations set forth in this Agreement and/or any other Loan Document and the time periods (and extensions thereof) set forth in Section 5.9, Section 5.10 or Section 5.13, as applicable, the requirement that:

(i) the Obligations shall have been secured by a perfected security interest in the Collateral with the priority required by the Interim DIP Order or Final DIP Order, as applicable (subject in all respects to the Carve-Out), through the provisions of the Interim DIP Order or Final DIP Order, as applicable, to the extent such security interests may be perfected by virtue of the Interim DIP Order or Final DIP Order, as applicable, or by filings of Uniform Commercial Code financing statements or any other method of perfection referred to in this definition;

(ii) the Administrative Agent shall have received, (A) each Security Agreement required to be delivered on the Effective Date, (B), evidence that each member of the Group which (I) has granted (or will grant) all asset security or whose shares are the subject of the Collateral in favor of the Collateral Agent (or any Subsidiary of such a person) or (II) owns Intellectual Property which is licensed to or used by any member of the Group listed in the previous clause (I), has in each case entered into or acceded to any IP Licensing Agreement; and (C) each other document required to be delivered pursuant to any Collateral Document, Section 5.9, Section 5.10 or Section 5.13, as applicable, at the time required to be delivered, in each case, duly executed by each Loan Party that is party thereto;

(iii) the Obligations shall be unconditionally guaranteed by each direct and indirect Subsidiary incorporated or acquired after the Effective Date;

(iv) with respect to any Real Estate Asset, the Administrative Agent shall have received such customary documents in the jurisdiction of such Real Estate Asset as the Administrative Agent may reasonably request in connection with such mortgage, deed or similar document (including title insurance policies and flood insurance, to the extent applicable); and

(v) the Obligations shall be secured by a valid and perfected Lien on the Collateral, subject to no prior or equal Lien except those Liens permitted to be prior or equal by Section 6.2.

The Administrative Agent may grant extensions of time, in its reasonable discretion, for the perfection of a security interest in particular assets and the delivery of opinions with respect to the granting and perfection of any such security interest.

"Collateral Documents" means the Security Agreements and all other instruments, documents and agreements delivered by or on behalf of any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to, subject to the Interim DIP Order or Final DIP Order, as applicable, grant to, or perfect in favor of, the Collateral Agent, for the benefit of the Lenders, a Lien on any Collateral of that Loan Party as security for the Obligations.

"Communications" has the meaning set forth in Section 10.1.

"Compliance Certificate" has the meaning set forth in Section 5.1(c).

"Confidentiality Restrictions" has the meaning set forth in Section 5.6(a).

"Conforming Changes" means, with respect to either the use or administration of any Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage periods and other technical, administrative or operational matters) that the Administrative Agent and each Borrower decide in their reasonable discretion may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent and each Borrower decide is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

"Controlled" has a meaning correlative thereto.

"Debtor Relief Laws" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), judicial management, or similar debtor relief laws of the United States of America or other applicable jurisdictions from time to time in effect.

"Declined Proceeds" has the meaning set forth in Section 2.8(f).

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Defaulting Lender" means any Lender that (a) has failed to (i) fund all or any portion of its Term Loans within two (2) Business Days of the date such Term Loans were required to be funded hereunder or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent and each Borrower in writing that such failure is the result of such Lender's good faith determination that one or more conditions precedent to such funding or payment (each of which conditions precedent, together with any applicable Default, shall be specifically identified in such writing) has not been satisfied, (b) has notified each Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Term Loan hereunder and states that such position is based on such Lender's good faith determination that a condition precedent to funding (which condition precedent, together with any applicable Default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) become the subject of a Bail-In Action or (iii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or

liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender; or (d) has failed, within three (3) Business Days after written request by the Administrative Agent or each Borrower, to confirm in writing to the Administrative Agent and each Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (d) upon receipt of such written confirmation by the Administrative Agent and each Borrower). Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to each Borrower and each Lender.

"DIP Order" means the Interim DIP Order, unless the Final DIP Order shall have been entered, in which case it means the Final DIP Order.

"DIP Super-Priority Claims" means "DIP Superpriority Claims" as defined in the Interim DIP Order or Final DIP Order, as applicable.

"Disposition", "Dispose" or "Disposed" means, with respect to any property or right, any sale, lease, sale and leaseback, license, assignment, conveyance, transfer or other disposition thereof.

"Dollar Equivalent" means, at any date of determination, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent at any time on the basis of the Spot Rate in effect on such date for the purchase of Dollars with such currency.

"Dollars" or "$" refers to lawful money of the United States of America.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) above, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Effective Date" means the date on which the conditions specified in Section 4.1 are satisfied (or waived in accordance with Section 10.2).

"Electronic Signature" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"Environmental Claim" means any notice of violation, claim, action, suit, proceeding, demand, abatement order or other written notice or order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law, (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity, or (c) in connection with any actual or alleged damage, injury, threat or harm to health or safety (with respect to exposure to Hazardous Materials), natural resources or the environment.

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the generation, use, handling, transportation, storage, treatment, disposal, management, release or threatened release of any Hazardous Material or, health and safety matters as they relate to Hazardous Materials.

"Environmental Liability" means any Liability, contingent or otherwise (including any Liability for damages, costs of investigation, reclamation or remediation, fines, penalties or indemnities), of the Borrowers or any Subsidiary of the Borrowers directly or indirectly resulting from or based upon (a) compliance or noncompliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the presence, release or threatened release of any Hazardous Materials into the environment, or (e) any contract, agreement or other consensual arrangement pursuant to which Liability is assumed or imposed with respect to any of the foregoing.

"Epic!" has the meaning specified in the Preamble.

"Epic! Assets" has the meaning set forth in Section 5.17(e).

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest; *provided* that Equity Interests shall not include any debt securities that are convertible into or exchangeable for any combination of Equity Interests and/or cash.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that together with the Borrowers or any of its Subsidiaries is treated as a single employer under Section 414 of the Code.

"ERISA Event" means any one or more of the following: (a) any reportable event, as defined in Section 4043 of ERISA, with respect to a Pension Plan; (b) the termination of any Pension Plan under Section 4041 of ERISA; (c) the institution of proceedings by the PBGC under Section 4041 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (d) the failure to make a required contribution to any Pension Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Sections 303 or 4068 of ERISA, or the arising of such a lien or encumbrance; (e) the Borrowers or any of their Subsidiaries or any ERISA Affiliate requesting a minimum funding waiver or failing to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA (whether or not waived); (f) a determination that any Pension Plan is, or is reasonably expected to be, considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (g) engaging in a non-exempt prohibited transaction within the

meaning of Section 4975 of the Code or Section 406 of ERISA with respect to a U.S. Plan; (h) the complete or partial withdrawal of the Borrowers or any of their Subsidiaries or any ERISA Affiliate from a Multiemployer Plan; (i) a determination that any Multiemployer Plan is in endangered or critical status under Section 432 of the Code or Section 305 of ERISA or is, or is expected to be, "insolvent" within the meaning of Section 4245 of ERISA; (j) the filing by the Borrowers or any of their Subsidiaries or any ERISA Affiliate pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (k) the failure by the Borrowers or any of their Subsidiaries or any ERISA Affiliate to make by its due date any required contribution to a Multiemployer Plan; or (l) the imposition of liability on the Borrowers or any of their Subsidiaries or any ERISA Affiliate pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA.

"Escrow Account" means the Escrow Account (as defined in the Escrow Agreement), in which the proceeds of the New Money Term Loans shall be deposited and held and withdrawn subject to the terms and conditions herein.

"Escrow Agent" means the Escrow Agent under the Escrow Agreement, which shall initially be GLAS Americas LLC.

"Escrow Agreement" means the Escrow Agreement, dated as of the Effective Date (as amended, restated, amended and restated, supplemented or otherwise modified from time to time), among each Borrower, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Escrow Account.

"Estates" means the estate of each Debtor.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Event of Default" has the meaning set forth in Section 8.1.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of each Borrower hereunder, (a) Taxes imposed on (or measured by) its net income or gross profit, franchise Taxes, and branch profits Taxes, in each case (i) imposed as a result of such recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction (or any political subdivision thereof) imposing such Tax or (ii) that are Other Connection Taxes, (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Term Loan or New Money Term Loan Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Term Loan or New Money Term Loan Commitment (other than the acquisition of such interests on the Effective Date or pursuant to an assignment request by each Borrower under Section 2.16(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.14, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) withholding Taxes imposed under FATCA, and (d) any Taxes attributable to such recipient's failure to comply with Section 2.14(e).

"FATCA" means Sections 1471 through 1474 of the Code, as of the Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code or any published intergovernmental agreement entered into

in connection with the implementation of such Sections of the Code and any fiscal or regulatory legislation, rules or official practices adopted pursuant to any such intergovernmental agreement.

"Federal Funds Effective Rate" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on the NYFRB's Website from time to time) and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; *provided* that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States of America or any successor thereto.

"Fee Letters" means (a) any fee letter in connection with this Agreement between the Agent and each Borrower and (b) any fee letter in connection with this Agreement between the Escrow Agent and each Borrower, in each case, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Final DIP Order" means an order of the Bankruptcy Court entered in the Chapter 11 Cases in form and substance satisfactory to the Required Lenders (and, with respect to any provisions that affect the rights or duties of the Administrative Agent or the Collateral Agent, the Administrative Agent or the Collateral Agent, as applicable), together with all extensions, modifications and amendments thereto, in each case in form and substance satisfactory to the Agents (at the direction of the Required Lenders) that, among other matters, (a) authorizes the Borrowers and the other Loan Parties to execute and perform under the terms of this Agreement and the other Loan Documents, (b) authorizes Term Loans to be incurred during the period after the Final DIP Order Date in the amounts and on the terms set forth herein, (c) approves the conversion of outstanding Prepetition Term Loan Obligations into postpetition Roll-Up Loans, (d) approves the incurrence of additional Roll-Up Loans in an amount equal to the Maximum Roll-Up Amount authorized to be incurred during the period after the Final DIP Order Date, (e) grants the DIP Super-Priority Claims and the Liens on the assets of the Loan Parties referred to herein and in the other Loan Documents and (f) authorizes the use of Cash Collateral.

"Final DIP Order Date" means the date on which the Final DIP Order is entered by the Bankruptcy Court.

"Final Notice Date" means the date that is seven (7) calendar days prior to the Maturity Date.

"Financial Officer" means the Trustee or, if so appointed by the Trustee, a chief financial officer, chief accounting officer, head of finance, vice president of finance, corporate controller or equivalent financial officer of the Borrowers, in each case acting at the direction of the Trustee.

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than the United States of America. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"GAAP" means generally accepted accounting principles in the United States, as in effect from time to time.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing,

regulatory or administrative powers or functions of or pertaining to government (including any *supra*-national bodies such as the European Union, the RBI or the European Central Bank).

"Group" means the Borrowers and the Subsidiaries of the Debtors from time to time.

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; *provided* that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business, or customary indemnification obligations entered into in connection with any acquisition or Disposition of assets or of other entities (other than to the extent that the primary obligations that are the subject of such indemnification obligation would be considered Indebtedness hereunder). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined in good faith by the Trustee. The term "Guarantee" as a verb has a corresponding meaning.

"Guaranteed Obligations" has the meaning set forth in Section 7.1.

"Guarantors" means with respect to Obligations of other Borrowers and Guarantors, Epic!, Tangible Play, Neuron Fuel, the Estates of each of Epic!, Tangible Play and Neuron Fuel, and each Person that shall have become a party hereto as a "Guarantor" and shall have provided a Guaranty of the Obligations (in respect of the other Guarantors) by executing and delivering to the Administrative Agent a signature page hereto. "Guarantor" has the meaning correlative thereto.

"Guaranty" means the guaranty of each Guarantor set forth in Article VII.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hazardous Materials Activity" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"In-Court Milestones" has the meaning set forth in Section 5.17.

"Incremental Amendment" has the meaning set forth in Section 2.20(c).

"Incremental Term Lender" has the meaning set forth in Section 2.20(a).

"Incremental Term Loans" has the meaning set forth in Section 2.20(a).

"Indebtedness" of any Person at any date means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than trade accounts, accounts payable and accrued expenses, accruals for payroll incurred in the ordinary course of business, and attorney and other professional fees payable in connection with the Chapter 11 Cases), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness (excluding prepaid interest thereon) created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations (after giving effect to any prior drawings or reductions which may have been reimbursed) of such Person, contingent or otherwise, as an account party or applicant under or in respect of bankers' acceptances, letters of credit, surety bonds or similar arrangements, (g) [reserved]; in each case of any of the foregoing paragraphs, *provided* that Indebtedness of any direct or indirect parent of a Person appearing on the balance sheet of such Person solely by reason of push-down accounting under GAAP shall be excluded; (h) to the extent not otherwise included above, all Guarantees of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned or acquired by such Person, whether or not such Person has assumed or become liable for the payment of such obligation. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. "Indebtedness" shall not include the obligations or liabilities of any Person to pay rent or other amounts with respect to any lease of office space (or other arrangement conveying the right to use office space), which obligations (i) would be required to be classified and accounted for as an operating lease under GAAP as existing prior to December 31, 2018 or (ii) would be required to be classified and accounted for as a Capital Lease Obligation at any time due to build-to-suit accounting rules, "failed" sale and leaseback accounting rules, other lease classification rules or other similar rules so long as such obligations are not entered into for a financing purpose, are unsecured (other than the provision of any letters of credit required to support such obligations), and do not otherwise constitute "Indebtedness" pursuant to clause (a), (b), (c) or (d) above.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document or any Fee Letter and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

"Indemnitee" has the meaning set forth in Section 10.3(c).

"Information" means all information received from the Borrowers, or from any of their Affiliates, representatives or advisors on behalf of the Borrowers, relating to the Borrowers or their businesses, other than (a) any such information that is already known, or was lawfully disclosed without similar restriction prior to receipt thereof, to any Agent or any Lender prior to its receipt from the Borrowers, or from any of their Affiliates, representatives or advisors on behalf of the Borrowers and (b) publicly-available information provided to market data collectors, such as league tables or other service providers to the lending industry, regarding the Effective Date, size, type, purpose of, and parties to, this Agreement, *provided* that such information has become publicly available other than by reason of the breach of this Agreement or any other confidentiality obligations owing to the Borrowers by any Agent, any Lender or

any of their respective affiliates (to the extent such obligation is binding on the applicable Agent, Lender or affiliate).

"Intellectual Property" means, collectively, all rights, priorities and privileges in intellectual property (including copyrights, patents, trademarks, trade secrets, and proprietary rights in software and databases not otherwise included in the foregoing), and the right to sue at law or in equity or otherwise recover for any past, present or future infringement, dilution, misappropriation, breaches or other violation or impairment thereof, including the right to receive all proceeds therefrom, including license fees, royalties, income, payments, claims, damages and proceeds of suit, now or hereafter due and/or payable with respect thereto.

"Intercreditor Agreement" means that certain Amended and Restated Subordination and Intercreditor Agreement, dated as of [●], 2024, by and between GLAS Trust Company LLC, as administrative agent and collateral agent for the lenders under the Alpha DIP Credit Agreement, GLAS Trust Company LLC, as administrative agent and collateral agent for the lenders under this Agreement, and GLAS Trust Company LLC, as administrative agent and collateral agent under the Prepetition Term Loan Credit Agreement, and acknowledged by BYJU's Alpha, Inc., a Delaware corporation, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Interest Payment Date" means the last day of each March, June, September and December.

"Interest Period" means the period commencing on the date of such Borrowing and ending on the last day of such calendar month; *provided* that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be date immediately following the end of the preceding Interest Period.

"Interim DIP Order" means an order of the Bankruptcy Court entered in the Chapter 11 Cases in form and substance satisfactory to the Required Lenders (and, with respect to any provisions that affect the rights or duties of the Administrative Agent or the Collateral Agent, the Administrative Agent or the Collateral Agent, as applicable), together with all extensions, modifications and amendments thereto, in each case in form and substance satisfactory to the Agents (at the direction of the Required Lenders) that, among other matters, (a) authorizes each Borrower and the other Loan Parties to execute and perform under the terms of this Agreement and the other Loan Documents, (b) authorizes Term Loans to be incurred during the period after the Interim DIP Order Date in the amounts and on the terms set forth herein, (c) approves the conversion of outstanding Prepetition Term Loan Obligations into postpetition Roll-Up Loans, (d) approves the incurrence of additional Roll-Up Loans in an amount equal to the Maximum Roll-Up Amount authorized to be incurred during the period after the Interim DIP Order Date, (e) grants the DIP Super-Priority Claims and the Liens on the assets of the Loan Parties referred to herein and in the other Loan Documents and (f) authorizes the use of Cash Collateral.

"Interim DIP Order Date" means the date on which the Interim DIP Order is entered by the Bankruptcy Court.

"Investment" means (a) any loan, advance (other than advances to officers, managers, consultants and employees or other providers of services for moving, entertainment and travel expenses, drawing

accounts and similar expenditures in the ordinary course of business), extension of credit (by way of Guarantee, assumption of debt or otherwise) or capital contributions by the Borrowers or any of their Subsidiaries to any other Person and (b) any purchase, acquisition or holding by the Borrowers or any of their Subsidiaries of any Equity Interests in or Indebtedness or other securities (including any Acquisitions and any option, warrant or other right to acquire any of the foregoing) of any other Person.

"Investment Company Act" means the Investment Company Act of 1940, as amended.

"IP Licensing Agreement" means the perpetual and exclusive licensing agreement entered into or to be entered into by any Borrower, one or more members of the Group which own Intellectual Property as licensor, such Borrower as main licensee and the Collateral Agent.

"IRS" means the U.S. Internal Revenue Service.

"Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form.

"Junior Financing" means any Indebtedness of the Borrowers and their Subsidiaries that is (a) subordinated in right of payment to the Obligations expressly by its terms, (b) unsecured or (c) is secured on a junior lien basis to the Liens securing the Obligations.

"Junior Financing Documentation" means any documentation governing any Junior Financing.

"law" means, as to any Person, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority, self-regulatory organization, market, exchange, or clearing facility charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, self-regulatory organization, market, exchange, or clearing facility, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, whether or not having the force of law.

"Lender-Related Person" has the meaning set forth in Section 10.3(b).

"Lenders" means the Persons listed in Schedule 2.1 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"Liabilities" means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

"New York Litigation Claims" means any and all claims and causes of action held by the Borrowers currently pending against GLAS Trust Company LLC and certain of the Lenders in New York state court: *BYJU's Pte. Ltd. v. GLAS Trust Company LLC*, Index No. 652717/2023 (Sup. Ct., N.Y. Cnty.).

"Loan Documents" means this Agreement (including any amendment hereto or waiver hereunder), the Term Loan Notes (if any), the Fee Letters, the Collateral Documents, any IP Licensing Agreement, the Intercreditor Agreement and any other agreement entered into in connection herewith or therewith by the Borrowers with or in favor of the Administrative Agent, the Collateral Agent or the Lenders and designated by the terms thereof as a "Loan Document".

"Loan Parties" means the Borrowers and the other Guarantors.

"Margin Stock" has the meaning assigned to such term in Regulation U of the Federal Reserve Board as in effect from time to time.

"Marketable Securities" means, without duplication of any of the items described in the definition of Cash Equivalents, investments permitted pursuant to any applicable member of the Group's investment policy as approved by the Trustee from time to time.

"Material Adverse Effect" means a material adverse effect (other than the filing of the Chapter 11 Cases and the events and conditions related and/or leading up thereto, the appointment of the Trustee and, in each case, the effects thereof and any action required to be taken under the Loan Documents or under the Interim DIP Order or Final DIP Order, as applicable) on (a) the business, assets, or financial condition, in each case, of the Estates (taken as a whole), (b) the rights and remedies of the Lenders or the Administrative Agent under this Agreement or of any Agent, any Lender or any other Secured Party under the Loan Documents or the effectiveness or ranking of any Lien granted or purporting to be granted pursuant to any of the Collateral Documents or (c) the ability of the Estates (taken as a whole) to perform their payment obligations under the Loan Documents.

"Material Indebtedness" means any Indebtedness for borrowed money and any other Indebtedness (other than any Indebtedness under the Loan Documents) of any one or more of the Borrowers and their Subsidiaries in a principal amount exceeding $250,000.

"Maturity Date" means, the earliest of (a) the date falling six (6) months after the Effective Date, (b) the date on which all Term Loans are accelerated and all unfunded New Money Term Loan Commitments (if any) have been terminated in accordance with this Agreement, (c) the date on which the Bankruptcy Court orders a conversion of the Chapter 11 Cases to cases under chapter of the Bankruptcy Code or the dismissal of the Chapter 11 Cases, (d) the Plan Consummation Date and (e) the date on which the sale of all or substantially all of the Epic! Assets, the Neuron Fuel Assets and the Tangible Play Assets, taken as a whole, have been consummated.

"Maximum Rate" has the meaning set forth in Section 10.13.

"Maximum Roll-Up Amount" means an amount up to $133,000,000.

"Ministerial Amendments" means any waiver, amendment or modification to (a) cure any ambiguity, omission, error or defect (b) effect changes of a minor, administrative, operational, technical or immaterial nature, and/or (c) fix incorrect cross references or similar inaccuracies, in each case, in any Loan Document; *provided* that no such waivers, amendments or modifications are adverse in any respect to the Lenders.

"Moody's" means Moody's Investors Service, Inc., and any successor to its rating agency business.

"Multiemployer Plan" means a Plan which is a multiemployer plan as defined in Section 3(37) of ERISA to which the Borrowers or any of their Subsidiaries or any ERISA Affiliates has, or within the prior six years had, an obligation to contribute.

"Nationally Recognized Statistical Ratings Organization" means CRISIL Limited or ICRA Limited.

"Net Cash Proceeds" means, with respect to any event, (a) the cash proceeds actually received by Trustee or the Estates in respect of such event, and in each case, only as and when actually received, including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), and (ii) in the case of a Recovery Event, insurance proceeds and condemnation awards and similar payments, net of (b) the sum of (i) all duly documented fees (including attorney's fees, accountants' fees, and other expenses, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses), investment banking, consultant and other customary fees, commissions, discounts, (including underwriting discounts), and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event actually incurred, (ii) in the case of an Asset Sale or Recovery Event, the amount of all payments required to be made as a result of such event to repay Indebtedness (other than any Term Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event, (iii) in the case of any Asset Sale, Recovery Event or similar transaction by or of a non-wholly-owned Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (iii)) attributable to minority interests and not available for distribution to or for the account of the Borrowers or a wholly-owned Subsidiary as a result thereof, (iv) in the case of a Recovery Event, duly documented costs of preparing assets for transfer upon a taking or condemnation or similar event, and (v) the amount of all taxes paid (or reasonably estimated to be payable) and the amount of any reserves established to fund contingent liabilities or otherwise against any adjustment to the sale price reasonably estimated to be payable (including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations), in each case that are directly attributable, to such event (as determined reasonably and in good faith by a Responsible Officer of the Borrowers); *provided* that on the date on which such reserve is no longer required to be maintained, the remaining amount of such reserve (other than in connection with a payment in respect of any such liability) shall then be deemed to be Net Cash Proceeds.

"Neuron Fuel" has the meaning specified in the Preamble.

"Neuron Fuel Assets" has the meaning set forth in Section 5.17(i).

"New Money Term Loan" has the meaning assigned to such term in Section 2.1.

"New Money Term Loan Commitments" means, with respect to each Lender, its obligation to make New Money Term Loans to each Borrower in accordance with Section 2.1 in an aggregate principal amount up to, and not to exceed, the amount set forth on Schedule 2.1, as such commitment may be reduced from time to time pursuant to Section 2.8.

"New Money Term Loan Facility" means the New Money Term Loan Commitments and the extensions of credit made thereunder.

"New Money Term Loan Lender" means each Lender that has a New Money Term Loan Commitment or that holds a New Money Term Loan.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.2 and (b) has been approved by the Required Lenders.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-U.S. Plan" means any plan, fund (including any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States of America by the Borrowers or one or more Subsidiaries of the Borrowers, primarily for the benefit of employees of the Borrowers or such Subsidiaries or any Borrower residing outside the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"NYFRB" means the Federal Reserve Bank of New York.

"NYFRB Rate" means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day).

"NYFRB's Website" means the website of the NYFRB at http://www.newyorkfed.org, or any successor source.

"Obligations" means all amounts owing by any Loan Party to any Agent or any Lender pursuant to the terms of this Agreement or any other Loan Document (including all interest which accrues after the commencement of any Bankruptcy Event, whether or not allowed or allowable).

"Obligee Guarantor" has the meaning set forth in Section 7.6.

"OFAC" means the United States Treasury Department Office of Foreign Assets Control.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Taxes (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement or any other Loan Document, or sold or assigned an interest in this Agreement or any other Loan Document).

"Other Taxes" means any and all present or future stamp, court or documentary Taxes or any other excise, property, intangible, recording, filing or similar Taxes, in each case, which arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and the other Loan Documents; excluding, however, such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than such Taxes imposed with respect to an assignment that occurs as a result of each Borrower's request pursuant to Section 2.16(b)).

"Overnight Bank Funding Rate" means, for any day, the rate comprising both overnight federal funds and overnight eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB's Website from time to

time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate; *provided* that if the Overnight Bank Funding Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of calculating such rate.

"Parent Guarantor" has the meaning assigned to such term in the recitals of this Agreement.

"Participant" has the meaning set forth in Section 10.4(c)(iv).

"Participant Register" has the meaning set forth in Section 10.4(e).

"PBGC" means the U.S. Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor entity performing similar functions.

"Pension Plan" means any U.S. Plan that is subject to Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA.

"Permitted Disbursement Variance" has the meaning set forth in Section 5.16(e).

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes, assessments or governmental charges or levies that are not yet due or that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves (including costs required to contest such Taxes, assessments or governmental charges or levies) are being maintained;

(b) carriers', warehousemen's, mechanics', materialmen's, landlord's, supplier's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.4;

(c) Liens incurred or pledges and deposits made in the ordinary course of business (i) in compliance with workers' compensation, unemployment insurance and other social security laws or regulations or employment laws or to secure other public, statutory or regulatory obligations or (ii) securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instrument for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrowers or any Subsidiary of the Borrowers or otherwise supporting the payment of items set forth in the foregoing clause (i);

(d) [reserved];

(e) [reserved];

(f) [reserved];

(g) (i) covenants, easements, imperfections of title, building codes, restrictions (including zoning restrictions), rights-of-way, entitlements, conservation restrictions and other land use restrictions, encroachments and similar encumbrances on real property imposed by law or arising in the ordinary course of business, or (ii) any exceptions on any title policies issued in connection with any mortgaged Real Estate Assets, in each case, that do not secure any monetary obligations, and do not materially detract from the value of the

affected property or interfere with the conduct of business of the Borrowers or any Subsidiary of the Borrowers;

(h) [reserved];

(i) rights of set-off, rights of pledge or similar rights and remedies, banker's lien, netting agreements and other Liens arising by operation of law or by of the terms of documents or contracts in relation to (i) establishment of depository relations with banks or other deposit-taking financial institutions or the maintenance of administration of deposit accounts, securities accounts, cash management arrangements or in connection with the issuance of letters of credit, bank guarantees or other similar instruments, (ii) [reserved] or (iii) purchase orders and other agreements entered into with customers of the Borrowers or any of their Subsidiaries in the ordinary course of business;

(j) Liens arising from the right of distress enjoyed by landlords or Liens otherwise granted to landlords, in either case, to secure the payment of arrears of rent or performance of other obligations in respect of leased properties, so long as such Liens are not exercised or except where the exercise of such Liens would not reasonably be expected to have a Material Adverse Effect;

(k) Liens or security given to public utilities or to any municipality or Governmental Authority when required by the utility, municipality or Governmental Authority in connection with the supply of services or utilities to the Borrowers and any other Subsidiaries;

(l) [reserved];

(m) Liens on any Collateral securing any obligation in favor of a Governmental Authority, which Lien ranks or is capable of ranking prior to or *pari passu* with the Liens created by the Collateral Documents, including any such Lien securing amounts owing for wages, vacation pay, severance pay, employee deductions, workers compensation, governmental royalties or pension fund obligations; and

(n) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(o) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;

(p) [reserved];

(q) [reserved];

(r) [reserved];

(s) Liens incurred in connection with Prepetition Indebtedness;

(t) [reserved];

(u) Liens arising by operation of law in the United States under Article 2 of the UCC in favor of a reclaiming seller of goods or buyer of goods;

(v) [reserved];

(w) [reserved];

(x) [reserved];

(y) Liens arising pursuant to Section 107(l) of the means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as subsequently amended, and the regulations promulgated thereunder (CERCLA), 42 U.S.C. § 9607(l), or other Environmental Law.

"Person" means any natural person, corporation, exempted company incorporated with limited liability, limited liability company, trust, Joint Venture, association, company, partnership, Governmental Authority or other entity.

"Petition Date" has the meaning assigned to such term in the recitals of this Agreement.

"Petitioning Lender Creditors" has the meaning assigned to such term in the recitals of this Agreement.

"Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA.

"Plan Asset Regulations" means 29 CFR § 2510.3-101 *et seq.*, as modified by Section 3(42) of ERISA, as amended from time to time.

"Plan Consummation Date" means the date of the substantial consummation (as defined in Section 1101 of the Bankruptcy Code) of a Chapter 11 Plan, which, for purposes of this Agreement, shall be no later than the effective date of a Chapter 11 Plan that is confirmed pursuant to an order of the Bankruptcy Court.

"Platform" has the meaning set forth in Section 10.1.

"Portfolio Interest Certificate" has the meaning set forth in Section 2.14(d)(i)(B)(III).

"Prepetition Collateral" means the "Collateral" as defined in and under the Prepetition Term Loan Credit Agreement.

"Prepetition Indebtedness" means all Indebtedness of the Loan Parties outstanding on the Petition Date immediately prior to the filing of the Chapter 11 Cases.

"Prepetition Term Loan Administrative Agent" shall have the meaning assigned to such term in the recitals of this Agreement.

"Prepetition Term Loan Credit Agreement" shall have the meaning assigned to such term in the recitals of this Agreement.

"Prepetition Term Loan Documents" shall have the meaning assigned to such term in the recitals of this Agreement.

"Prepetition Term Loan Lenders" has the meaning assigned to such term in the recitals of this Agreement.

"Prepetition Term Loan Obligations" means the Prepetition Term Loans plus interest, fees, costs and expenses and all other "Obligations" as defined in and under the Prepetition Term Loan Credit Agreement.

"Prepetition Term Loans" has the meaning assigned to such term in the recitals of this Agreement.

"Prime Rate" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest *per annum* interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"Pro Rata Share" means, with respect to any Lender, the percentage obtained by dividing (a) the outstanding Term Loans of that Lender by (ii) the aggregate outstanding Term Loans of all Lenders.

"Proceeding" means any claim, litigation, investigation, action, suit, arbitration or administrative, judicial or regulatory action or proceeding in any jurisdiction.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Real Estate Asset" means, at any time of determination, any interest (fee or otherwise, but excluding any leasehold interest) in real property then owned by any Loan Party.

"Recipient" means the Administrative Agent, the Collateral Agent and any Lender, or any combination thereof (as the context requires).

"Recovery Event" means any settlement of or payment in respect of any property or casualty insurance claim (excluding the proceeds of business interruption insurance or other similar compensation for loss of revenue) or any condemnation proceeding relating to any asset of the Borrowers or their Subsidiaries.

"Reference Date" means December 31, 2023.

"Register" has the meaning set forth in Section 10.4(b)(iv).

"Rejection Notice" has the meaning set forth in Section 2.8(f).

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, or leaching of any Hazardous Material into the environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material).

"Relevant Governmental Body" means, the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of

Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

"Repayment Premium" means, at any time with respect to any prepayment, repayment, required repayment or acceleration of New Money Term Loans, a premium in an amount equal to 4.00% of such New Money Term Loans being prepaid, repaid, required to be repaid or accelerated up to the Repayment Premium Cap.

"Repayment Premium Cap" means the amount that is equal to 4.00% of the aggregate amount of New Money Term Loans made or extended to Borrowers (which for the avoidance of doubt, shall not include any interest paid in kind pursuant to Section 2.10 or Roll-Up Loans).

"Required Governmental Authorization" means all material franchises, approvals, permits, consents, qualifications, certifications, authorizations, licenses, orders, registrations, certificates, variances or other similar permits, rights and all pending applications therefor from or with the relevant Governmental Authority required to operate the business of the Borrowers and their Subsidiaries, as conducted as of the Effective Date, in accordance with applicable law.

"Required Lenders" means, at any time, a Lender or Lenders having outstanding Term Loans representing more than 50% of the sum of the total outstanding Term Loans at such time. The outstanding Term Loans of any Defaulting Lender and any Affiliated Lender shall be disregarded in determining Required Lenders at any time.

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means the Trustee or any party so appointed by the Trustee to act as an authorized signatory of the applicable Loan Party designated by the Trustee in writing to the Administrative Agent from time to time, acting singly, in each case at the direction of the Trustee.

"Restricted Debt Payment" means the making of any payment, prepayment, repurchase or redemption of or otherwise defeasing or segregating funds (including any offer to do any of the foregoing) in each case, whether optional, voluntary or mandatory (including as a result of a "change of control" or similar event having occurred), with respect to any Indebtedness (other than the Obligations hereunder), in each case, prior to the scheduled maturity thereof.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in any Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund, similar deposit or withholding Taxes, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in any Borrower or such Subsidiary. The conversion of, or payment for (including payments of principal and payments upon redemption or repurchase), or paying any interest with respect to, any debt securities that are convertible into or exchangeable for any combination of Equity Interests and/or cash shall not constitute a Restricted Payment.

"Roll-Up Loans" means, at any time, the amount of Prepetition Term Loans rolled-up pursuant to Section 2.1(b)(i).

"Roll-Up Multiple" means 7.00x.

"Roll-Up Notice" means a notice in the form of Exhibit D.

"S&P" means S&P Global Ratings, a Standard & Poor's Financial Services LLC business, a subsidiary of S&P Global Inc., and any successor to its rating agency business.

"Sale Order" has the meaning set forth in Section 5.17(m).

"Sale Process" has the meaning set forth in Section 5.17(b).

"Sanctioned Country" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state or His Majesty's Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clause (a) or (b) or (c) any Person otherwise the subject of any Sanctions.

"Sanctions" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, His Majesty's Treasury of the United Kingdom or other relevant sanctions authority or any jurisdiction in which the Borrowers or their Subsidiaries do business or United Nations sanctions.

"Secured Parties" means, collectively (a) each Agent and each Lender and (b) the permitted successors and assigns of each of the foregoing.

"Security Agreements" means the Interim DIP Order, the Final DIP Order, that certain Pledge and Security Agreement, dated as of the Effective Date, by and among each Borrower and the Collateral Agent and any other document pursuant to which a Loan Party grants a security interest to secure the Obligations.

"Social Insurance" means any form of social insurance required under applicable law, including social security, employment, unemployment or employee insurance, workers' compensation and medical insurance, and any contribution payable therewith to any Governmental Authority or social welfare organization.

"Specified Disbursements" means all disbursements by all Loan Parties in the aggregate (including, but not limited to, any and all payments, expenditures, or advances, but excluding any payments made on account of professional fees and expenses related to the administration of this case including those paid pursuant to paragraph 18 of the Interim DIP Order (or any analogous provision of the Final DIP Order)).

"Specified Reference Date" has the meaning set forth in Section 5.16(b).

"Spot Rate" means, on any day, with respect to any currency other than Dollars, the rate at which such currency may be exchanged into Dollars, as set forth at approximately 12:00 noon, Singapore time, on such date as quoted on the Bloomberg Currency Website after applying the currency converter set forth on the Bloomberg Currency Website. In the event that such rate does not appear on the Bloomberg Currency Website, the Spot Rate shall be calculated by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrowers, or, in the absence of such agreement, such Spot Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent, on or about 11:00 a.m., London time, on such date for the purchase of such currency for delivery two (2) Business Days later; *provided* that if, at the time of any such

determination, for any reason, no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrowers, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one *minus* the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Federal Reserve Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Federal Reserve Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Sub-Agent" has the meaning set forth in Section 9.1.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, exempted company incorporated with limited liability, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, exempted company incorporated with limited liability, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity (including by value) or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the partnership interests are, as of such date, owned (directly or indirectly), controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent and which is required by GAAP to be consolidated in the consolidated financial statements of the parent.

"Subsidiary" means any direct or indirect subsidiary of any Debtor.

"Tangible Play" has the meaning specified in the Preamble.

"Tangible Play Assets" has the meaning set forth in Section 5.17(i).

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan Note" means a promissory note in the form of Exhibit K, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Term Loans" means, individually and collectively, the New Money Term Loans and the Roll-Up Loans.

"Term SOFR" means, the Term SOFR Reference Rate for a tenor comparable to the Interest Period on the day (such day, the "Periodic Term SOFR Determination Day") that is two (2) Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; *provided*, *however*, that if as of 11:00 a.m. on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding Business Day for which such Term SOFR Reference Rate for such tenor was published by

the Term SOFR Administrator so long as such first preceding Business Day is not more than three (3) Business Days prior to such Periodic Term SOFR Determination Day. If Term SOFR as so determined would be less than 1.00% per annum, then Term SOFR will be deemed to be 1.00% per annum for the purposes of this Agreement and the other Loan Documents.

"Term SOFR Administrator" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"Term SOFR Loan" means any Term Loans bearing interest at a rate determined by reference to Term SOFR.

"Term SOFR Reference Rate" means the forward-looking term rate based on SOFR.

"Transactions" means the execution, delivery and performance by the Loan Parties or each Loan Document to which it is a party, the Borrowing of Term Loans and the use of the proceeds thereof, and the granting of Liens in the Collateral under the Collateral Documents.

"Treasury Regulations" means all proposed, temporary, and final regulations promulgated under the Code, as such regulations may be amended from time to time.

"Type", when referring to the New Money Term Loans, means whether such New Money Term Loan claim arose from New Money Term Loan Commitments as of the Effective Date or Prepetition Term Loans rolled on a cashless basis on or after the Effective Date pursuant to Section 2.1(a)(iii).

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unasserted Contingent Obligations" shall mean, at any time, with respect to the Obligations, obligations for indemnifications, damages, reimbursements and other liabilities that expressly survive the termination of the underlying Loan Documents and in respect of which no written assertion of liability, claim or demand for payment has been made (and, in the case of such Obligations for indemnification, no written notice for indemnification has been issued by the indemnitee) at such time.

"Unfunded Pension Liability" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"Uniform Commercial Code" means the Uniform Commercial Code enacted in the State of New York, as amended from time to time.

"U.S. Government Obligations" means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agent or instrumentality thereof; *provided* that the full faith and credit of the United States of America is pledged in support thereof.

"U.S. Government Securities Business Day" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Plan" means any Plan, and any other plan, fund or arrangement that provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment or employee welfare or other benefits which are subject to ERISA or the Code, or other United States federal, state or local law, and in each case, which is, or within the prior six years was, sponsored, maintained or contributed to by, or required to be contributed by the Borrowers or any of their Subsidiaries or any ERISA Affiliate (other than a Multiemployer Plan), or with respect to which the Borrowers or any of their Subsidiaries or ERISA Affiliates could have any liability (other than a Multiemployer Plan).

"USA Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended from time to time.

"Variance Report" means a report certified by the Trustee or a Responsible Officer of the Loan Parties, at the direction of the Trustee, setting forth (a) actual Specified Disbursements against the forecasted Specified Disbursement from the most recent cash flow forecast for the prior applicable period, on a line-item basis and in the aggregate as of the end of such period, (b) the variance in Dollars and percentages for the two (2)-week period ending with such Specified Reference Date and (c) such other information with respect to cash flows as the Administrative Agent (at the direction of the Required Lenders) may reasonably request.

"wholly-owned" means, when used in reference to a subsidiary of any Person, that all the Equity Interests in such subsidiary (other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly-owned subsidiary of such Person or any combination thereof.

"Withdrawal" means a withdrawal from the Escrow Account, made in accordance with Section 4.2.

"Withdrawal Date" means the date of the making of any Withdrawal.

"Withdrawal Notice" means a notice substantially in the form attached hereto as Exhibit E to be delivered by each Borrower to the relevant Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Escrow Account.

"Withholding Agent" means each Borrower and the Administrative Agent.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are

described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.2. Classification of Term Loans and Borrowings. For purposes of this Agreement, Term Loans may be classified and referred to by Class (e.g., a "New Money Term Loan" or "Roll-Up Loan"). Borrowings also may be classified and referred to by Class (e.g., a "New Money Term Loan Borrowing").

Section 1.3. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, replaced, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, replacements, amendments and restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time.

Section 1.4. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided* that, if each Borrower notifies the Administrative Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision has been amended in accordance herewith.

Section 1.5. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

Section 1.6. Interest Rates. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the Term SOFR Reference Rate, Term SOFR or with respect to any alternative or successor rate thereto, or replacement rate thereof (including (a) any such alternative, successor or replacement rate implemented pursuant to Section 2.11(b) or (c), upon the occurrence of a Benchmark Transition Event, and (b) the implementation of any Conforming Changes pursuant to Section 2.11(d)). The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Term SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to each Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE II
THE CREDITS

Section 2.1. The Commitments.

(a) New Money Term Loans. Subject to the terms and conditions hereof and in the Final DIP Order, each New Money Term Loan Lender severally agrees to make term loans denominated in Dollars (each, a "New Money Term Loan") to each Borrower on the Effective Date in an aggregate principal amount not to exceed $9,500,000; *provided* that, (x)(i) a portion of the proceeds of the New Money Term Loans in an aggregate amount not to exceed $[3,250,000] shall be made available to each Borrower on the Effective Date and (ii) a portion of the proceeds of the New Money Term Loans in an aggregate amount no less than $[6,250,000] shall be deposited directly in the Escrow Account, (y) the proceeds of the New Money Term Loans shall be used solely as permitted herein and (z) any amounts repaid in respect of New Money Term Loans may not be reborrowed and unless previously terminated, the New Money Term Loan Commitments shall terminate upon the making of the New Money Term Loans on the Effective Date.

(b) Roll-Up Loans.

(i) At any time after the Effective Date and prior to the Final Notice Date, each New Money Term Loan Lender shall have the right in its sole option to submit to the Administrative Agent a Roll-Up Notice with respect to its (or any of its Affiliates' or Approved Funds') Prepetition Term Loans (which such Prepetition Term Loans may be held as a lender of record, by participation or by any other means) in an amount up to the product of (x) the applicable Roll-Up Multiple and (y) the amount of New Money Term Loans (excluding any amounts accrued on account of fees or interest payable in kind) held by such New Money Term Loan Lender (or any of its Affiliates or Approved Funds) (such aggregate amount in respect of each such New Money Term Loan Lender, the "Applicable Roll-Up Amount") as of the date of such notice, which shall include:

(1) the amount and Type of New Money Term Loans and the amount of Prepetition Term Loans outstanding (and have not been previously converted to Roll-Up Loans or roll-up loans under the Alpha DIP Credit Agreement) held by the submitting New Money Term Loan Lender (or any of its Affiliates or Approved Funds) as of such date (which such Prepetition Term Loans may be held as a lender of record, by participation or by any other means);

(2) the amount of Prepetition Term Loans the submitting New Money Term Loan Lender intends to roll-up;

(3) the proposed effective date of such roll-up election;

(4) the amount and Type of any New Money Term Loans held but for which a roll-up right were previously exercised under a prior Roll-Up Notice or as set forth in an Assignment and Assumption; and

(5) whether such New Money Term Loan Lenders (or its Affiliates or Approved Funds, as applicable) own the Prepetition Term Loans subject to the Roll-Up Notice as a lender of record, as a participant or by some other means.

(ii) The maximum amount of Prepetition Term Loans eligible to be rolled-up by each New Money Term Loan Lender will be based on the Roll-Up Multiple applicable to the Type of New Money Term Loans held by such New Money Term Loan Lender on the date such Lender submits a Roll-Up Notice. Any Prepetition Term Loans rolled-up pursuant to a Roll-Up Notice shall be converted on a dollar-for-dollar cashless basis into Roll-Up Loans deemed funded on the Roll-Up Effective Date (as defined below), without constituting a novation. For the avoidance of doubt, a New Money Term Loan Lender may submit a Roll-Up Notice on more than one occasion as long as the aggregate principal amount of Prepetition Term Loans subject to all such Roll-Up Notices does not exceed the Applicable Roll-Up Amount of such New Money Term Loan Lender as of the date of such Roll-Up Notice. The aggregate amount of the Roll-Up Loans shall not exceed the Maximum Roll-Up Amount. The Roll-Up Loans will constitute Term Loans under this Agreement and all other Loan Documents.

(iii) The roll-up options in clause (ii) above shall be attributable to and travel with (in the case of any assignment, participation or transfer after the Effective Date) the New Money Term Loans. Any exercise of the roll-up option affiliated with any dollar of New Money Term Loans shall be noted by the Administrative Agent on the Register within three (3) Business Days of receiving the relevant Roll-Up Notice (such date the "Roll-Up Effective Date").

(iv) Any reduction of the Prepetition Term Loans of any Lender as a result of the roll-up election pursuant to this Section 2.1(b) shall be applied to the Prepetition Term Loan Obligations of such Lender in the order provided for in Section 8.2 of the Prepetition Term Loan Credit Agreement. Unless designated otherwise in the applicable Roll-Up Notice, the amount of Prepetition Term Loans designated as being rolled up pursuant to such Roll-Up Notice will be debited on a *pro rata* basis among the Prepetition Term Loans held by the New Money Term Loan Lender and any of its Affiliates or Approved Funds on the Roll-Up Effective Date.

Section 2.2. Term Loans and Borrowings. Each New Money Term Loan shall be made as part of a Borrowing made by the Lenders in accordance with their respective Applicable Percentages. The failure of any Lender to make any New Money Term Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; *provided* that the New Money Term Loan Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make New Money Term Loans as required hereunder.

Section 2.3. Requests for Borrowings. To request a Borrowing, the Borrowers shall notify the Administrative Agent of such request in writing not later than 12:00 p.m., New York City time, two (2) Business Days (or such shorter time period as may be agreed by the Administrative Agent in its sole discretion) before the date of the proposed Borrowing. Each such written Borrowing Request shall be irrevocable and shall be confirmed promptly by e-mail (or other facsimile transmission) to the Administrative Agent of a written Borrowing Request in substantially the form of Exhibit B attached hereto and signed by a Responsible Officer of each Borrower. Each such written Borrowing Request shall specify the following information in compliance with Section 2.2:

(i) the aggregate amount of the requested Borrowing;

(ii) the Class of Term Loans to be borrowed; and

(iii) the date of such Borrowing, which shall be a Business Day.

Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of the amount of such Lender's New Money Term Loans to be made as part of the requested Borrowing.

Section 2.4. Funding of Borrowings.

(a) Each New Money Term Loan Lender shall make each New Money Term Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 10:00 a.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the New Money Term Loan Lenders. Except as otherwise specified in the immediately preceding sentence or in Section 2.1(a), the Administrative Agent will make such New Money Term Loans available to Borrowers by promptly crediting the amounts so received, in like funds, to the Escrow Account.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Applicable Percentage of such Borrowing, the Administrative Agent may (but shall not be obligated to) assume that such Lender has made such Applicable Percentage available on such date in accordance with paragraph (a) of this Section and may, in its sole discretion, in reliance upon such assumption, make available to Borrowers a corresponding amount. In such event, if a Lender has not in fact made its Applicable Percentage of the applicable Borrowing available to the Administrative Agent and the Administrative Agent has made such amount available to a Borrower, then the applicable Lender severally agrees to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Term Loan included in such Borrowing.

Section 2.5. [Reserved].

Section 2.6. Repayment of Term Loans; Evidence of Debt.

Each Borrower hereby unconditionally promises to pay to the Administrative Agent, for the account of each New Money Term Loan Lender, the then-unpaid principal amount of each New Money Term Loan of such New Money Term Loan Lender as provided in Section 2.6(c), in each case, together with accrued and unpaid interest on such New Money Term Loan, to but excluding the date of payment, and the applicable Repayment Premium with respect thereto on the Maturity Date.

(a) [Reserved].

(b) To the extent not previously repaid, all unpaid Term Loans shall be paid in full in Dollars by the Borrowers on the Maturity Date.

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Term Loan made by such

Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Term Loan made hereunder, the Class thereof and each Interest Payment Date applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(e) The entries made in the accounts maintained pursuant to paragraph (e) of this Section shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein (absent manifest error); *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of each Borrower to repay the Term Loans in accordance with the terms of this Agreement.

(f) Any Lender may request that Term Loans made by it be evidenced by a Term Loan Note. In such event, each Borrower shall prepare, execute and deliver to such Lender a Term Loan Note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns). Thereafter, the Term Loans evidenced by such Term Loan Note and interest thereon shall at all times (including after assignment pursuant to Section 10.4) be represented by one or more Term Loan Notes in such form payable to the payee named therein (or, if such Term Loan Note is a registered note, to such payee and its registered assigns).

Section 2.7. Prepayment of Term Loans.

(a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject, in the case of a prepayment of New Money Term Loans, to payment of the Repayment Premium, in accordance with this Section and subject to the requirements in Section 2.8(f). Each Borrower shall notify the Administrative Agent in writing by email (or other facsimile transmission or hand delivery of written notice) of any prepayment hereunder not later than 12:00 p.m., New York City time, three (3) Business Days before the date of prepayment (or such shorter period agreed to by the Administrative Agent in its discretion). Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; *provided* that, a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities or another transaction, in which case such notice may be revoked by each Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to a Borrowing of any Class, the Administrative Agent shall advise the applicable Lenders of the contents thereof.

(b) If all or any part of the principal balance of the New Money Term Loans is repaid, prepaid or required to be repaid or prepaid or accelerated and including any such prepayment or required prepayment or acceleration in connection with (i) an acceleration of the Term Loans as a result of the occurrence of an Event of Default, (ii) foreclosure and sale of, or collection of, the Collateral, (iii) sale of the Collateral in any bankruptcy, examinership, reorganization, insolvency or liquidation proceeding, (other than in the Chapter 11 Cases), (iv) the restructure, reorganization, or compromise of the Term Loans by the confirmation of a plan of reorganization or liquidation or any other plan of compromise, restructure, or arrangement in any bankruptcy, examinership, reorganization, insolvency or liquidation proceeding or (v) the termination of this Agreement for any reason, each Borrower shall pay to the Administrative Agent, for the benefit of all Lenders entitled to a portion of such prepayment or required repayment or prepayment, a premium equal to the Repayment Premium. Without limiting the generality of the foregoing, it is understood and agreed that if the New Money Term Loans are accelerated for any reason, including because

of Default, the commencement of any bankruptcy, examinership, reorganization, insolvency or liquidation proceeding or other proceeding pursuant to any applicable Debtor Relief Laws, sale, disposition, or encumbrance (including that by operation of law or otherwise but other than the Chapter 11 Cases), the Repayment Premium, determined as of the date of acceleration, will also be due and payable as though such New Money Term Loans were voluntarily prepaid as of such date. The Repayment Premium shall also be payable in the event the New Money Term Loans are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure, or by any other means. EACH BORROWER EXPRESSLY WAIVES THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING REPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. Each Borrower expressly agrees that: (A) the Repayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (B) the Repayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made, (C) there has been a course of conduct between the Lenders and each Borrower giving specific consideration in this transaction for such agreement to pay the Repayment Premium and (D) each Borrower shall be estopped hereafter from claiming differently than as agreed to in this paragraph. Each Borrower expressly acknowledges that its agreement to pay the Repayment Premium, as herein described is a material inducement to the Lenders to make the New Money Term Loans.

Section 2.8. Mandatory Prepayments.

(a) Upon any Borrower Sale (including, for the avoidance of doubt, any Asset Sale of Epic! Assets, Neuron Fuel Assets and Tangible Play Assets), (i) an amount equal to 100% of the Net Cash Proceeds (and all non-cash consideration subject to the provisos in this Section 2.8(a) below) of such Borrower Sale shall be applied forthwith toward the prepayment of Obligations in the priority provided for in Section 8.2, (ii) after all or substantially all Epic! Assets, Tangible Play Assets and Neuron Fuel Assets are Disposed of, the New Money Term Loan Commitments shall immediately terminate and all Term Loans shall become immediately due and payable and each Borrower shall, substantially concurrently with the closing of such Borrower Sale, repay all outstanding Obligations (including, for the avoidance of doubt, the applicable Repayment Premium) in full in cash; *provided* that at each Borrower's request, subject to the consent of the Required Lenders, the Obligations may be prepaid, repaid and discharged with non-cash consideration (to be applied based on each Lender's Pro Rata Share of each relevant Class of the Term Loans (but subject to the priority provided for in Section 8.2)); *provided* that the valuation of the non-cash consideration to be applied equally to all Lenders based on their Pro Rata Share of each relevant Class of the Term Loans pursuant to this Section 2.8(a) shall be determined at the sole discretion of the Required Lenders; and each Borrower acknowledges and agrees that the Required Lenders' valuation shall be final and binding for all purposes related to this Agreement; *provided, further,* that if any portion of the asset sale proceeds of the Collateral is in the form of cash, then such cash shall be applied before any non-cash proceeds.

(b) Commencing on the Effective Date, if any Loan Party receives any cash receipts (other than the proceeds of New Money Term Loans), any such cash receipts received shall be applied three (3) Business Days after receipt thereof toward the prepayment of the Obligations as set forth in Section 2.8(f), until the principal amount of the New Money Term Loans equal to $2,000,000 has been prepaid pursuant to this Section 2.8(b) provided that, solely with respect to any prepayment required under this Section 2.8(b), in lieu of prepayment with cash on hand, the Borrower may make the prepayment in full or in part with balance in the Escrow Account so long as (i) sufficient fund is available in the Escrow Account, (ii) the Borrower shall deliver a Withdrawal Notice to the Administrative Agent at least two (2) Business Days prior to the date of such prepayment and (iii) the conditions set forth in Section 4.2, are satisfied. For the avoidance of doubt, prepayments made hereunder shall be applied to repay the principal amount of the New Money Term Loans plus any accrued and unpaid interest and the Repayment Premium.

(c) [Reserved].

(d) [Reserved].

(e) Prepayments of Term Loans shall be applied to repay the principal amount of the Term Loans plus accrued and unpaid interest to the extent required by Section 2.10 and any costs or premiums as contemplated herein, including, with respect to prepayments of the New Money Term Loans, the applicable Repayment Premium. Prepayments of Term Loans shall be applied in the case of prepayments pursuant to Section 2.7 or Section 2.8 to each Class of Term Loans, *pro rata* among all Classes of Term Loans (but subject to the priority provided for in Section 8.2).

(f) Each Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 2.8 prior to the date of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of any such prepayment notice and of such Lender's ratable portion of such prepayment (based on such Lender's Pro Rata Share of each relevant Class of the Term Loans (but subject to the priority provided for in Section 8.2)). Each applicable Lender may reject all or a portion of its Pro Rata Share of any mandatory repayment of Term Loans pursuant to Section 2.8 (such declined amounts, the "Declined Proceeds") by providing written notice (promptly confirmed by email) (each, a "Rejection Notice") to the Administrative Agent and each Borrower no later than 5:00 p.m., New York City time, on the Business Day after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice shall specify the principal amount of the Declined Proceeds with respect to such Lender. If a Lender fails to deliver such Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Declined Proceeds for such Lender, any such failure will be deemed an acceptance of the total amount of such mandatory repayment of Term Loans to which such Lender is otherwise entitled. Any Declined Proceeds shall be retained by the relevant member of the Group, as the case may be (subject to any prepayment obligations it may have with respect to other Indebtedness) and may be used for any purposes not expressly prohibited under this Agreement.

Section 2.9. Fees.

(a) Each Borrower agrees to pay (i) to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between each Borrower and the Administrative Agent, (ii) to the Collateral Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between such Borrower and the Collateral Agent and (iii) to the Petitioning Lender Creditors, an upfront fee payable in kind, which shall be capitalized by adding such amount to the then outstanding principal amount of the New Money Term Loans on the Effective Date, in the amount equal to [6.00%] of the aggregate principal amount of the New Money Term Loans on the Effective Date, which fee shall be allocated among the Petitioning Lender Creditors based on their respective percentage shares of such aggregate amount of funded New Money Term Loans.

(b) Unless otherwise specified, all fees payable hereunder shall be paid on the dates due, in Dollars in immediately available funds, to the parties specified herein. Fees paid shall not be refundable under any circumstances.

Section 2.10. Interest.

The Term Loans comprising each Borrowing shall bear interest at Term SOFR plus the Applicable Rate and shall be payable on each Interest Payment Date. All New Money Term Loans shall begin accruing interest on the relevant Borrowing Date. Roll-Up Loans shall begin accruing interest on the "Effective Date" designated in the relevant Roll-Up Notice.

(a) Accrued interest on the New Money Term Loans shall be payable partially in cash in an amount equal to Term SOFR plus 1.00%, with the remaining accrued interest as of any Interest Payment Date payable in kind, which shall be capitalized by adding such amount to the then outstanding principal amount of the New Money Term Loans on the applicable Interest Payment Date. Any interest paid in kind pursuant to this clause (a) shall begin accruing interest, beginning on and including the Interest Payment Date on which such interest paid in kind is added to the principal amount of the Term Loans in additional Term Loans. Notwithstanding anything to the contrary herein or in any other Loan Document, (i) any principal amount of New Money Term Loans incurred on account of payment of interest in kind shall not be entitled to any roll-up option under Section 2.1(b) on account of such principal amount and (ii) any cash interest shall be payable solely out of proceeds of New Money Term Loans or other cash on hand.

(b) Accrued interest on the Roll-Up Loans shall be entirely payable in kind, which shall be capitalized by adding such amount to the then outstanding principal amount of the Roll-Up Loans on the applicable Interest Payment Date. Any interest paid in kind pursuant to this clause (b) shall begin accruing interest, beginning on and including the Interest Payment Date on which such interest paid in kind is added to the principal amount of the Term Loans in additional Roll-Up Loans. Interest on the Roll-Up Loans shall begin to accrue from (and including) the Roll-Up Effective Date for such Roll-Up Loans.

(c) Notwithstanding the foregoing, at all times when any other Event of Default has occurred hereunder and is continuing all amounts outstanding hereunder shall bear interest, after as well as before judgment, at a rate *per annum* equal to (i) in the case of outstanding principal of any Term Loan, 2.0% *plus* the rate otherwise applicable to such Term Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other outstanding amounts, 2.0% *plus* the rate applicable to Term Loans as provided in paragraph (a) of this Section.

(d) All interest hereunder shall be computed on the basis of a year of 365 (or 366 in a leap year) days, and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(e) In connection with the use or administration of the Term SOFR Reference Rate (or any Benchmark successor thereof), the Administrative Agent will have the right to make Conforming Changes (subject to the consent rights of each Borrower set forth in such definition) from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Administrative Agent will promptly notify each Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR Reference Rate (or any Benchmark successor thereof).

(f) Notwithstanding anything in this Section 2.10 or any other Loan Document to the contrary, any principal amount of New Money Term Loans attributable to interest having accrued in kind pursuant to this Section 2.10 will not have any related roll-up option under Section 2.1.

Section 2.11. Benchmark Replacement.

(a) Replacing Future Benchmarks. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event, the Administrative Agent and each Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all affected Lenders and each Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required

Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 2.11(a) will occur prior to the applicable Benchmark Transition Start Date.

(b) Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes (subject to the consent rights of each Borrower set forth in such definition) from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(c) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify each Borrower and the Lenders of (i) the implementation of any Benchmark Replacement, (ii) the effectiveness of any Conforming Changes, (iii) the removal or reinstatement of any tenor of a Benchmark and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or each Borrower as expressly set forth in this Section 2.11 and the defined terms used herein, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.11.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate and EURIBOR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may, with the consent of Borrowers (such consent not to be unreasonably withheld), modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may, with the consent of each Borrower (such consent not to be unreasonably withheld), modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, (i) the Borrowers may revoke any pending request for a Term SOFR Borrowing to be made, conversion to or continuation of Term SOFR Loans, to be made, converted or continued during any Benchmark Unavailability Period denominated in the applicable currency and, failing that, in the case of any request for any affected Term SOFR Borrowing, Borrowers will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Term Loans and (ii) during the continuance of any Benchmark Unavailability Period, any outstanding affected Term SOFR Loans will be deemed to have been converted to Base Rate Term Loans at the end of the applicable Interest Period.

Section 2.12. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by or participated in, any Lender;

(ii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement; or

(iii) impose on any Recipient any Taxes (other than Indemnified Taxes, Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes, or Tax described in clauses (b) through (d) of the definition of "Excluded Taxes"), on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto,

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making, converting to, continuing or maintaining any Term Loan (or of maintaining its obligation to make any such Term Loan) or to reduce the amount of any sum received or receivable by such Lender or other Recipient hereunder (whether of principal, interest or otherwise), then each Borrower will pay to such Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital or liquidity of such Lender's holding company, if any, as a consequence of this Agreement, the New Money Term Loan Commitments hereunder or the New Money Term Loans made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon request of such Lender, the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth in reasonable detail the circumstance giving rise to the increased cost incurred by such Lender and the amount or amounts necessary to compensate such Lender or its respective holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to each Borrower and shall be conclusive absent manifest error. Each Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that no Borrower shall be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; *provided, further*, that, if the Change in Law giving rise to such increased costs or reductions is retroactive (or has retroactive effect), then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.13. [Reserved].

Section 2.14. Taxes.

Any and all payments by or on account of any obligation of each applicable Loan Party under any Loan Document, any Fee Letter shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by each applicable Loan Party shall be increased as necessary so that, after making such deduction or withholding (including such deductions and withholdings applicable to additional sums payable under this Section), the Administrative Agent or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(a) In addition, each applicable Loan Party shall (i) timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or (ii) at the option of any Agent, timely reimburse such Agent for any payment of such Other Taxes.

(b) Each applicable Loan Party shall indemnify the Administrative Agent and each Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes payable or paid by the Administrative Agent or such Lender, as the case may be, on or with respect to any payment by or on account of any obligation of such Loan Party hereunder (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to each Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(c) As soon as practicable after any payment of Indemnified Taxes by any Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Any Lender that is entitled to an exemption from, or reduction of, withholding Tax with respect to payments made under this Agreement or any other Loan Document shall deliver to each Borrower and the Administrative Agent, at the time or times reasonably requested by each Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by each Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by each Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by each Borrower or the Administrative Agent as will enable each Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 2.14(d)(i)(A), 2.14(d)(i)(B), and 2.14(d)(i)(D)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing:

(A) Any Lender that is a U.S. Person shall deliver to each Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of each Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax.

(B) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to each Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of each Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party, (x) with respect to payments of interest under this Agreement or any other Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under this Agreement or any other Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit I-1 to the effect that such Foreign Lender is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10-percent shareholder" of each Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "Portfolio Interest Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a Portfolio Interest Certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Portfolio Interest Certificate substantially in the form of Exhibit I-4 on behalf of each such partner.

(C) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of each Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from, or a reduction in, U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit

each Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(D) If a payment made to a Lender under this Agreement or any other Loan Document would be subject to U.S. federal withholding Tax imposed pursuant to FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrowers or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such other documentation reasonably requested by Borrowers or the Administrative Agent as may be necessary for the Administrative Agent and each Borrower to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.14(d)(i)(D), "FATCA" shall include any amendments made to FATCA after the Effective Date.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify each Borrower and the Administrative Agent in writing of its legal inability to do so.

(e) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand thereof, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.4(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case that are payable or paid by the Administrative Agent in connection with this Agreement or any other Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent pursuant to this paragraph (e).

(f) If any Lender or the Administrative Agent determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.14 (including by the payment of additional amounts pursuant to this Section 2.14), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.14 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided, however*, that (i) any Lender or the Administrative Agent may determine, in its sole discretion exercised in good faith consistent with the policies of such Lender or the Administrative Agent, whether to seek a refund for any Taxes; (ii) any Taxes that are imposed on a Lender or the Administrative Agent as a result of a disallowance or reduction of any Tax refund with respect to which such Lender or the Administrative Agent has made a payment to the indemnifying party pursuant to this Section shall be treated as an Indemnified Tax for which the indemnifying party is obligated to indemnify such Lender or the Administrative Agent pursuant to this

Section; (iii) nothing in this Section shall require the Lender or the Administrative Agent to disclose its Tax returns or any other information that it deems confidential to a Loan Party or any other Lender (including its tax returns); and (iv) neither any Lender nor the Administrative Agent shall be required to pay any amounts pursuant to this Section for so long as an Event of Default exists. Notwithstanding anything to the contrary in this paragraph (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f), the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

(g) For purposes of this Section 2.14, the term "applicable law" includes FATCA.

(h) Each party's obligations under this Section 2.14 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the New Money Term Loan Commitments and the repayment, satisfaction or discharge of all obligations under this Agreement and the other Loan Documents.

Section 2.15. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or of amounts payable under Section 2.12 or Section 2.14, or otherwise) prior to 12:00 noon, New York City time, in each case on the date when due, in immediately available funds, without set off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent and except that payments pursuant to Section 2.12 Section 2.14 and Section 10.3 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment or performance hereunder shall be due on a day that is not a Business Day, the date for payment or performance shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars (or in non-cash consideration in accordance with Section 2.8(a)).

(b) If any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Term Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Term Loans; *provided* that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by Borrowers pursuant to and in accordance with the express terms of this Agreement (as in effect from time to time) (including the application of funds arising from the existence of a Defaulting Lender) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Term Loans to any assignee or participant, other than to the Borrowers or any Subsidiary of the Debtors or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against

a Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(c) Unless the Administrative Agent shall have received notice from each Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that each Borrower will not make such payment, the Administrative Agent may (but shall not be obligated to) assume that each Borrower has made such payment on such date in accordance herewith and may in its sole discretion, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if each Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(d) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.4(b) or paragraph (b) of this Section, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.16. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.12, or if any of the Loan Parties are required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall (if requested by the relevant Loan Party) use reasonable efforts to designate a different lending office for funding or booking its Term Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or Section 2.14, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Each Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.12, (ii) any of the Loan Parties is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, (iii) any Lender is a Defaulting Lender or a Non-Consenting Lender or (iv) [reserved], then Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.4), all its interests, rights and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (A) Borrowers shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Term Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or each Borrower (in the case of all other amounts), (C) in the case of any such assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments, (D) such assignment does not conflict with applicable law and (5) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, (I) the applicable assignee shall have consented to, or shall consent to, the applicable amendment, waiver or consent and (II) Borrowers

exercise their rights pursuant to this clause (b) with respect to all Non-Consenting Lenders relating to the applicable amendment, waiver or consent. A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling each Borrower to require such assignment and delegation have ceased to apply.

(c) Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by each Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto in order for such assignment and delegation to be effective and shall be deemed to have consented to and be bound by the terms thereof; *provided* that, following the effectiveness of any such assignment and delegation, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; *provided* that any such documents shall be without recourse to or warranty by the parties thereto.

Section 2.17. Super Priority Nature of Obligations and Administrative Agent's Liens; Payment of Obligations. The priority of the Collateral Agent's Liens on the Collateral, claims and other interests shall be as set forth in the Final DIP Order (and, for the avoidance of doubt, are subject to the Carve-Out). Subject to the terms of the Final DIP Order, upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Loan Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without application to or order of the Bankruptcy Court.

Section 2.18. [Reserved].

Section 2.19. Defaulting Lenders.

Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and in Section 10.2;

(ii) any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 8.1 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.8 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, as each Borrower may request (so long as no Default or Event of Default exists), to the funding of any Term Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *third*, if so determined by the Administrative Agent and each Borrower, to be held in a non-interest bearing deposit account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Term Loans under this Agreement; *fourth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, so long as no Default or Event of Default exists, to the payment of any amounts owing to each Borrower as a result of any judgment of a court of competent jurisdiction obtained by each Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or as otherwise directed by a court of competent

jurisdiction; *provided* that if such payment is a payment of the principal amount of any Term Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, such payment shall be applied solely to pay the Term Loans of all Non- Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Term Loans of such Defaulting Lender until such time as all Term Loans are held by the Lenders *pro rata* in accordance with their respective Applicable Percentages. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto; and

(b) If each Borrower and the Administrative Agent each agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon, as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Term Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Term Loans to be held on a *pro rata* basis by the Lenders in accordance with their respective Applicable Percentages, whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of each Borrower while that Lender was a Defaulting Lender; and *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.20. Incremental Credit Extensions.

(a) Each Borrower may at any time or from time to time after the Effective Date, by notice of a Responsible Officer of each Borrower to the Administrative Agent, request one or more increases in the aggregate principal amount of the New Money Term Loan Commitments (any term loans funded pursuant to this Section 2.20, the "Incremental Term Loans" and a Lender making such loans, an "Incremental Term Lender"); *provided* that:

(i) The aggregate principal amount of Incremental Term Loans incurred during the term of this Agreement shall not exceed $9,500,000;

(ii) The Incremental Term Loans (if and when funded) shall be added to and a part of the New Money Term Loans, shall have the same terms as the New Money Term Loans, including, for the avoidance of doubt, the roll-up election in Section 2.1(b). The New Money Term Loans and the Incremental Term Loans shall be treated as part of a single Class of New Money Term Loans for all purposes, except that interest on the Incremental Term Loans shall commence to accrue from the applicable Borrowing Date thereof;

(iii) Upon the effectiveness of any Incremental Amendment (as defined below) and after giving effect to such Incremental Term Loans: (x) no Event of Default shall exist, and (y) the representations and warranties set forth in Article III and in the other Loan Documents shall be true and correct in all material respects (or, in the case of representations and warranties qualified as to materiality, in all respects) as if made on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be true and correct in all material respects (or in all respects, as applicable) as of such earlier date; and

(iv) The Required Lenders shall have consented to such Incremental Term Loans.

(b) Each notice from each Borrower pursuant to this Section 2.20 shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans.

(c) Incremental Term Loans shall solely be made by the existing Lenders and, subject to the consent from the Required Lenders, each existing Lender shall be offered the opportunity to fund its pro rata portion of such Incremental Term Loan; *provided* that the offer shall remain open to the Lenders for not less than five (5) Business Days; *provided, further*, that the participating Lenders, on pro rata basis, shall have the option (but shall have no obligation) to fund the unfunded portion of the non-participating Lenders. Each Borrower and each applicable Incremental Term Lender shall execute and deliver to the Administrative Agent an amendment to this Agreement (an "Incremental Amendment") and such other customary documentation as the Administrative Agent shall reasonably require to evidence the Incremental Term Loan of such applicable Incremental Term Lender. The Incremental Amendment shall, with the consent of the Required Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.20. The effectiveness of any Incremental Amendment shall be subject to the receipt by the Administrative Agent of (i) a certificate of a Responsible Officer of each Borrower stating that the conditions with respect to the applicable Incremental Term Loans under this Section 2.20 have been satisfied, (ii) an executed Incremental Amendment and (iii) such certificates, legal opinions or other documents from each Borrower and other Loan Parties reasonably requested by the Administrative Agent in connection with the applicable Incremental Term Loans.

(d) Each Loan Party shall take all steps and execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions including any form filing (including filing of the Form ODI in accordance with ODI Regulations), liaising with Governmental Authority as the Administrative Agent or the Collateral Agent may reasonably request from time to time to ensure that the Collateral and Guarantee Requirement in relation to the Incremental Term Loans incurred pursuant to this Section continues to be satisfied in accordance with applicable laws.

(e) This Section 2.20 shall supersede any provisions in Section 2.2 or 10.2 to the extent they conflict with this Section 2.20.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Lenders and each Agent that:

Section 3.1. Organization; Powers. To the knowledge of Trustee, each of the Debtors and their Subsidiaries (other than those listed on Schedule 3.1) is an entity duly organized or incorporated, validly existing and in good standing (or equivalent status in the relevant jurisdiction to the extent the concept is applicable in such jurisdiction) under, and by virtue of, the applicable laws of the place of its incorporation or establishment and subject to any restriction on account of the Debtors' or any Subsidiary's status as a "debtor" under the Bankruptcy Code, and is in good standing (or equivalent status in the relevant jurisdiction to the extent the concept is applicable in such jurisdiction) in, every jurisdiction where such qualification is required, in each case (other than with respect to the due organization of, valid existence of, and good standing under the laws of the jurisdiction of its organization of, the Debtors and each Subsidiary), except where the failure to do so does not currently have and would not reasonably be expected to result in a Material Adverse Effect.

Section 3.2. Authorization; Enforceability. Subject to the entry of the Final DIP Order and the terms thereof, the Trustee has all requisite power and authority to enter into, execute, deliver and cause the Estates to perform their obligations under each of the Loan Documents and to consummate the transactions contemplated thereunder (including the Transactions). Subject to entry of the DIP Order, each Loan Document to which a Loan Party is or will be a party (and has executed same), or when executed by the

other parties thereto, will be, valid and legally binding obligations of such Loan Party, enforceable against such Loan Party in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other applicable laws now or hereafter in effect of general application affecting enforcement of creditors' rights generally, and (b) as limited by applicable laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, regardless of whether considered in a proceeding in equity or at law.

Section 3.3. Governmental Approvals; No Conflicts. The valid execution, delivery and performance of each Loan Document by each Loan Party and the consummation by such Loan Party of the transactions contemplated thereby (including the Transactions):

(a) do not require any filings, notifications, notices, submissions, applications or consents from or with, or any other action by, any Governmental Authority or any other Person, except (i) such as have been obtained or made and are in full force and effect, and (ii) those filings, notifications, notices, submissions, applications or consents the failure of which to be obtained or made does not currently have and would not reasonably be expected to have a Material Adverse Effect, and

(b) will not, to the knowledge of the Trustee, (i) result in any violation of, be in conflict with, or constitute a default under, require any consent under, or give any Person rights of termination, amendment, acceleration (including acceleration of any obligation of the Borrowers or any of their Subsidiaries) or cancellation under, (A) any applicable order of any Governmental Authority, (B) any provision of the organizational documents or constitutional documents (as applicable) of the Borrowers or any of their Subsidiaries, or any shareholders' agreement entered into with respect to the Borrowers, (C) any applicable law, rule, or regulation, or (D) any indenture, agreement or other instrument (other than the agreements and instruments referred to in the foregoing sub-clause (B)) binding upon the Borrowers or any of their Subsidiaries or its assets, or (ii) result in the creation of any Lien upon any of the properties or assets of the Borrowers or any of their Subsidiaries (other than the Liens created pursuant to the Collateral Documents), except in the case of the foregoing sub-clauses (A), (C) and (D) of clause (i), as does not currently have and would not reasonably be expected to have a Material Adverse Effect.

Section 3.4. Financial Condition; No Material Adverse Change.

(a) [Reserved].

(b) Since the Reference Date, no event, development or circumstance exists or has occurred that has had or would reasonably be expected to have a Material Adverse Effect.

Section 3.5. Title.

(a) Except where the failure to have title or other interest does not currently have and would not reasonably be expected to have a Material Adverse Effect, each of the Borrowers have good and valid title to, or valid leasehold interests in or rights to use, all the assets owned by it (including Equity Interests, but excluding Intellectual Property), whether tangible or intangible (including those reflected in any financial statements in respect of each Borrower delivered to the lenders under Indebtedness for borrowed money of each Borrower existing as of the date hereof, together with all assets acquired thereby since the Reference Date, but excluding any tangible or intangible assets that have been Disposed of since the Reference Date in the ordinary course of business), and in each case free and clear of all Liens, other than (i) Permitted Encumbrances, (ii) Liens arising by operation of law, (iii) Liens permitted by Section 6.2 and

(iv) minor defects in title that do not materially interfere with the ability of the Borrowers and their Subsidiaries to conduct their businesses.

Section 3.6. Litigation and Environmental Matters.

(a) To the knowledge of the Trustee, except for the Chapter 11 Cases, or as does not currently have and would not reasonably be expected to have a Material Adverse Effect, (i) there is no Action by or before any arbitrator or Governmental Authority pending, or threatened in writing, against or affecting any of the Borrowers or their Subsidiaries or any of their respective officers, directors or commissioners with respect to their respective businesses or proposed business activities of the Borrowers and their Subsidiaries, or any officers, directors or commissioners of any of the Borrowers or their Subsidiaries in connection with such Person's respective relationship with the Borrowers or their Subsidiaries and (ii) there is no judgment or award unsatisfied against the Borrowers or any of their Subsidiaries nor is there any order of any Governmental Authority in effect and binding on the Borrowers or any of their Subsidiaries or their respective assets or properties.

(b) To the knowledge of the Trustee, other than the Chapter 11 Cases, there are no Actions by or before any arbitrator or Governmental Authority pending against or threatened in writing against or affecting the Borrowers or any of their Subsidiaries that involve this Agreement, any other Loan Document or the Transactions.

(c) To the knowledge of the Trustee, except with respect to any other matters that do not currently have and would not reasonably be expected to have a Material Adverse Effect, no Borrower nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability or (iii) has received written notice of any claim with respect to any Environmental Liability.

Section 3.7. Compliance with Laws and Agreements.

(a) To the knowledge of the Trustee, other than the filing of the Chapter 11 Cases and the events and conditions related and/or leading up thereto as does not currently have and would not reasonably be expected to have a Material Adverse Effect, (A) each of the Borrowers and their Subsidiaries is in compliance with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property (including any Intellectual Property owned by it); and (B) none of the Borrowers nor their Subsidiaries is under investigation with respect to a violation of any applicable law or is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any Governmental Authority, domestic or foreign.

(b) No Default or Event of Default has occurred and is continuing.

(c) Since the Reference Date, to the knowledge of the Trustee, none of the Borrowers nor their Subsidiaries has received any letter or other written communication from, and there has not been any public notice of a type customary as a form of notification of such matters in the jurisdiction by, any Governmental Authority threatening or providing notice of (i) the revocation or suspension of any Required Governmental Authorizations issued to the Borrowers or any of their Subsidiaries or (ii) the need for compliance or remedial actions in respect of the activities carried out by such Person, which revocation, suspension, compliance or remedial actions (or the failure of the Borrowers or any of their Subsidiaries to undertake them) currently has or would reasonably be expected to have a Material Adverse Effect.

Section 3.8. Investment Company Status. No Loan Party is or is required to be registered as an "investment company" under the Investment Company Act.

Section 3.9. [Reserved].

Section 3.10. U.S. Plans and Non-U.S. Plans. To the knowledge of the Trustee:

(a) Except as does not currently have and would not reasonably be expected to have a Material Adverse Effect, (i) each of the U.S. Plans has been operated and administered in accordance with its terms, and is in compliance with all applicable laws, rules, regulations and orders, and all contributions to, and payments for each such U.S. Plan have been timely made, and no event, transaction or condition has occurred or exists that would result in any liability or obligation to any of the Borrowers or their Subsidiaries under such U.S. Plan; (ii) there are no pending or threatened Actions involving any U.S. Plan (except for routine claims for benefits payable in the normal operation of any U.S. Plan) and no facts or circumstances exist that could give rise to any such Actions; (iii) no U.S. Plan is under investigation or audit by any Governmental Authority and no such investigation or audit is contemplated or under consideration; and (iv) each U.S. Plan which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code covering all applicable tax law changes or is composed of a master or prototype plan that has received a favorable opinion letter from the IRS, and nothing has occurred since the date of such determination that would adversely affect such determination. No ERISA Event, either alone or in the aggregate, has occurred, or is reasonably expected to occur, other than as does not currently have and would not reasonably be expected to have a Material Adverse Effect. There exists no Unfunded Pension Liability with respect to any Pension Plan, except as would not reasonably be expected to have a Material Adverse Effect. As of the Effective Date, there are no U.S. Plans except as set forth in Schedule 3.10(a).

(b) Except as does not currently have and would not reasonably be expected to have a Material Adverse Effect, (i) each of the Non-U.S. Plans has been operated and administered in accordance with its terms, and is in compliance with all applicable laws, rules, regulations and orders, and all contributions to, and payments for each such Non-U.S. Plan have been timely made, and no event, transaction or condition has occurred or exists that would result in any liability or obligation to any of the Borrower under such Non-U.S. Plan; (ii) there are no pending or threatened Actions involving any Non-U.S. Plan (except for routine claims for benefits payable in the normal operation of any Non-U.S. Plan) and no facts or circumstances exist that could give rise to any such Actions; (iii) no Non-U.S. Plan is under investigation or audit by any Governmental Authority and no such investigation or audit is contemplated or under consideration and (iv) each of the Borrowers is in compliance with all applicable laws and binding contractual obligations relating to its provision of any form of Social Insurance, and has paid, or made provision for the payment of, all Social Insurance contributions required under applicable law and binding contractual obligations.

Section 3.11. [Reserved].

Section 3.12. Subsidiaries.

(a) To the Trustee's knowledge, Schedule 3.12 sets forth as of the Effective Date a list of all Subsidiaries and the percentage ownership (directly or indirectly) of the Debtors therein.

(b) To the Trustee's knowledge, except as does not currently have and would not reasonably be expected to have a Material Adverse Effect, the shares of capital stock or other ownership interests of all Subsidiaries of the Debtors have been duly authorized and validly issued and are fully paid and non-assessable and are owned by the Debtors (other than minority interests held by other Persons that do not

violate any provision of this Agreement), directly or indirectly, free and clear of all Liens other than Liens permitted under Section 6.2.

Section 3.13. Anti-Terrorism Laws; USA Patriot Act. To the Trustee's knowledge, to the extent applicable, the Borrowers and each Subsidiary of the Borrowers is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (b) the USA Patriot Act. To the knowledge of the Trustee, none of the Loan Parties nor their Subsidiaries is the subject of any action or investigation by any Governmental Authority with respect to any actual or alleged violation of the USA Patriot Act.

Section 3.14. Anti-Corruption Laws and Sanctions.

(a) Each of the Trustee and the Estates has implemented and maintains in effect policies and procedures designed to ensure compliance by the Trustee and the Estates with Anti-Corruption Laws and applicable Sanctions, and of the Trustee and the Estates and, to the knowledge of the Trustee, its and their respective agents (or others acting for on behalf of them), are in compliance and have for the past five years been in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects.

(b) None of the of the Trustee nor the Estates (and, to the knowledge of Trustee, none of the other Borrowers) is engaged in or subject to any proceedings, demands, inquiries, indictments, or hearings or, to the knowledge of the Trustee, investigations, by or before any court, statutory or governmental body, department, board or agency relating to applicable Anti-Corruption Laws or Sanctions, and, to the knowledge of the Trustee, no such proceeding, demand, inquiry, investigation or hearing has been threatened in writing.

(c) None of the Trustee nor the Estates (and, to the knowledge of Trustee, none of the other Borrowers) has ever been found by a Governmental Authority to have violated any Anti-Corruption Law.

(d) (i) None of the Trustee nor the Estates (and, to the knowledge of Trustee, none of the other Borrowers) or (ii) to the knowledge of the Trustee, any commissioner, employee or agent of (or others acting for or on behalf of) the Trustee or the Estates that will act in any capacity in connection with or benefit from the New Money Term Loan Facility is a Sanctioned Person.

(e) No Borrowing, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

Section 3.15. Margin Stock.

(a) None of the Borrowers nor any of their Subsidiaries is engaged principally, or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Term Loan will be used to purchase or carry any Margin Stock or to extend credit for the purposes of purchasing or carrying Margin Stock in violation of the provisions of the Regulations of the Federal Reserve Board, including Regulation T, U or X, or any substantially equivalent law or regulation in effect in any other applicable jurisdiction.

Section 3.16. [Reserved].

Section 3.17. [Reserved].

Section 3.18. Insurance Matters. Except as does not currently have and would not reasonably be expected to have a Material Adverse Effect, to the Trustee's knowledge, all insurance policies and all self-insurance programs and arrangements relating to the business, assets, Business Liabilities, operations and directors, commissioners and officers (if any) of each Loan Party are in full force and effect, no written notice of cancellation or modification has been received, and there is no existing default or event which, with the giving of notice or lapse of time or both, would constitute a default, by any insured thereunder. Such insurance policies are with reputable insurance carriers and provide coverage against such risks and in such amounts and with such deductibles as are customary for businesses of that size in businesses generally comparable to the business of the Debtors, except as does not currently have and would not reasonably be expected to have a Material Adverse Effect.

Section 3.19. Material Contracts. Except as does not currently have and would not reasonably be expected to have a Material Adverse Effect, to the Trustee's knowledge: (i) each agreement to which the Borrowers or any of their Subsidiaries is a party is a valid and binding agreement of such Person, the performance of which by such Person does not violate any applicable law, rule, regulation or order of any Governmental Authority, and each such agreement is in full force and effect and enforceable against such Person in accordance with its terms, except (1) as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (2) as may be limited by laws relating to the availability of specific performance, injunctive relief or other remedies in the nature of equitable remedies, regardless of whether considered in a proceeding in equity or at law; and (ii) each of the Borrowers and their Subsidiaries has duly performed all of its obligations under each agreement to which it is a party to the extent that such obligations to perform have accrued, and no breach or default, alleged breach or alleged default, or event which would (with the passage of time, notice or both) constitute a breach or default thereunder by such Person with respect thereto, or, to the knowledge of each Borrower, any other party or obligor with respect thereto, has occurred.

Section 3.20. Collateral Documents. Subject to the entry of the Final DIP Order, the Liens granted by the Collateral Documents constitute valid and perfected Liens on the properties and assets covered by the Collateral Documents, to the extent required by the Loan Documents and subject to no prior or equal Lien except those Liens permitted to be prior or equal by Section 6.2.

Section 3.21. Employee Matters. To the Trustee's knowledge, neither the Borrowers nor any of its Subsidiaries is engaged in any unfair labor practice that would reasonably be expected to result in a Material Adverse Effect. To the Trustee's knowledge, there is (a) no unfair labor practice complaint pending against the Borrowers or any of their Subsidiaries or threatened against any of them before the National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is pending against the Borrowers or any of their Subsidiaries or threatened against any of them, (b) no strike or work stoppage in existence or threatened involving the Borrowers or any of their Subsidiaries, (c) no union representation question existing with respect to the employees of the Borrowers or any of their Subsidiaries and (d) no union organization activity that is taking place, except, with respect to any matter specified in clause (a), (b), (c) or (d) above, that would not reasonably be expected to result in a Material Adverse Effect.

Section 3.22. Pari Passu Ranking. The obligations evidenced by each Loan Document constitute direct and unconditional general obligations of the Loan Parties, and rank in right of payment and otherwise at least *pari passu* with all other senior unsecured and unsubordinated Indebtedness of the Loan Parties, except for obligations mandatorily preferred by applicable law, and have the ranking and priority provided for in the Final DIP Order and Intercreditor Agreement.

Section 3.23. Status as Senior Indebtedness. The Obligations constitute "senior indebtedness," "senior debt," "guarantor senior debt" or "senior secured financing" (or any comparable term) as defined in any applicable Junior Financing Documentation.

Section 3.24. Security Documents. Subject to the entry of the Final DIP Order and the terms thereof, the Collateral Documents shall be effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, legal, valid, enforceable, perfected and (if applicable) unavoidable Liens on and security interests in the Collateral as set forth in Section 3.22 and as further set forth in the Final DIP Order. The Loan Parties shall have delivered UCC financing statements, in suitable form for filing, and shall have made arrangements for the filing thereof that are reasonably acceptable to the Administrative Agent pursuant to the terms of the Security Agreements.

Section 3.25. Approved Budget. The initial Approved Budget attached hereto as Exhibit C and each subsequent Approved Budget delivered in accordance with Section 5.16 has been or will be prepared in good faith, with due care and based upon assumptions Trustee believes to be reasonable on the date of delivery of the then-applicable Approved Budget. To the knowledge of the Trustee, no facts exist that (individually or in the aggregate) could reasonably be expected to result in any material change in the Approved Budget, other than those disclosed to the Lenders and its advisors and the payment of professional fees for advisors to the Lenders and Administrative Agent.

Section 3.26. Bankruptcy Matters.

(a) Proper notice under the circumstances was provided for (i) the motion seeking approval of the Loan Documents pursuant to the Interim DIP Order and (ii) the hearing for the approval of the Interim DIP Order.

(b) After entry of the Interim DIP Order (and the Final DIP Order, when applicable) and pursuant to and to the extent provided in the Interim DIP Order and Final DIP Order, as applicable, the Obligations will be secured by a valid and perfected first priority Lien on all of the Collateral, prior and superior to any other Person or Lien pursuant to Section 364(d)(1) of the Bankruptcy Code, in each case, other than the Carve-Out and subject to the priorities set forth in the Interim DIP Order and Final DIP Order, as applicable.

(c) The Interim DIP Order (and the Final DIP Order, when applicable) is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without the Administrative Agent's and the Required Lenders' consent.

ARTICLE IV
CONDITIONS

Section 4.1. The Effective Date. The obligations of the Lenders to make Term Loans hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 10.2):

(a) The Administrative Agent shall have received from each party to this Agreement, the Intercreditor Agreement and each other Loan Document to be entered into on the Effective Date, in each case, signed on behalf of such party (which, for the avoidance of doubt, in the case of the Borrowers shall be signed by the Trustee).

(b) The Interim DIP Order shall have been entered by the Bankruptcy Court and such order shall be in full force and effect and shall not have been reversed, modified, amended, stayed or vacated

absent the prior written consent of the Required Lenders (and with respect to amendments, modifications or supplements that affect the rights or duties of the Administrative Agent or the Collateral Agent, the Administrative Agent or the Collateral Agent, respectively).

(c) [Reserved].

(d) [Reserved].

(e) The Administrative Agent shall have received a certificate, dated as of the Effective Date and signed by the Trustee confirming compliance with the conditions set forth in paragraphs (i) and (j) of Section 4.1 as of the Effective Date.

(f) The Administrative Agent and the Collateral Agent, as applicable, shall have received (i) all fees required to be paid by the Borrowers on the Effective Date and (ii) all expenses required to be reimbursed by the Borrowers for which invoices have been presented at least three (3) Business Days prior to the Effective Date, in each case, on or before the Effective Date.

(g) The Administrative Agent shall have received the results of recent Uniform Commercial Code (or other applicable law), tax and judgment Lien searches with respect to each of the Loan Parties, and such results shall not reveal any material judgment or any Lien on any of the assets of the Loan Parties except for Liens permitted under Section 6.2 or Liens to be discharged on or prior to the Effective Date.

(h) Each Loan Party shall have delivered to the Collateral Agent (with a copy to the Administrative Agent):

(i) (A) subject to Section 5.13, the certificates (if any) representing the Equity Interests (to the extent certificated) required to be pledged pursuant to any Security Agreement (or, if applicable in any local jurisdiction, certified copies of the registers or extracts thereof), together with, as applicable, an irrevocable power of attorney, an undated stock power or similar instrument of transfer for each such certificate endorsed in blank by a duly authorized officer of the pledgor thereof, (B) each instrument evidencing any Indebtedness which is required to be pledged and delivered to the Collateral Agent pursuant to any Security Agreement endorsed (without recourse) in blank (or accompanied by a transfer form endorsed in blank) by the pledgor thereof and (C) all notices required to be signed and delivered by any Loan Party on or prior to the Effective Date pursuant to any Security Agreement; and

(ii) (A) Uniform Commercial Code (or similar) financing statements naming each Debtor and any other Guarantor as debtor and the Collateral Agent as secured party, in appropriate form for filing, registration or recordation in the jurisdiction of incorporation or organization of each such Loan Party, and (B) subject to Section 5.13, each other collateral document and filing as the Administrative Agent may deem necessary or advisable under applicable law and in any applicable jurisdiction to create and perfect a security interest in the Collateral.

(i) The representations and warranties of the Loan Parties set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects (other than to the extent qualified by materiality or "Material Adverse Effect", in which case, such representations and warranties shall be true and correct in all respects) on and as of the Effective Date, except that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in such manner as of such earlier date.

(j) As of the Effective Date and immediately after giving effect to the Transactions, no Default or Event of Default shall have occurred and be continuing.

(k) [Reserved].

(l) (i) The Administrative Agent shall have received, at least three (3) Business Days prior to the Effective Date, all documentation and other information regarding each Borrower and the other Guarantors requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the USA Patriot Act, to the extent requested in writing of each Borrower at least five (5) Business Days prior to the Effective Date and (ii) to the extent a Loan Party qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least three (3) Business Days prior to the Effective Date, any Lender that has requested, in a written notice to each Borrower at least five (5) Business Days prior to the Effective Date, a Beneficial Ownership Certification in relation to such Loan Party shall have received such Beneficial Ownership Certification.

(m) The Trustee shall have provided satisfactory evidence that the requirements of Section 5.18 have been satisfied to the Administrative Agent.

For purposes of determining compliance with the conditions specified in this Section 4.1 as of the Effective Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Effective Date specifying its objection thereto.

Section 4.2. Conditions to Withdrawals from Escrow Account. Any Withdrawal from the Escrow Account is subject to satisfaction of the following conditions precedent prior to or substantially concurrently with the applicable Withdrawal:

(a) The Administrative Agent (for distribution to the Lenders via posting on Debtdomain) shall have received an executed Withdrawal Notice, executed by Borrowers requesting the proposed Withdrawal thereunder, including a funds flow and an Approved Budget showing that the amount of available Cash will be below $500,000.00 within the two (2)-week period immediately after the proposed Withdrawal Date, by no later than 2:00 p.m. three (3) Business Days prior to the proposed Withdrawal Date (or no later than 2:00 p.m. two (2) Business Days prior to the proposed Withdrawal Date with respect to any Withdrawal Notice delivered pursuant to Section 2.8(b)); *provided* that the Withdrawal must not exceed the amount needed to increase available Cash at the Approved Budget's lowest point beyond to $500,000.00 as demonstrated in such Approved Budget;

(b) The representations and warranties contained in the Loan Documents shall be true and correct in all material respects on and as of the applicable Withdrawal Date; *provided* that (i) in the case of any representation and warranty which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be and (ii) if any representation and warranty is qualified by or subject to a "material adverse effect", "material adverse change" or similar materiality term or qualification, such representation and warranty shall be true and correct in all respects;

(c) No Event of Default or Default shall have occurred and be continuing on the Withdrawal Date;

(d) No motion, pleading or application seeking relief affecting the provision of financing under this Agreement in a manner reasonably expected to have a Material Adverse Effect shall have been filed in the Bankruptcy Court by any Loan Party without the prior written consent of the Required Lenders;

(e) Each Borrower shall be in compliance in all respects with the In-Court Milestones (subject to any extensions, waivers, or grace or cure periods);

(f) The Loan Parties shall be in compliance with the Approved Budget in all respects and the proceeds of the Term Loans shall be used as set forth in the Approved Budget;

(g) Solely to the extent the intended use of proceeds for any such Withdrawal is not accounted for in the then-effective Approved Budget, the Required Lenders shall have determined in their commercial business judgment that such withdrawal is necessary or desirable to enhance the likelihood of repayment of the Obligations.

Upon receipt of the Withdrawal Notice and satisfaction of the conditions set forth in Section 4.2, the Administrative Agent shall promptly direct the Escrow Agent to disburse funds from the Escrow Account by 2:00 p.m. on the applicable Withdrawal Date; *provided* that, if the Required Lenders determine (which determination may be communicated via a direction of the Required Lenders) that each Borrower has failed to satisfy the conditions precedent set forth in this Section 4.2 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through a direction of the Required Lenders) prior to the Escrow Agent disbursing the Withdrawal, the Administrative Agent shall decline to authorize such Withdrawal and shall communicate the same to the Escrow Agent.

Other than with respect to amounts to fund the Carve-Out, in accordance with the Final DIP Order, on any date on which the Term Loans are accelerated, the Administrative Agent may direct the Escrow Agent to apply any amounts remaining in the Escrow Account to reduce the Term Loans then outstanding. None of the Loan Parties shall have (and each Loan Party hereby affirmatively waives) any right to withdraw, claim, or assert any property interest in any funds on deposit in the Escrow Account upon the occurrence and during the continuance of any Default or Event of Default (except to fund the Carve-Out). It is understood and agreed that the Administrative Agent may not deliver a "Termination Notice" (or any such similar term as defined and under the Escrow Agreement) unless and until an Event of Default has occurred and is continuing.

The acceptance by the Borrowers of a Withdrawal shall conclusively be deemed to constitute a representation by each Borrower that each of the conditions precedent set forth in Section 4.2 shall have been satisfied in accordance with its respective terms or shall have been irrevocably waived by the applicable relevant Person; *provided*, that the making of any such Term Loans or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Agents, any Lender or other Secured Party of the provisions of this Article 4 on such occasion or on any future occasion or operate as a waiver of (i) the right of the Administrative Agent and the Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent or any Lender as a result of any such failure of the Loan Parties to comply.

ARTICLE V
AFFIRMATIVE COVENANTS

Until the New Money Term Loan Commitments have expired or been terminated and all Obligations (other than Unasserted Contingent Obligations) shall have been paid in full in cash (or in non-cash consideration in accordance with Section 2.8(a)), each Loan Party covenants and agrees with the Lenders that:

Section 5.1. Financial Statements; Other Information. Trustee will furnish to the Administrative Agent and counsel thereto (for distribution to each Lender):

(a) [reserved];

(b) [reserved];

(c) within three (3) Business Days after the end of each fiscal month, a certificate of the Trustee in substantially the form of Exhibit F attached hereto (a "Compliance Certificate") certifying as to whether a Default has occurred and is continuing as of the date thereof and, if a Default has occurred and is continuing as of the date thereof, specifying the details thereof and any action taken or proposed to be taken with respect thereto;

(d) (i) such other information regarding the financial condition, business and operations of the Debtors or any of their subsidiaries as the Lenders may reasonably request and (ii) any information regarding Collateral required pursuant to the Collateral Documents;

(e) no less than three (3) Business Days prior to such filing (or as soon as practicable thereafter), drafts of all proposed pleadings, motions, applications, orders, financial information and other documents that the Trustee, on behalf of the Borrower, intends to file with the Bankruptcy Court that affect or may affect the Administrative Agent or the Lenders, or are distributed to any official or unofficial committee appointed or appearing in the Chapter 11 Cases or any other party in interest, including, without limitation, the Interim DIP Order, the Final DIP Order, any pleading or purchase agreement related to the Sale Process, any plan of reorganization or liquidation and any disclosure statements or plan supplements related to such plan; and

(f) within one (1) Business Day of receipt or preparation thereof, (i) all formal process or offering or marketing materials provided generally to participants in the Sale Process, and (ii) written proposals, indications of interest, term sheets, commitment letters, and any other similar materials received in connection with the Sale Process, as applicable.

No Agent shall have any obligation to request the delivery or to maintain copies of the documents referred to herein, and in any event shall have no responsibility to monitor compliance by each Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 5.2. Notices of Material Events. The Borrowers will furnish to the Administrative Agent (for distribution to each Lender) prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any Proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrowers or any Subsidiary of the Borrowers thereof that would reasonably be expected to result in a Material Adverse Effect;

(c) any other development that becomes known to the Trustee or any officer of the Borrowers or any of their Subsidiaries that results in, or would reasonably be expected to result in, a Material Adverse Effect;

(d) any change in the information provided in the Beneficial Ownership Certification delivered to any Lender that would result in a change to the list of beneficial owners identified in such certification;

(e) any notice of any Asset Sale or other event or action which will require a mandatory prepayment under this Agreement;

(f) the occurrence of or forthcoming occurrence of any ERISA Event that would result in a Material Adverse Effect;

(g) (i) any Release required to be reported to any Governmental Authority under any applicable Environmental Laws that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, and (ii) any remedial action taken by the Borrowers or any of their Subsidiaries in response to (A) any Hazardous Materials Activities the existence of which could reasonably be expected to result in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect, or (B) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect;

(h) Copies of any notices of default or acceleration (howsoever described) provided to the Trustee (or to the knowledge of the Trustee, to any Loan Party) in connection with any Indebtedness, if any, in each case in a principal amount in excess of $500,000 and not otherwise required to be furnished to the Lenders pursuant to any other clause of this Section 5.2.

Each notice delivered under this Section shall be accompanied by a statement of a Responsible Officer or other executive officer of the Borrowers setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.3. Existence; Conduct of Business. The Trustee will cause the Borrowers and each of their Subsidiaries to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; *provided* that (a) the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.3 and (b) none of the Borrowers nor any of their Subsidiaries shall be required to preserve, renew or keep in full force and effect its rights, licenses, permits, privileges or franchises where failure to do so would not reasonably be expected to result in a Material Adverse Effect.

Section 5.4. Payment of Obligations. Subject to any limitations arising as a result of the filing of the Chapter 11 Cases and the Approved Budget, the Trustee will cause the Borrowers and each of their Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable, all of its obligations and liabilities, including Tax liabilities, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves are being maintained for those Taxes and the costs required to contest them, which have been disclosed in the latest financial statements of the Debtors or such Subsidiary, as applicable, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 5.5. Maintenance of Properties; Insurance. Subject to any limitations arising as a result of the filing of the Chapter 11 Cases and the Approved Budget, the Trustee will cause the Borrowers and each of their Subsidiaries to, (a) keep and maintain all property used in the conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation events excepted, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect, and (b) maintain insurance with financially sound and reputable insurance companies or through self-insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

Section 5.6. Books and Records; Inspection Rights, Monthly Investor Calls.

(a) The Trustee will cause the Estates and each of their Subsidiaries to, keep proper books of record and account in which entries full, true and correct in all material respects are made and are sufficient to prepare financial statements in accordance with GAAP. The Trustee will cause the Estates and each of

their Subsidiaries to, permit any representatives designated by the Administrative Agent (pursuant to the request made through the Administrative Agent), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (*provided* that the Borrowers or such Subsidiary shall be afforded the opportunity to participate in any discussions with such independent accountants), all at such reasonable times and as often as reasonably requested (but no more than once annually if no Event of Default exists). Notwithstanding anything to the contrary in this Agreement (including in this Article V), none of the Trustee, Borrowers nor any of their Subsidiaries shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (a) constitutes non-financial trade secrets or non-financial proprietary information, (b) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives) is prohibited by applicable law or any third-party consent legally binding on the Borrowers or their Subsidiaries or (c) is subject to attorney, client or similar privilege or constitutes or includes attorney work-product (the foregoing, the "Confidentiality Restrictions").

(b) The Trustee will hold a telephone meeting for the Lenders (which shall include the attendance of the Trustee) regarding the on-going business and financial performance of Estates and their Subsidiaries once per fiscal month at a reasonable time selected by the Trustee (on no less than three (3) Business Days' notice to the Administrative Agent).

Section 5.7. Compliance with Laws and Agreements. The Trustee will cause the Estates and each of its Subsidiaries to, comply with all laws (including Environmental Laws), rules, regulations (including applicable foreign currency regulations and the Investment Company Act) and orders of any Governmental Authority applicable to it or its property, and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Trustee currently has, and will maintain in effect and enforce, policies and procedures designed to promote compliance by the Estates, their Subsidiaries and their respective directors, commissioners, officers, employees, agents (and others acting for or on behalf of them) of the foregoing with Anti-Corruption Laws and applicable Sanctions.

Section 5.8. Use of Proceeds.

(a) The proceeds of the New Money Term Loans will be used solely to fund (i) bankruptcy-related professionals in connection with a bankruptcy filing for the Borrowers and their Subsidiaries, (ii) general working capital necessary for the operation of the Borrowers and their Subsidiaries and (iii) other ordinary and customary fees and expenses in connection with the administration of the Borrowers in the Chapter 11 Cases, in each case subject to an in accordance with the Approved Budget.

(b) [Reserved].

(c) Borrowers will not request any Borrowing, and will not use, and each Borrower shall procure that none of it, its Subsidiaries (whether acting via their employees, agents or any other third party) nor any of its or their respective directors and officers shall not use, the proceeds of any Borrowing, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 5.9. [Reserved].

Section 5.10. Further Assurances; Other Collateral Matters. Subject to the DIP Order and any applicable limitations and exceptions of the Collateral and Guarantee Requirement or otherwise any applicable limitations set forth in any Security Agreement or any other Loan Document, Trustee shall execute, on behalf of each Loan Party, any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions as the Administrative Agent or the Collateral Agent may reasonably request from time to time to ensure that the Collateral and Guarantee Requirement continues to be satisfied.

Section 5.11. [Reserved].

Section 5.12. [Reserved].

Section 5.13. Post-Closing Obligations. As promptly as practicable, and in any event within the time periods following the Effective Date specified in Schedule 5.13 or such later date as the Administrative Agent agrees to in writing, each Borrower and each other applicable Loan Party shall deliver the documents or take the actions specified in Schedule 5.13, to the extent any such document is not delivered or any such action is not taken on or prior to the Effective Date.

Section 5.14. Designated Account. Except as otherwise provided in Section 2.1 or to the extent withdrawn in accordance with Section 4.2, the Loan Parties shall maintain any proceeds of the New Money Term Loans in the Escrow Account.

Section 5.15. Environmental Matters. The Loan Parties shall promptly take any and all actions necessary and required under Environmental Laws to (a) cure any violation of applicable Environmental Laws by the Borrowers or their Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (b) respond to any Environmental Claim against the Borrowers or any of their Subsidiaries and discharge any legally binding obligations it may have to any Person thereunder, in each case, where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.16. Approved Budget.

(a) The use of New Money Term Loans and other credit extensions by each Borrower under this Agreement and the other Loan Documents shall be consistent with the Approved Budget. The initial Approved Budget shall be in the form attached hereto as Exhibit C for the portion of the current fiscal quarter from the Effective Date until [●], 2024, and such initial Approved Budget shall be approved by, and in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) (it being acknowledged and agreed that the initial Approved Budget attached hereto as Exhibit C is approved by and reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders)).

(b) Following the Effective Date, the Trustee shall deliver an updated budget to the Administrative Agent and the Lenders no later than 5:00 p.m. Eastern Time each Friday after each second calendar week following the Effective Date (each such Friday, a "Specified Reference Date"), covering the 13-week period beginning on the first Business Day to occur after each such Specified Reference Date. Any amendments, supplements, or modifications to the Approved Budget and any updated budgets shall be subject to the prior written approval of the Administrative Agent (at the direction of the Required Lenders) prior to the implementation thereof; *provided* that (i) if the Administrative Agent (at the direction of the Required Lenders) has not objected, in writing, to such proposed updated, modified or supplemented budget within three (3) Business Days after the Administrative Agent's receipt of such proposed updated, modified or supplemented budget, such proposed updated, modified or supplemented budget shall be

deemed acceptable to and approved by the Administrative Agent (at the direction of the Required Lenders) and (ii) in the event the Administrative Agent (at the direction of the Required Lenders), on the one hand, and the Trustee, on the other hand, cannot agree as to an updated, modified or supplemented budget, the prior Approved Budget shall continue in effect, with details for any periods after the initial fiscal quarter to be derived in a manner reasonably satisfactory to the Administrative Agent (at the direction of Required Lenders) from the initial Approved Budget prepared by Borrower; *provided*, *further*, that if an updated budget is not approved by the Administrative Agent (at the direction of Required Lenders), the most recently approved budget shall remain the Approved Budget.

(c) Each Approved Budget shall be prepared in good faith, with reasonable due care and based upon assumptions which the Trustee believes to be reasonable at the time of delivery thereof.

(d) The Administrative Agent and the Lenders (i) may assume that each Borrower will comply with the Approved Budget, (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral or otherwise) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. Nothing in any Approved Budget shall constitute an amendment or other modification of any Loan Document or any of the borrowing restrictions or other lending limits set forth therein.

(e) Beginning on the Effective Date, neither the Trustee nor the Estates shall pay any expenses or other disbursements other than in accordance with the Approved Budget, subject to the Permitted Disbursement Variance (as defined below). As of the end of each Specified Reference Date, the actual Specified Disbursements with respect to the two (2)-week period ending on such Specified Reference Date shall not be greater than 120% of the projected Specified Disbursements for such two (2)-week period set forth in the most recently delivered Approved Budget ("Permitted Disbursement Variance").

Section 5.17. In-Court Milestones. The Trustee shall ensure that the following milestones (the "In-Court Milestones") are achieved in accordance with the applicable timing referred to below (or by such later time as approved in writing by the Administrative Agent (at the direction of the Required Lenders) (email from counsel to the Administrative Agent being sufficient)):

(a) On or before November 1, 2024, the Interim DIP Order shall have been entered by the Bankruptcy Court.

(b) On or before November 7, 2024, the Trustee shall have engaged a business broker or investment banker that is satisfactory to the Administrative Agent (at the direction of the Required Lenders) in its sole discretion to administer the marketing and sale process for some, all, or substantially all of the Epic! Assets, the Neuron Fuel Assets, and the Tangible Play Assets through one or more transactions (the "Sale Process").

(c) On or before November 15, 2024, the Trustee shall have decided whether to shutdown business operations, and all operations related thereto, of Tangible Play, Inc., and, if so, established a workplan in connection therewith, which such determination and workplan shall be reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

(d) On or before November 15, 2024, the Trustee shall have filed a motion in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders), seeking entry of an order approving bidding procedures for the Sale Process (the "Bidding Procedures Motion").

(e) On or before November 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Epic! (the "Epic! Assets").

(f) On or before November 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Epic! Assets.

(g) On or before December 2, 2024, the Final DIP Order shall have been entered by the Bankruptcy Court.

(h) On or before December 6, 2024, the order approving the Bidding Procedures Motion (the "Bidding Procedures Order"), in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) shall have been entered by the Bankruptcy Court.

(i) On or before December 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Neuron Fuel (the "Neuron Fuel Assets") and all or substantially all of the assets or Equity Interests of Tangible Play (the "Tangible Play Assets").

(j) On or before December 16, 2024, the deadline for potential bidders to submit binding bids in connection with the sale of the Epic! Assets shall have occurred.

(k) On or before December 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Neuron Fuel Assets and the Tangible Play Assets.

(l) On or before December 18, 2024, the Trustee shall have conducted an auction for the sale of all or substantially all of the Epic! Assets (if necessary) and shall have selected one or more successful bidder(s).

(m) On or before December 23, 2024, the Bankruptcy Court shall have entered one or more order(s) approving the sale(s) (each, a "Sale Order") provided for in the purchase agreement(s) between the Trustee (on behalf of Epic!) and the winning bidder(s) with respect to the applicable Epic! Assets in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

(n) On or before December 30, 2024, the Trustee shall have consummated the transaction(s) approved by the Sale Order with respect to the Epic! Assets.

(o) On or before January 16, 2025, the deadline for potential bidders to submit binding bids in connection with the sale of the Neuron Fuel Assets and the Tangible Play Assets shall have occurred.

(p) On or before January 20, 2025, the Trustee shall have conducted an auction for the sale of all or substantially all of the Neuron Fuel Assets and the Tangible Play assets (if necessary) and shall have selected one or more respective successful bidder(s).

(q) On or before January 24, 2025, the Bankruptcy Court shall have entered one or more Sale Order(s) approving the sale(s) provided for in the purchase agreement(s) between the Trustee (on behalf of

Neuron Fuel and Tangible Play, as applicable) and the winning bidder(s) with respect to the applicable Neuron Fuel Assets and the applicable Tangible Play Assets in form and substance satisfactory to the Administrative Agent (at the direction of the Required Lenders).

(r) On or before January 31, 2025, the Trustee shall have consummated the transaction(s) approved by the Sale Order(s) with respect to the Neuron Fuel Assets and the Tangible Play Assets.

(s) On or before March 31, 2025, the effective date of an Acceptable Plan shall have occurred.

Section 5.18. New York Litigation Claims. Trustee shall have, and shall have caused the Borrowers and the other Guarantors to, have effectuated the dismissal of the New York Litigation Claims with prejudice and provided satisfactory evidence of such dismissal to the Administrative Agent; provided, however, that if the New York state court has not granted the Trustee's *Order to Show Cause to Substitute Chapter 11 Trustee Claudia Springer as Plaintiff* (the "Order to Show Cause") by November 4, 2024, then each Borrower and the other Guarantors shall effectuate the dismissal of the New York Litigation Claims with prejudice and provide satisfactory evidence of such dismissal to the Administrative Agent within the earlier of (i) 24 hours of the Order to Show Cause being granted or (ii) November 30, 2024.

Section 5.19. Management of the Borrowers. The Borrowers shall not permit any officer or director to be appointed to any position with a Debtor unless the Administrative Agent (at the direction of the Required Lenders) has consented in writing to such appointment.

Section 5.20. Additional Undertakings. The Borrowers shall use commercially reasonable efforts to consummate an Asset Sale or a series of related Asset Sales of the Epic! Assets, Tangible Play Assets and/or Neuron Fuel Assets (any such assets sale, a "Borrower Sale").

ARTICLE VI
NEGATIVE COVENANTS

Until the New Money Term Loan Commitments have expired or been terminated and all Obligations (other than Unasserted Contingent Obligations) shall have been paid in full in cash (or in non-cash consideration in accordance with Section 2.8(a)), each Loan Party covenants and agrees with the Lenders that:

Section 6.1. Indebtedness. No Loan Party shall, nor shall it permit any of its Subsidiaries to, create, incur or assume, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except, in each case:

(a) the Obligations;

(b) [reserved];

(c) [reserved];

(d) [reserved];

(e) [reserved];

(f) Indebtedness in connection with (i) treasury or cash management or custodial agreements, netting services, overdraft protections and otherwise similarly in connection with deposit accounts and Indebtedness in connection with depository, credit card, debit card, purchasing cards, electronic funds

transfer or other similar cards or payment processing services; and (ii) endorsements for collection, deposit or negotiation and warranties of products or services, in each case, incurred in the ordinary course of business;

(g) [reserved];

(h) Indebtedness existing on the Effective Date and described in Schedule 6.1;

(i) [reserved];

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) [reserved];

(n) [reserved];

(o) [reserved];

(p) [reserved];

(q) [reserved];

(r) [reserved];

(s) [reserved];

(t) [reserved];

(u) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(v) [reserved];

(w) [reserved];

(x) [reserved];

(y) [reserved];

(z) [reserved];

(aa) [reserved];

(bb) [reserved]; and

(cc) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and contingent interest on obligations described in the foregoing.

Accrual of interest (including capitalized or paid-in-kind interest and any applicable interest on any capitalized or paid-in-kind amounts), the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 6.1.

Section 6.2. Liens. No Loan Party shall, nor shall it permit any of its Subsidiaries to, create, grant, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of each Borrower or any Subsidiary existing on the Effective Date and set forth in Schedule 6.2(b) and any modifications, renewals and extensions thereof and any Lien granted as a replacement or substitute therefor; *provided* that (i) such modification, replacement, renewal or extension Lien shall not apply to any other property or asset of each Borrower or any Subsidiary other than (A) improvements thereon or proceeds thereof and (B) after-acquired property that is affixed or incorporated into the property covered by such Lien and (ii) the obligations secured or benefited by such modified, replacement, renewal or extension Lien are permitted by Section 6.1;

(c) the Carve-Out;

(d) [reserved];

(e) [reserved];

(f) [reserved];

(g) [reserved];

(h) [reserved];

(i) [reserved];

(j) [reserved];

(k) bankers' Liens, rights of set-off and other similar Liens existing solely with respect to cash and cash equivalents or other securities on deposit in one or more accounts maintained by a Debtor or any Subsidiary of a Borrower, in each case granted in the ordinary course of business in favor of the bank or banks, securities intermediaries or other depository institutions with which such accounts are maintained, securing amounts owing to institutions with respect to cash management operating account arrangements and similar arrangements;

(l) [reserved];

(m) Liens securing the Obligations pursuant to any Loan Document;

(n) [reserved];

(o) [reserved];

(p) [reserved];

(q) [reserved];

(r) [reserved]; and

(s) [reserved].

Notwithstanding anything to the contrary in any Loan Document, if any security interest purported to be granted by any Loan Party under any Collateral Document with respect to any asset constituting Collateral is not perfected (or such equivalent concept under applicable local law), then such Loan Party will not take any consensual action to affirmatively perfect (or such equivalent concept under applicable local law) a security interest in such asset in favor of any Person (other than the Secured Parties) unless and until the security interest with respect to such asset granted by such Loan Party under such Collateral Document is perfected (or such equivalent concept under applicable local law).

Section 6.3. Fundamental Changes; Assets Sales; Changes in Business.

(a) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (i) merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, (ii) sell, transfer, lease, enter into any sale and leaseback transactions with respect to, or otherwise Dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of the Borrowers and their Subsidiaries, taken as a whole, or all or substantially all of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or (iii) liquidate or dissolve; *provided* that any Borrower Sale shall be permitted so long as the proceeds of such sale shall be applied to prepay the Obligations in accordance with Section 2.8(a).

(b) No Loan Party shall, nor shall it permit any of its Subsidiaries to, consummate any Asset Sale; *provided* that any Borrower Sale shall be permitted so long as the proceeds of such sale shall be applied to prepay the Obligations in accordance with Section 2.8(a).

(c) No Loan Party shall, nor shall it permit any of its Subsidiaries to, engage to any extent in any business other than businesses of the type conducted by the Loan Parties and its Subsidiaries on the Effective Date, and businesses reasonably related or ancillary thereto.

Section 6.4. Restricted Payments and Restricted Debt Payments. No Loan Party shall, nor shall it permit any of its Subsidiaries to, declare or make, directly or indirectly, any Restricted Payment or Restricted Debt Payment except:

(a) [reserved];

(b) any Subsidiary of a Borrower may declare and pay dividends or make other Restricted Payments to any Loan Party.

Section 6.5. Restrictive Agreements. No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of any Loan Party to create, grant, incur or permit to exist any Lien upon any of its property or assets to secure the Obligations, (b) [reserved], or (c) the ability of any Subsidiary of each Borrower to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrowers or of any Subsidiary of the Borrowers to Guarantee Indebtedness of the Borrowers under the Loan Documents.

Section 6.6. Transactions with Affiliates. No Loan Party shall, nor shall it permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates (other than between or among Borrower, any other Loan Party and its respective Subsidiaries and not involving any other Affiliate, or as otherwise permitted hereunder), except (a) on terms and conditions not less favorable to a Borrower or such Subsidiary (taken as a whole) than could be obtained on an arm's-length basis from unrelated third parties as determined in good faith by the Trustee, (b) payment of customary directors' fees, customary out-of- pocket expense reimbursement, indemnities (including the provision of directors and officers insurance) and employment and compensation (including bonus) and severance arrangements for members of the board of directors, members of the board of commissioners, officers, employees or other providers of services of the Borrowers or any of their Subsidiaries, (c) [reserved] and (d) any transaction permitted by Section 6.3, 6.4 or 6.7.

Section 6.7. Investments. No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including any Joint Venture, except:

(a) Investments in Cash and Cash Equivalents and Marketable Securities;

(b) [reserved];

(c) [reserved];

(d) loans and advances in respect of payroll payments made by a Borrower or its Subsidiaries in the ordinary course of its business to an employee, director or officer of a Borrower or such Subsidiary;

(e) Investments existing on the Effective Date and described in Schedule 6.7;

(f) [reserved];

(g) [reserved];

(h) [reserved];

(i) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers and in good faith settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(j) Investments consisting of negotiable instruments held for collection in the ordinary course of business and lease, utility and other similar deposits in the ordinary course of business;

(k) [reserved];

(l) [reserved];

(m) [reserved];

(n) [reserved];

(o) [reserved];

(p) [reserved];

(q) [reserved];

(r) [reserved];

(s) Investments consisting of Equity Interests of any Loan Party directly or indirectly owned by a Borrower;

(t) [reserved];

(u) [reserved];

(v) [reserved];

(w) [reserved]; and

(x) to the extent constituting Investments, deposit and securities accounts maintained in the ordinary course of business and in compliance with the provisions of the Loan Documents.

Section 6.8. [Reserved]

Section 6.9. Amendments or Waivers of Organizational Documents; Amendments of Indebtedness.

(a) The Trustee shall not, nor shall it permit a Borrower or any of its Subsidiaries to, enter into any amendment, supplement or modification to, or waive any of its rights under, any of its respective organizational documents or constitutional documents (as applicable).

(b) The Trustee shall not, nor shall it permit a Borrower or any of its Subsidiaries to, agree to any amendment, supplement or modification to, or waive any of its rights under any other Indebtedness in any respect without the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

Section 6.10. Fiscal Year. No Loan Party will change its fiscal year-end, as applicable, without the prior written consent of the Administrative Agent, except to change such fiscal year-end to December 31 or any other fiscal year-end reasonably acceptable to the Administrative Agent.

Section 6.11. Accounting Policies. No Loan Party shall, nor will it permit any Subsidiary to, change its accounting treatment or reporting practices in any material respect, except as required or permitted by GAAP or as required by applicable law, in each case, without the prior written consent of the Administrative Agent.

Section 6.12. Anti-Terrorism Laws.

(a) No Loan Party shall engage in any transaction that violates any of the applicable prohibitions set forth in any terrorism law described in Section 3.13.

(b) None of the funds or assets of any Loan Party that are used to repay the Term Loans shall constitute property of, or shall be beneficially owned, directly or indirectly, by any Sanctioned Person.

(c) No Sanctioned Person shall have any direct or indirect interest in such Loan Party that would constitute a violation of any terrorism laws described in Section 3.13.

(d) No Loan Party shall, and each Loan Party shall procure that none of its Subsidiaries will, fund all or part of any payment under this Agreement out of proceeds derived from transactions that violate the prohibitions set forth in any terrorism law described in Section 3.13.

ARTICLE VII
GUARANTY

Section 7.1. Guaranty of the Obligations. Subject to the entry and terms of the DIP Order, the Guarantors jointly and severally hereby irrevocably and unconditionally guaranty the due and punctual payment in full of all Obligations (including the Repayment Premium) of the other Guarantors when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a) or any comparable concept under any other applicable laws relating to a Bankruptcy Event) (collectively, the "Guaranteed Obligations").

Section 7.2. Payment by the Guarantors. The Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Beneficiary may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of the Borrowers or any other Guarantor to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise, the other Guarantors will upon demand pay, or cause to be paid, in cash, to the Administrative Agent for the ratable benefit of the Beneficiaries, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for each Borrower becoming the subject of a case under the Bankruptcy Code or any other applicable laws relating to a Bankruptcy Event, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against each Borrower for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to the Beneficiaries as aforesaid.

Section 7.3. Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations (including the Repayment Premium). In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability and this Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) the Administrative Agent may enforce this Guaranty during the continuation of an Event of Default notwithstanding the existence of any dispute between any Borrower and any Beneficiary with respect to the existence of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of any Borrower and the obligations of any other guarantor (including any other Guarantor) of the obligations of any Borrower and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against any Borrower, any such other guarantor or any other Person and whether or not such Borrower, any such other guarantor or any other Person is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if the Administrative Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(e) any Beneficiary, upon such terms as it deems appropriate under the relevant Loan Document, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Beneficiary in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Beneficiary may have against any such security, in each case as such Beneficiary in its discretion may determine consistent herewith and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any other Loan Party or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Loan Documents; and

(f) this Guaranty and the obligations of the Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations (other than Unasserted Contingent Obligations) (including the Repayment Premium)), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Loan Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Loan Documents, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Loan Document or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Loan Documents or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Beneficiary might have elected to apply such payment to any part or all of the Guaranteed

Obligations; (v) the change, reorganization or termination of the corporate structure or existence of the Borrowers or any of their Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations, whether or not consented to by any Beneficiary; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations, or failure to obtain approval of any Governmental Authority for enforcement thereof, as applicable; (vii) any defenses, set-offs or counterclaims which each Borrower or any other Person may allege or assert against any Beneficiary in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

Anything contained in this Agreement to the contrary notwithstanding, the obligations of each Guarantor in respect of its Guaranty shall be limited to an aggregate amount equal to the largest amount that would not render its obligations under this Agreement subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States of America or any comparable provisions of any similar federal, state or other applicable law.

Section 7.4. Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of the Beneficiaries: (a) any right to require any Beneficiary, as a condition of payment or performance by such Guarantor, to (i) proceed against each Borrower, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from each Borrower, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any deposit account or credit on the books of any Beneficiary in favor of any Loan Party or any other Person, or (iv) pursue any other remedy in the power of any Beneficiary whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of each Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of each Borrower or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations (including the Repayment Premium); (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to gross negligence or willful misconduct; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) any rights to set-offs, recoupments and counterclaims, (iii) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto, and (iv) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to each Borrower and notices of any of the matters referred to in Section 7.3 and any right to consent to any thereof; and (f) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof, in each case other than the indefeasible payment in full of the Guaranteed Obligations (including the Repayment Premium).

Section 7.5. Guarantors' Rights of Subrogation, Contribution, Etc. Until the Guaranteed Obligations shall have been paid in full in cash (other than Unasserted Contingent Obligations) and the New Money Term Loan Commitments shall have terminated, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against each Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity,

under contract, by statute, under common law or otherwise and including, (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against each Borrower with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against each Borrower, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary. In addition, until the Guaranteed Obligations shall have been paid in full in cash (other than Unasserted Contingent Obligations) and the New Money Term Loan Commitments shall have terminated, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against each Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights any Beneficiary may have against each Borrower, to all right, title and interest any Beneficiary may have in any such collateral or security, and to any right any Beneficiary may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations (other than Unasserted Contingent Obligations) shall not have been paid in full in cash, such amount shall be held in trust for the Administrative Agent on behalf of the Beneficiaries and shall forthwith be paid over to the Administrative Agent for the benefit of the Beneficiaries to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

Section 7.6. Subordination of Other Obligations. Any Indebtedness of each Borrower or any other Guarantor now or hereafter held by any Guarantor (the "Obligee Guarantor") is hereby subordinated in right of payment to the Guaranteed Obligations, and any such Indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for the Administrative Agent on behalf of the Beneficiaries and shall forthwith be paid over to the Administrative Agent for the benefit of the Beneficiaries to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

Section 7.7. Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations (other than Unasserted Contingent Obligations) shall have been paid in full in cash and the New Money Term Loan Commitments shall have terminated. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

Section 7.8. Authority of the Guarantors or the Borrowers. It is not necessary for any Beneficiary to inquire into the capacity or powers of any Guarantor or each Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

Section 7.9. Financial Condition of the Borrowers. Any Term Loan may be made to each Borrower or continued from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of each Borrower or any other Loan Party at the time of any such grant or continuation. No Beneficiary shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of each Borrower or any other Loan Party. Each Guarantor has adequate means to obtain information from each Borrower and the other Loan Parties on a continuing basis concerning the financial condition of each Borrower and the other Loan Parties and their respective ability to perform their obligations under the Loan Documents, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of

each Borrower and each other Loan Party and of all circumstances bearing upon the risk of non-payment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Beneficiary to disclose any matter, fact or thing relating to the business, operations or conditions of each Borrower or any other Loan Party now known or hereafter known by any Beneficiary.

Section 7.10. Bankruptcy, Etc.

(a) Other than with respect to the Chapter 11 Cases, so long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of the Administrative Agent (acting pursuant to the instructions of the Required Lenders), commence or join with any other Person in commencing any case or proceeding constituting a Bankruptcy Event against any other Loan Party (it being acknowledged and agreed, for the avoidance of doubt, that, subject to Section 8.1, this sentence shall not prohibit any Guarantor or other Loan Party from commencing any such action, case or proceeding with respect to itself). The obligations of the Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving a Bankruptcy Event in respect of each Borrower or any other Loan Party or by any defense which each Borrower or any other Loan Party may have by reason of the order, decree or decision of any court or administrative body resulting from any such case or proceeding.

(b) Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and the Beneficiaries that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve each Borrower or any other Loan Party of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, judicial manager, debtor in possession, assignee for the benefit of creditors or similar Person to pay the Administrative Agent, or allow the claim of the Administrative Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

(c) In the event that all or any portion of the Guaranteed Obligations are paid by each Borrower, each Borrower or any Subsidiary of each Borrower, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

ARTICLE VIII
EVENTS OF DEFAULT

Section 8.1. Events of Default. If any of the following events (each, an "Event of Default") shall occur:

(a) Borrowers shall fail to pay any principal of any Term Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise, and such failure shall continue unremedied for a period of five (5) Business Days;

(b) Borrowers shall fail to pay any interest on any Term Loan or any fee or any other amount (other than an amount referred to in Section 8.1(a)) payable under any of the Loan Documents, when and

as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrowers or any Subsidiary of the Borrowers in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement, any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been incorrect in any material respect when made or deemed made (other than to the extent qualified by materiality or "Material Adverse Effect", in which case, such representation or warranty shall prove to have been incorrect in any respect);

(d) any Loan Party shall fail to observe or perform (i) any covenant, condition or agreement contained in Article V and such failure is not cured within three (3) Business Days after the earlier of the Loan Parties having knowledge thereof and receiving notice thereof from the Administrative Agent or (ii) any covenant, condition or agreement contained in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any of the Loan Documents (other than those specified in Section 8.1(a), 8.1(b) or 8.1(d)), and such failure shall continue unremedied for a period of five (5) days after notice thereof from the Administrative Agent to each Borrower (which notice will be given at the request of any Lender);

(f) except as may be stayed pursuant to the Chapter 11 Cases, the Borrowers or any Subsidiary of the Borrowers shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness when and as the same shall become due and payable (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure shall have continued after the applicable grace period, if any;

(g) (i) [reserved] or (ii) [the appointment of any director or officer as a director or officer of any of the Borrowers to a governance role which interferes with the powers of the Trustee, in each case, without the express prior written consent of the Administrative Agent (at the direction of the Required Lenders)];

(h) other than the Chapter 11 Cases, (i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking liquidation, provisional liquidation, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), judicial management or other relief in respect of the Borrowers, any of their Subsidiaries or its debts, or of a substantial part of its assets, under any Debtor Relief Law or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator, liquidator or provisional liquidator, judicial manager or similar official for the Borrowers or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered, or (iii) any writ or warrant of attachment or similar process shall be entered or filed against any Subsidiary or for a substantial part of its assets or property (taken as a whole), and shall remain undischarged, unvacated, unbonded or unstayed (or an action of similar effect in any jurisdiction outside the U.S.) for a period of 60 days;

(i) [reserved];

(j) other than the Chapter 11 Cases, (i) the Borrowers or any Subsidiary of the Borrowers shall (A) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), judicial management or other relief under

any Debtor Relief Law, (B) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 8.1(h), (C) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator, judicial manager or similar official for the Borrowers or any Subsidiary of the Borrowers or for a substantial part of its assets, (D) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (E) make a general assignment for the benefit of creditors or (F) pass a resolution or take any formal corporate action for the purpose of approving and effecting any of the foregoing actions referred to herein (as authorized by the Trustee), or (ii) the shareholders of the Borrowers or any Subsidiary of the Borrowers shall pass a resolution to have the Borrowers or any Subsidiary of the Borrowers wound up on a voluntary basis, in each case, other than in accordance with Section 5.3;

(k) the Borrowers or any Subsidiary of the Borrowers shall become unable, admit in writing its inability or fail generally to pay its debts as they become due (other than any debts arising prior to the commencement of the Chapter 11 Cases);

(l) one or more judgments for the payment of money in excess of $250,000 in the aggregate shall be rendered against the Borrowers, any Subsidiary of the Borrowers or any combination thereof (to the extent not paid or covered by (i) a reputable and solvent independent third-party insurance company which has not disputed coverage or (ii) an enforceable indemnity to the extent that such Loan Party or Subsidiary shall have made a claim for indemnification and the applicable indemnifying party shall not have disputed such claim) and the same shall remain undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed (or an action of similar effect in any jurisdiction outside the U.S.), or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrowers or any Subsidiary of the Borrowers to enforce any such judgment and such action shall not be stayed (or an action of similar effect in any jurisdiction outside the U.S.);

(m) (i) an ERISA Event shall occur that would reasonably be expected to result in a Material Adverse Effect, or (ii) any condition or event shall occur with respect to any Non-U.S. Plan that would reasonably be expected to result in a Material Adverse Effect;

(n) (i) any Loan Document, at any time after its execution and delivery and for any reason, other than (A) as expressly permitted hereunder or thereunder, (B) as a result of acts or omissions by the Administrative Agent, Collateral Agent or any other Secured Party, or (C) as a result of satisfaction in full of all the obligations (other than Unasserted Contingent Obligations) hereunder or thereunder, ceases to be in full force and effect; or any Loan Party contests in writing in any manner the validity or enforceability of any Loan Document, (ii) subject to Section 5.13, the Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any material portion of the Collateral purported to be covered by the Final DIP Order with the priority required by the Final DIP Order for any reason (other than (A) pursuant to the terms thereof including as a result of a transaction permitted (or not expressly prohibited) under the Loan Documents, (B) as a result of satisfaction in full of all the obligations (other than Unasserted Contingent Obligations), or (C) as a result of acts or omissions by the Administrative Agent, Collateral Agent or any other Secured Party including any loss thereof which results from the failure of the Administrative Agent or the Collateral Agent to maintain possession of certificates delivered to it representing securities pledged under the Collateral Documents), or (iii) any Loan Party shall contest in any manner the validity or perfection of any Lien in any material portion of the Collateral purported to be covered by the Collateral Documents; or

(o) there shall have occurred any of the following in the Chapter 11 Cases:

(i) the failure to meet the In-Court Milestone set forth herein unless (A) such failure is solely the result of any act, omission, or delay on the part of any of the Agents or any of the Lenders

seeking termination or (B) such In-Court Milestone is waived or extended by the Required Lenders in writing;

(ii) the Loan Parties propose, support, or file any plan of liquidation, asset sale of all or any material portion of the Loan Parties' assets or plan of reorganization other than what is considered, in the Required Lenders' sole discretion, to be an Acceptable Plan or an acceptable sale of assets (an "Acceptable Sale"); *provided* that, an Acceptable Plan and Acceptable Sale shall include any plan of reorganization or liquidation or asset sale that provides for the indefeasible payment in full in cash (or in non-cash consideration in accordance with Section 2.8(a)) of the Obligations (including, if applicable, the Repayment Premium) and Prepetition Term Loan Obligations on the effective date thereof;

(iii) the Loan Parties fail to provide the Lenders with draft copies of any material motions, notices, statements, schedules, applications, reports and other papers the Loan Parties intend to file with the Bankruptcy Court (including any of the foregoing in connection with the plan or sale process) within a reasonable period of time prior to the date such party intends to file any of the foregoing or fail to consult in advance in good faith with the Lenders regarding the form and substance of any such proposed filing with the Bankruptcy Court;

(iv) the Loan Parties file any document necessary to effectuate an Acceptable Plan or Acceptable Sale without the prior approval of the Required Lenders;

(v) any Loan Party or any of its officers publicly announces, or communicates in writing to any other Person (other than the Administrative Agent, the Lenders and their respective Affiliates and representatives), its intention not to support or pursue an Acceptable Plan or an Acceptable Sale;

(vi) the Bankruptcy Court enters an order, or any Loan Party files any motion or any request for relief (other than with the consent of the Lenders) that seeks, to (A) dismiss the Chapter 11 Cases, (B) convert the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, (C) appoint a trustee or examiner with expanded powers beyond those set forth in section 1106 of the Bankruptcy Code or (D) terminate the Borrowers' exclusive right to file a plan of reorganization or liquidation pursuant to section 1121 of the Bankruptcy Code;

(vii) any Borrower files a pleading seeking to amend, vacate or modify any of the Loan Documents or the Final DIP Order over the objection of the Administrative Agent or the Administrative Agent at the direction of the Required Lenders;

(viii) entry of an order without the prior written consent of the Administrative Agent (at the direction of the Required Lenders) amending, supplementing or otherwise modifying the Final DIP Order;

(ix) any reversal, vacatur or stay of the effectiveness of the Final DIP Order, which continues for five (5) Business Days;

(x) the Bankruptcy Court enters an order granting relief terminating, annulling, or modifying the automatic stay (as set forth in section 362 of the Bankruptcy Code) to authorize any party to proceed against any material asset of the Loan Parties or in such a manner that would adversely affect the Loan Parties' ability to operate their businesses in the ordinary course or that would be adverse to the interests of the Lenders;

(xi) the Bankruptcy Court enters an order authorizing or directing the assumption, assumption and assignment, or rejection of an executory contract (including any employment agreement,

severance agreement or other employee benefit plan) or unexpired lease, other than an assumption or rejection that is consented to in writing by the Lenders;

(xii) after entry by the Bankruptcy Court of the Final DIP Order or an order approving a sale of any Collateral, such order is reversed, stayed, dismissed, vacated, reconsidered, modified or amended, in each case, in a manner materially inconsistent with the terms set forth herein or without the consent of the Lenders;

(xiii) the imposition of any material award, claim, fine, penalty, or other monetary judgment by any governmental entity, including the Bankruptcy Court, against any Loan Party that would not be dischargeable pursuant to the Bankruptcy Code or any other order of the Bankruptcy Court;

(xiv) the failure of each Borrower to comply with the Final DIP Order, including failure to make adequate protection payments when due, which remains uncured for a period of five (5) Business Days after the receipt of written notice of such event or is not otherwise waived in accordance with the terms thereof;

(xv) (A) the Loan Parties engage in or publicly support any challenge to the validity, security, perfection, priority, extent or enforceability of the Loan Documents, the Obligations, the Liens securing the Obligations, the Prepetition Term Loan Documents or the Liens securing Prepetition Term Loan Obligations, including without limitation seeking to equitably subordinate, invalidate, disallow, avoid, recharacterize, limit or otherwise impair such liens or claims, or (B) any Borrower engages in any investigation or asserts any claims or causes of action (or directly or indirectly support assertion of the same) against any of the Lenders or the Prepetition Term Loan Administrative Agent or the Prepetition Term Loan Lenders;

(xvi) the entry of a judgment or order by the Bankruptcy Court (A) sustaining any defense, objection or challenge to the validity, security, perfection, priority, extent or enforceability of the Loan Documents, the Obligations, the Liens securing the Obligations or the Prepetition Term Loan Documents or the Liens securing Prepetition Indebtedness or (B) invalidating, disallowing avoiding, subordinating, recharacterizing, limiting or otherwise impairing any of the Obligations, DIP Super-Priority Claims, any Liens securing the Obligations or the Prepetition Term Loan Obligations;

(xvii) the entry of any order in the Chapter 11 Cases surcharging any of the Collateral or Prepetition Collateral with respect to the Lenders, the Prepetition Term Loan Administrative Agent or the Prepetition Term Loan Lenders, as applicable, whether under Section 506(c) of the Bankruptcy Code or otherwise;

(xviii) the consensual use of prepetition cash collateral is terminated, or the entry of an order by the Bankruptcy Court terminating or modifying the use of cash collateral, in each case, without the prior written consent of the Lenders;

(xix) [reserved];

(xx) subject to the Final DIP Order then in effect, the Loan Parties fail to pay upon demand any of the fees and expenses of the professionals retained by the Agents or the Lenders as and when due pursuant to the terms of any applicable engagement letters, fee reimbursement letters, the Bankruptcy Code, or any orders of the Bankruptcy Court and such failure to pay is not cured within five (5) Business Days after the Loan Parties receive notice hereof from the Administrative Agent or any Lender; and

(xxi) the modification of the Approved Budget in a manner not acceptable to the Required Lenders in their sole discretion;

then, and in every such event, and at any time thereafter during the continuance of such event, but in all events subject to the DIP Order then in effect, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to Borrowers, take any or all of the following actions, at the same or different times: (A) the Administrative Agent may cause the Collateral Agent to enforce any and all Liens and security interests created pursuant to the Collateral Documents in addition to any other remedies available under the Loan Documents or applicable law, including the right to direct the delivery of any notice of exclusive control with respect to any deposit account or securities account constituting Collateral and subject to a control agreement or similar documentation and (B) declare the New Money Term Loans then-outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the New Money Term Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of each Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; *provided, however*, in case of any event with respect to the Borrowers described in Section 8.1(h) or 8.1(j), the principal of the New Money Term Loans then-outstanding, together with accrued interest thereon and all fees and other obligations of each Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower.

Notwithstanding anything in this Section 8.1 to the contrary, if any event would constitute an Event of Default under Sections 8.1(c), (d) or (e) as a result of actions taken by any Person (other than the Trustee and the Estates) adversely affecting any Collateral or recorded information Controlled by the Trustee or the Estates, which such actions the Trustee shall not at such time have knowledge of, nor control over, such event shall not constitute an Event of Default for purposes of this Agreement or the other Loan Documents; *provided* that, if the Trustee gains knowledge of any such event, (i) the Trustee shall provide a written notice of such event with reasonable details to the Administrative Agent within one (1) Business Day and (ii) the Administrative Agent (at the direction of the Required Lenders in their reasonable discretion) shall instruct the Trustee to file a motion, adversary complaint, or other request for relief from the Bankruptcy Court within fourteen (14) days receipt thereof in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders), any failure of the Trustee to comply with this proviso shall constitute an immediate Event of Default.

Section 8.2. Application of Funds. Subject to any Additional Agreement (including the Intercreditor Agreement) to the extent then in effect and the Final DIP Order, any amounts received on account of the Obligations other than payment of interest or Repayment Premium in cash (or in non-cash consideration in accordance with Section 2.8(a)) shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to each of the Agents and amounts payable under Article II, Article IX and Article X) payable to (a) the Collateral Agent and (b) the Administrative Agent, each in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article II), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the New Money Term Loans and other Obligations (other than any amounts attributable to the Roll-Up Loans), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the New Money Term Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of that portion of the Obligations constituting accrued and unpaid interest on the Roll-Up Loans, ratable among the Lenders in proportion to the respective amounts described in this clause Fifth payable to them;

Sixth, to the payment of that portion of the Obligations constituting unpaid principal of the Roll-Up Loans, ratable among the Lenders in proportion to the respective amounts described in this clause Sixth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to each Borrower or as otherwise required by applicable law.

ARTICLE IX
THE AGENTS

Section 9.1. Agents.

(a) Each of the Lenders and Secured Parties hereby irrevocably appoints GLAS Trust Company LLC as the Administrative Agent and Collateral Agent (and GLAS Trust Company LLC hereby accepts such appointment) and authorizes the Administrative Agent and the Collateral Agent to take such actions on its behalf and to exercise all rights, powers and remedies as are delegated to the Administrative Agent and the Collateral Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto. Except, in each case, as set forth in the sixth paragraph of this Article IX, the provisions of this Article IX are solely for the benefit of the Agents and the Lenders, and no Loan Party shall have rights as a third-party beneficiary of any of such provisions. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article IX.

(b) The Person serving as the Agent (which for purposes of this Article IX shall mean each of the Administrative Agent and the Collateral Agent) hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates are authorized to accept deposits from, lend money to and generally engage in any kind of banking, trust or other business with the Borrowers or any Subsidiary of the Borrowers or other Affiliate thereof as if it were not the Agent hereunder and without any duty to account therefor to the Lenders.

(c) No Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent: (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (ii) is not obliged to expend or risk its own funds or otherwise (iii) shall not incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity

against, or security for, such risk or liability is not reasonably assured to it, and (iv) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2 or in the other Loan Documents); *provided* that the Agent shall not be required to take, or omit to take, any action (A) unless upon demand in the case of the Collateral Agent, the Collateral Agent receives an indemnification satisfactory to it from the Lenders against all Liabilities that, by reason of such action or omission may be imposed on, incurred by or asserted against the Collateral Agent or any Agent-Related Person thereof or (B) that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law, including any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law.

(d) The Agent shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by the Person serving as Agent or any of its Affiliates in any capacity. The Agent shall not be liable for any action taken or not taken by it in connection with any Loan Document (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2) or (ii) in the absence of its own gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision). The Administrative Agent may at any time request instructions from the Required Lenders (or, if the relevant Loan Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Administrative Agent may refrain from acting unless and until it receives those written instructions or that clarification. In the absence of written instructions, Administrative Agent may act (or refrain from acting) as it considers to be in the best interests of the Lenders and/or use its reasonable discretion in considering whether to act (or refrain from acting) and the Lenders hereby authorize the Administrative Agent to do so. Whether or not the Administrative Agent makes such a request, at all times except with respect to an express obligation set forth herein, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders, and the Administrative Agent shall not incur liability to any Person by reason of so refraining. If, in performing its duties under this Agreement, the Administrative Agent is required to decide between alternative courses of action or has received conflicting directions or any other directions from Required Lenders who do not satisfy the definition of Required Lenders, the Administrative Agent may refrain from taking any action until it receives instructions from the Required Lenders.

(e) The Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Agent by each Borrower or a Lender, and the Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or the occurrence of any Default, (iv) the due execution, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, this Agreement, any other Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Agent's reliance on any Electronic Signature transmitted by emailed pdf or any other electronic means that reproduces an image of an actual executed signature page), or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent. Whenever in the

administration of the Loan Documents the Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its party, may conclusively rely upon the instructions from the Required Lenders. Each Secured Party waives and shall not assert any right, claim or cause of action it might have against any Agent based thereon. Nothing in this Agreement shall require the Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(f) In no event shall the Agent be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, pandemics, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services.

(g) The Agent shall not (i) be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Term Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing, or (ii) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Agent is instructed in writing to exercise by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided) *provided* that the Agent may exercise discretionary action, rights and powers contemplated hereby without instructions from any Lender to the extent provided hereunder or under any Loan Document (including, without limitation, the discretion accorded to the Agent as described in the definition of "Collateral and Guarantee Requirement", Section 2.11, Section 5.9, Section 5.10 and Section 10.2), and each Lender hereby authorizes the Agent to do so without further instructions.

(h) The Agent shall not be responsible for any unsuitability, inadequacy, expiration or unfitness of any security interest created hereunder or pursuant to any other Loan Documents pertaining to this matter nor shall it be obligated to make any investigation into, and shall be entitled to assume, the adequacy and fitness of any security interest created hereunder or pursuant to any other Loan Document pertaining to this matter.

(i) In no event shall the Agent be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if such loss or damage was foreseeable or it has been advised of the likelihood of such loss or damage and regardless of the form of action.

(j) Beyond the exercise of reasonable care in the custody thereof, the Agent shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords similar collateral and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee.

(k) The Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens on any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence or willful misconduct on the part of the Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Agent shall have no duty to ascertain or inquire as to or monitor the performance or observance of any of the terms of the Loan Documents by any other Person.

(l) The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Term Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received notice to the contrary from such Lender prior to the making of such Term Loan. The Agent may consult with legal counsel (who may be counsel for each Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

(m) The Agent may perform any and all of its duties and exercise its rights, powers and remedies under, or any other action with respect to, any Loan Document by or through any one or more trustees, co-agents, employees, attorneys-in-fact or any other Person (including any Secured Party) (each, a "Sub-Agent") appointed by the Agent. The Agent and any such Sub-Agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of this Article IX shall apply to any such Sub-Agent and to the Related Parties of the Agent and any such Sub-Agent, and shall apply to their respective activities in connection with the syndication of the New Money Term Loan Facility as well as activities as Agent.

(n) The Administrative Agent shall have the right to resign at any time by giving prior written notice thereof to the Lenders and each Borrower. The Administrative Agent shall have the right to appoint a successor to act as the Administrative Agent and/or the Collateral Agent hereunder, subject to the reasonable satisfaction of each Borrower and the Required Lenders, and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Administrative Agent by each Borrower and the Required Lenders or (iii) such other date, if any, agreed to by each Borrower and the Required Lenders. Upon any such notice of resignation, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right to appoint a successor Administrative Agent that is reasonably satisfactory to each Borrower. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; *provided* that, in the event the Administrative Agent and the Collateral Agent are the same Person, until a successor Administrative Agent is so appointed by the Required Lenders or the Administrative Agent, any collateral security held by the Administrative Agent in its role as the Collateral Agent on behalf of the Secured Parties under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Any successor Administrative Agent shall be a bank with an office in the United States of America or an Affiliate of any such bank with an office in the United States of America. Upon the acceptance of any appointment

as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (A) transfer to such successor Administrative Agent all sums, securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (B) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder. Except as provided above, any resignation of GLAS Trust Company LLC or its successor as the Administrative Agent pursuant to this Article IX shall also constitute the resignation of GLAS Trust Company LLC or its successor as the Collateral Agent (to the extent GLAS Trust Company LLC or its successor is serving as Collateral Agent at such time). After any retiring Administrative Agent's resignation hereunder as Administrative Agent or Collateral Agent, the provisions of this Article IX shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent or Collateral Agent hereunder and while it continues to hold any collateral security as nominee until a successor Collateral Agent is appointed.

(o) Each Lender represents and warrants to each Agent and acknowledges that (i) the Loan Documents set forth the terms of a commercial lending facility, (ii) it is engaged in making, acquiring or holding commercial loans and in providing other facilities set forth herein as may be applicable to such Lender in the ordinary course of business, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument (and each Lender agrees not to assert a claim in contravention of the foregoing), (iii) it has, independently and without reliance upon the Agent, any Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and (iv) it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities. Each Lender also acknowledges that it will, independently and without reliance upon the Agent, any Lender or any of their respective Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(p) Anything herein to the contrary notwithstanding, none of the Lenders shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, Collateral Agent or a Lender hereunder.

(q) Each Secured Party hereby authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Guaranty, the Collateral and the Collateral Documents and any Additional Agreement to the extent then in effect. Subject to Section 10.2, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (i) in connection with a sale or Disposition of assets permitted by this Agreement, release any Lien encumbering any item of Collateral that is the subject of such sale or other Disposition of assets or to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.2) have otherwise consented or (ii) release any Guarantor

from the Guaranty pursuant to Section 10.17 or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.2) have otherwise consented.

(r) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Loan Party, the Administrative Agent, the Collateral Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty; *provided* that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other Disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other Disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other Disposition.

(s) Notwithstanding anything to the contrary contained herein or any other Loan Document, each Lender hereby consents and directs that when all Obligations (other than Unasserted Contingent Obligations) have been paid in full in cash (or in non-cash consideration in accordance with Section 2.8(a)), all New Money Term Loan Commitments have terminated or expired, upon request of each Borrower, the Administrative Agent and/or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Lender) take such actions as shall be required to release its security interest in all Collateral, and to release all Guaranties provided for in any Loan Document. Any such release of any Guaranty shall be deemed subject to the provision that such Guaranty shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon a Bankruptcy Event in respect of each Borrower or any other Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee, judicial manager or similar officer for, each Borrower or any other Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

(t) Each Lender hereby irrevocably directs and authorizes the Administrative Agent, at its option and in its discretion, to direct the Collateral Agent to subordinate any Lien on any property granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.2.

(u) Each Lender hereby irrevocably authorizes each Agent to, and each Agent will at the request and cost of each Borrower, enter into an intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent with respect to Indebtedness that is (i) required or permitted to be incurred hereunder and for which accession to such an intercreditor agreement is required or (ii) secured by Liens and which Indebtedness contemplates an intercreditor, subordination or collateral trust agreement (any such intercreditor, subordination or collateral trust agreement, an "Additional Agreement"), and the Secured Parties party hereto hereby acknowledge that any Additional Agreement is binding upon them. Each Secured Party hereby agrees that it will be bound by, and will not take any action contrary to, the provisions of any Additional Agreement and each Lender hereby authorizes and instructs the Agents to enter into any Additional Agreement and to subject the Liens securing the Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to each Borrower, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Additional Agreement.

(v) The Secured Parties (other than the Collateral Agent) hereby irrevocably authorize the Collateral Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (ii) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Collateral Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Collateral Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid, (A) the Collateral Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (B) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (C) the Collateral Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (*provided* that any actions by the Collateral Agent with respect to such acquisition vehicle or vehicles, including any Disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 10.2 of this Agreement), (D) the Collateral Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership interests, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (E) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties *pro rata* with their original interest in such Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (B) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Collateral Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

(w) In addition, unless sub-clause (A) in the immediately preceding paragraph is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (D) in the immediately preceding paragraph, such Lender further (i) represents and warrants, as of the date such Person became a Lender party hereto, to, and (ii) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for

the benefit of, the Agents, the other Lenders and their respective Affiliates, and not to or for the benefit of each Borrower or any other Loan Party, that none of the Agents or any other Lenders or any of their respective Affiliates is a fiduciary with respect to the Collateral or the assets of such Lender (including in connection with the reservation or exercise of any rights by the Agents under this Agreement, any Loan Document or any documents related to hereto or thereto).

(x) Each Agent hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Term Loans, the New Money Term Loan Commitments, this Agreement and any other Loan Documents, (ii) may recognize a gain if it extended the Term Loans or the New Money Term Loan Commitments for an amount less than the amount being paid for an interest in the Term Loans or the New Money Term Loan Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

Section 9.2. Collateral Agent.

(a) Under the Loan Documents, the Collateral Agent (i) is acting solely on behalf of the Secured Parties, with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Agent", the terms "agent", "Collateral Agent" and "collateral agent" and similar terms in any Loan Document to refer to Collateral Agent, which terms are used for title purposes only; (ii) is not assuming any obligation under any Loan Document or any role as agent, fiduciary or trustee of or for any Lender or any other Person, in each case, other than as expressly set forth therein and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Secured Party, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Collateral Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

(b) The Collateral Agent and its Related Parties shall not be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party hereby waives and shall not assert any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence or willful misconduct of the Collateral Agent or, as the case may be, such Related Party (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, the Collateral Agent: (i) shall not be responsible to the Secured Parties or otherwise incur liability to the Secured Parties for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Parties selected with reasonable care (other than employees, officers and directors of the Collateral Agent, when acting on behalf of the Collateral Agent); (ii) shall not be responsible to any Lender or other Person for the preparation, filing or recording or any instrument, document or financing statement or the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection, maintenance or priority of any security interest or any Lien created or purported to be created under or in connection with, any Loan Document; (iii) makes no warranty or representation, and shall not be responsible, to any Secured Party for any statement, document, information, representation or warranty made or furnished by or on behalf of any Loan Party or any Related Party of any Loan Party in connection with any Loan Document or any transaction contemplated therein or any other document or information

with respect to any Loan Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by the Collateral Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by the Collateral Agent in connection with the Loan Documents and (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Loan Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from each Borrower or any Lender describing such Default or Event of Default clearly labeled "notice of default" (in which case the Collateral Agent shall promptly give notice of such receipt to all Lenders); and, for each of the items set forth in clauses (i) through (iv) above, each Secured Party hereby waives and agrees not to assert any right, claim or cause of action it might have against the Collateral Agent based thereon.

(c) Each Secured Party, by accepting the benefits of the Loan Documents, agrees that (i) any action taken by the Collateral Agent in accordance with the provisions of the Loan Documents, (ii) any action taken by the Collateral Agent in reliance upon the instructions of the Administrative Agent, Required Lenders or, where so required, such greater proportion of the Lenders and (iii) the exercise by the Collateral Agent of the powers set forth herein or therein shall be authorized and binding upon all of the Secured Parties.

(d) The Collateral Agent may resign at any time by giving prior written notice thereof to the Lenders and the Loan Parties. The Administrative Agent shall have the right to appoint a successor Collateral Agent hereunder, subject to the reasonable satisfaction of each Borrower and the Required Lenders, and the Collateral Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Collateral Agent by each Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Required Lenders and each Borrower. Upon any such notice of resignation, if a successor Collateral Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right, upon five (5) Business Days' notice to the Administrative Agent, to appoint a successor Collateral Agent that is reasonably satisfactory to each Borrower. If, after 30 days after the date of the retiring Collateral Agent's notice of resignation, no successor Collateral Agent has been appointed by the Administrative Agent or the Required Lenders in consultation with each Borrower, then the retiring Collateral Agent may, on behalf of the Lenders, appoint a successor Collateral Agent from among the Lenders. Until a successor Collateral Agent is so appointed by the Required Lenders, the Administrative Agent or the Collateral Agent, as the case may be, any collateral security held by the Collateral Agent on behalf of the Secured Parties under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Upon the acceptance of any appointment as the Collateral Agent hereunder by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent under this Agreement and the Collateral Documents, and the retiring Collateral Agent under this Agreement shall, at the cost of each Borrower, as soon as reasonably practicable (A) transfer to such successor Collateral Agent all sums, securities and other items of Collateral held hereunder or under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Agreement and the Collateral Documents, and (B) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the security interests created under the Collateral Documents, whereupon such retiring Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Collateral Documents. After any retiring Collateral Agent's resignation hereunder as the Collateral Agent, the provisions of this Agreement and the Collateral Documents shall

inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement or the Collateral Documents while it was the Collateral Agent hereunder and while it continues to hold any collateral security as nominee until a successor Collateral Agent is appointed.

(e) The Collateral Agent may at any time request instructions from the Required Lenders (or, if the relevant Loan Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) or the Administrative Agent (acting for and on behalf of the Required Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Collateral Agent may refrain from acting unless and until it receives those written instructions or that clarification. In the absence of written instructions, Collateral Agent, as applicable, may act (or refrain from acting) as it considers to be in the best interests of the Lenders. Whether or not the Collateral Agent makes such a request, at all times except with respect to an express obligation set forth herein, the Collateral Agent shall be entitled to refrain from such act or taking such action unless and until the Collateral Agent shall have received instructions from the Required Lenders or the Administrative Agent (acting for and on behalf of the Required Lenders), and the Collateral Agent shall not incur liability to any Person by reason of so refraining. If, in performing its duties under this Agreement, the Collateral Agent is required to decide between alternative courses of action or has received conflicting directions or any other directions from Required Lenders who do not satisfy the definition of Required Lenders, the Collateral Agent may refrain from taking any action until it receives instructions from the Required Lenders or the Administrative Agent (acting for and on behalf of the Required Lenders).

Section 9.3. Certain ERISA Matters.

(a) Each Lender (i) represents and warrants, as of the date such Person became a Lender party hereto, to, and (ii) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of each Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Term Loans, the New Money Term Loan Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of, and performance of the Term Loans, the New Money Term Loan Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer, and perform the Term Loans, the New Money Term Loan Commitments and this Agreement, (C) the entrance into, participation in, administration of, and performance of the Term Loans, the New Money Term Loan Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of

PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of, and performance of the Term Loans, the New Money Term Loan Commitments and this Agreement, or

(iv) such other representation, warranty, and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (i) sub-clause (i) in Section 9.3(a) is true with respect to a Lender or (ii) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in Section 9.3(a), such Lender further (A) represents and warrants, as of the date such Person became a Lender party hereto, to, and (B) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of each Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of, and performance of the Term Loans, the New Money Term Loan Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document, or any documents related hereto or thereto).

ARTICLE X
MISCELLANEOUS

Section 10.1. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing in English and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email (or other facsimile transmission or, subject to clause (b) below, other electronic image scan transmission (*e.g.*, pdf via email)), as follows:

(i) if to any Loan Party, at:

Claudia Z. Springer, as Trustee

c/o Novo Advisors
401 N. Franklin St., Suite 4 East
Chicago, Illinois 60654

Attention: Claudia Z. Springer
Email: cSpringer@novo-advisors.com

with copies (which shall not constitute notice) to

Jenner & Block LLP
353 N. Clark Street
Chicago, IL 60654
Attention: Catherine Steege and Melissa Root
Email: csteege@jenner.com and mroot@jenner.com

and

Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor

New York, NY 10010
Attention: Benjamin Finestone and Daniel Holzman
Email: benjaminfinestone@quinnemanuel.com and
danielholzman@quinnemanuel.com

and

Pashman Stein Walder Hayden P.C.
824 North Market Street
Suite 800
Wilmington, DE 19801
Attention: Joseph C. Barsalona II
Email: jbarsalona@pashmanstein.com

(ii) if to the Administrative Agent or the Collateral Agent, to it at:

GLAS Trust Company LLC,
3 Second Street, Suite 206
Jersey City, NJ 07311
Attention: Transaction Management Team – EPIC! Creations, Inc.;
Facsimile: 212-202-6246;
Email: clientservices.americas@glas.agency,
tmgus@glas.agency

with a copy (which shall not constitute notice) to

Reed Smith LLP
599 Lexington Avenue, Floor 22
New York, New York 10022
Attention: David Pisciotta, Nicholas Vislocky
Email: DPisciotta@reedsmith.com; Nvislocky@reedsmith.com
Telephone: (212) 549-0260, (212) 549-4743

and

Kirkland & Ellis LLP,
601 Lexington Avenue
New York, NY 10022
Attention: Brian Schartz, P.C., Patrick Nash, P.C., Mary Kogut, P.C.
Email: bschartz@kirkland.com; patrick.nash@kirkland.com;
mary.kogut@kirkland.com
Telephone: (212) 446-5932; (312) 862-2290; (713) 836-3650

(iii) if to any other Lender, to it at its address or email (or other facsimile transmission number) set forth in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by email (or other facsimile transmission) shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications

delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b). All documents provided under or in connection with any Loan Document shall be in English or, if so required by any Lender, accompanied by a certified English translation; *provided* that any such translation will prevail and may be conclusively relied upon unless the corresponding document is a constitutional, statutory or other official document issued by a Governmental Authority.

(b) Notices and other communications to any Loan Party and the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent and/or any Loan Party may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or email (or other facsimile transmission) number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Each Borrower agrees that the Administrative Agent may make the Communications (as defined below) available to the Lenders by posting the Communications on Debtdomain, IntraLinks, Syndtrak, ClearPar, the Internet or another similar electronic system chosen by the Administrative Agent to be its electronic transmission system (the "Platform"). THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the communications effected thereby (the "Communications"). No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") be responsible or liable for damages arising from the use by others of information or other materials (including any personal data) obtained through electronic, telecommunications or other information transmission systems (including through the Platform) or otherwise via the Internet, except to the extent that such damages have resulted from the willful misconduct or gross negligence of such Agent Party (as determined in a final, non-appealable judgment by a court of competent jurisdiction).

Section 10.2. Waivers; Amendments.

(a) No failure or delay by any Agent or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Agents and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrowers or any Subsidiary therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Term Loan shall not be construed as a waiver of any Default, regardless of whether any Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Except as expressly provided in this Agreement, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by each Borrower and the Required Lenders or by each Borrower and the Administrative Agent with the consent of the Required Lenders; *provided, however*, that no such amendment, waiver or consent shall:

(i) extend or increase the New Money Term Loan Commitment of any Lender without the written consent of such Lender (or make any changes to the definition of "Applicable Percentage") (it being understood that a waiver of any condition precedent or of any Default, mandatory prepayment or mandatory reduction of the New Money Term Loan Commitments shall not constitute an extension or increase of any New Money Term Loan Commitment of any Lender);

(ii) reduce the principal amount of any Term Loan, reduce the rate of interest thereon, or reduce any premium or fees payable hereunder, without the written consent of each Lender directly affected thereby;

(iii) postpone the scheduled date of payment of the principal amount of any Term Loan, or any interest thereon, or any premium or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any New Money Term Loan Commitment, without the written consent of each Lender directly affected thereby; *provided* that the waiver (or amendment to the terms of) any mandatory prepayment of the Term Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;

(iv) [reserved];

(v) [reserved]; or

(vi) change Section 8.2 without the written consent of each Lender directly affected thereby.

(vii) Notwithstanding anything to the contrary herein:

(A) no such agreement shall amend, modify or otherwise affect the rights or adversely affect the duties of any Agent hereunder without the prior written consent of such Agent;

(B) no Defaulting Lender or Affiliated Lender (in its capacity as a Lender) shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders and Affiliated Lenders), except that (I) the New Money Term Loan Commitment of any Defaulting Lender or Affiliated Lender may not be increased or the termination thereof extended without the consent of such Lender, (II) the principal amount of any Defaulting Lender's or Affiliated Lender's Term Loan, or the interest rate thereon or any fees payable hereunder to any Defaulting Lender or Affiliated Lender may not be reduced without the consent of such Lender and (III) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender or Affiliated Lender (in its capacity as a Lender) more adversely than other affected Lenders shall require the consent of such Defaulting Lender or Affiliated Lender, as applicable;

(C) [reserved];

(D) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by each Borrower and the Administrative Agent (without the need to obtain the consent of any other party to any Loan Document) to (I) effect any Ministerial Amendments, so long as, in each case, the Lenders shall have received at least five (5) Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment, or (II) grant a new Lien for the benefit of the Secured Parties or extend an existing Lien over additional property constituting Collateral; and

(E) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Term Loans or New Money Term Loan Commitments of a particular Class (but not the Lenders holding Term Loans or New Money Term Loan Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by each Borrower, and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time.

(c) Without the written consent of the Borrowers and all Lenders (other than, in the case of clauses (iv) and (v), a Defaulting Lender), no amendment, modification, termination or waiver of any term or condition of any Loan Document, or consent to any departure by any Loan Party therefrom, shall:

(i) change Section 2.15(b), Section 8.2 or any other Section hereof or of any Loan Document providing for the ratable treatment of the Lenders, in each case in a manner that would alter the *pro rata* sharing of payments required thereby;

(ii) change any of the provisions of this Section or the percentage referred to in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder;

(iii) change the definition of "Pro Rata Share";

(iv) amend, modify, terminate or waive any term or condition of this Agreement or any other Loan Document that expressly provides that the consent of all Lenders is required;

(v) release all or substantially all of the value of any Guaranty or the Collateral except to the extent the release of any Guarantor or any Collateral is permitted under this Agreement;

(vi) subordinate the Obligations in right of payment, or the priority of the Liens securing the Obligations, to any other Indebtedness (it being understood that this clause (vi) shall not apply to any debtor-in-possession financing and use of cash collateral in compliance with any customary intercreditor agreements); and

(vii) consent to the assignment or transfer by any Loan Party of any of its rights and obligations under any Loan Document (except as expressly provided in the Loan Documents).

The Collateral Documents and related documents in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent (or Collateral Agent, acting on the instructions of the Administrative Agent) and may be, together with this Agreement, amended, supplemented and waived with the consent of the Administrative Agent (or Collateral Agent,

acting on the instructions of the Administrative Agent) at the request of each Borrower without the need to obtain the consent of any other Secured Party if such amendment, supplement or waiver is delivered in order (A) to comply with local law or advice of local counsel, (B) effect any Ministerial Amendments, (C) to cause such Collateral Documents or other document to be consistent with this Agreement and the other Loan Documents (including any updates, imported definitions or conforming changes contemplated by paragraphs (b) or (c) above), (D) [reserved] or (E) grant a new Lien for the benefit of the Secured Parties or extend an existing Lien over additional property constituting Collateral.

Section 10.3. Expenses; Limitation of Liability; Indemnity, Etc.

(a) Expenses. Each Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Agents, including the reasonable and documented out-of-pocket fees, disbursements and other charges of two (2) firms of counsel for the Agents, taken as a whole, of a single local counsel and any specialist counsel in each relevant material jurisdiction and in the case of an actual or potential conflict of interest where any Person affected by such conflict informs each Borrower of such conflict and thereafter retains its own counsel, of another primary firm of counsel per applicable material jurisdiction for such affected Persons taken as a whole, in connection with the preparation, negotiation, execution, delivery, analysis and administration of this Agreement, any other Loan Document or any amendments, modifications or waivers of the provisions hereof or thereof, and (ii) all reasonable and documented expenses incurred by the Agents, including the reasonable and documented out-of-pocket fees, disbursements and other charges of two (2) firms of counsel for the Agents and the Lenders, taken as a whole, of a single local counsel and any specialist counsel in each relevant material jurisdiction and in the case of an actual or potential conflict of interest where any Person affected by such conflict informs each Borrower of such conflict and thereafter retains its own counsel, of another primary firm of counsel per applicable material jurisdiction for such affected Persons, taken as a whole, in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section, or in connection with the Term Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Term Loans. For the avoidance of doubt, except as otherwise expressly set forth herein or in any other Loan Document, any action taken by any Loan Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of the Agents or Required Lenders, shall be at the expense of such Loan Party, and neither the Agents nor any other Secured Party shall be required under any Loan Document to reimburse such Loan Party or any of its subsidiaries for any such expenses.

(b) Limitation of Liability. To the extent permitted by applicable law (i) no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Agent and any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a "Lender-Related Person") for any Liabilities arising from the use by others of information or other materials (including any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Platform or otherwise via the Internet), other than Liabilities that are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Lender-Related Person (it being understood that all information and materials so transmitted shall continue to be subject to the confidentiality provisions set forth herein and in the Platform), and (ii) no party hereto shall assert, and each such party hereby waives, any Liabilities against any other party hereto, on any theory of liability, for special, indirect, exemplary, punitive or consequential damages (including any loss of profits, business or anticipated savings) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions or any Term Loan or the use of the proceeds thereof; *provided* that nothing in this Section 10.3(b) shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee, as provided in Section 10.3(c), against any special, indirect, exemplary, punitive or consequential damages

(including any loss of profits, business or anticipated savings) asserted against such Indemnitee by a third party.

(c) Indemnity. Each Loan Party shall indemnify each Agent and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all Liabilities and related reasonable and documented expenses, including the reasonable and documented out-of-pocket fees, charges and disbursements of one firm of counsel for the Indemnitees, taken as a whole, of a single local counsel and any specialist counsel in each relevant material jurisdiction and in the case of an actual or potential conflict of interest where any Person affected by such conflict informs each Borrower of such conflict and thereafter retains its own counsel, of another primary firm of counsel per applicable material jurisdiction for such affected Persons, taken as a whole, incurred by or asserted against any Indemnitee by any third party or by each Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Term Loan or the use of the proceeds thereof, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned, leased or operated by the Borrowers or any of their Subsidiaries, or any Environmental Liability of the Borrowers or any of their Subsidiaries, or (iv) any actual or prospective Proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such Proceeding is initiated by a third party or each Borrower or any Affiliate of each Borrower); *provided* that such indemnity shall not, as to any Indemnitee, be available (A) with respect to Taxes (and amounts relating thereto), the indemnification for which shall be governed solely and exclusively by Sections 2.12 and 2.14, other than any Taxes that represent losses, claims or damages arising from any non-Tax claim or (B) to the extent that such Liabilities or related reasonable and documented expenses (I) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from (1) the gross negligence or willful misconduct of such Indemnitee, (2) with respect to any Indemnitee other than the Collateral Agent or any of its Related Parties, a material breach by such Indemnitee or one of its Affiliates of its express obligations under this Agreement or any other Loan Document, or (3) with respect to any Proceeding brought by each Borrower or each Borrower against the Collateral Agent or any of its Affiliates, a material breach by the Collateral Agent or any of its Affiliates of its express obligations under this Agreement or any other Loan Document, or (II) arise from any dispute between and among Indemnitees that does not involve an act or omission by each Borrower, the Borrowers or any of their Subsidiaries (other than any proceeding against any Agent in such capacity); *provided* that any such Liabilities or related reasonable and documented expenses incurred by the Collateral Agent acting in such capacity in connection with any such dispute shall not be excluded pursuant to this clause (II).

(d) Each Lender severally agrees to pay any amount required to be paid by each Borrower under paragraphs (a), (b) or (c) of this Section 10.3 to each Agent and each Related Party of such Agent (each, an "Agent-Related Person") (to the extent not reimbursed by each Borrower and without limiting the obligation of each Borrower to do so), ratably according to their respective Applicable Percentage in effect on the date on which such payment is sought under this Section (or, if such payment is sought after the date upon which the New Money Term Loan Commitments shall have terminated and the Term Loans shall have been paid in full in cash, ratably in accordance with such Applicable Percentage immediately prior to such date), from and against any and all Liabilities and related reasonable and documented expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Term Loans) be imposed on, incurred by or asserted against such Agent-Related Person in any way relating to or arising out of the New Money Term Loan Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the

transactions contemplated hereby or thereby or any action taken or omitted by such Agent-Related Person under or in connection with any of the foregoing; *provided* that the unreimbursed Liability or related reasonable and documented expense, as the case may be, was incurred by or asserted against such Agent-Related Person in its capacity as such; *provided, further*, that no Lender shall be liable for the payment of any portion of such Liabilities, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from such Agent-Related Person's gross negligence or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and the payment of the Term Loans and all other amounts payable hereunder.

(e) Payments. All amounts due under this Section 10.3 shall be payable promptly after written demand therefor.

Section 10.4. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) each Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by each Borrower, without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b)

(i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (but not to each Borrower or an Affiliate of each Borrower or any Defaulting Lender or any natural person) all or a portion of its rights and obligations under this Agreement (including all or a portion of its New Money Term Loan Commitment and the Term Loans at the time owing to it) with the prior written consent of:

(A) each Borrower; *provided* that no consent of each Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; *provided, further*, that each Borrower shall be deemed to have consented to any such assignment unless each Borrower shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; and

(B) the Administrative Agent (such consent not to be unreasonably withheld or delayed) unless such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund, in each case which consent shall not be required.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's New Money Term Loan Commitment or Term Loans, (I) the amount of the New Money Term Loan Commitment or Term Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative

Agent) shall not be less than $100,000 unless each of each Borrower and the Administrative Agent otherwise consent; *provided* that no such consent of each Borrower shall be required if an Event of Default has occurred and is continuing and (II) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; *provided* that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of New Money Term Loan Commitments or Term Loans;

(C) (I) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $4,500; *provided* that the Administrative Agent may, in its sole discretion, elect to reduce or waive such processing and recordation fee in the case of any assignment, and (II) the assigning Lender shall have paid in full any amounts owing by it to the Administrative Agent;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any tax forms required by Section 2.14(e) and an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about each Borrower and its Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal, state and foreign securities laws;

(E) no such assignment shall be made to (I) each Borrower or any Affiliate of each Borrower or (II) any Defaulting Lender or any of its subsidiaries, Affiliates or equity holder thereof, or any Person, who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (II);

(F) in connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of each Borrower and the Administrative Agent, the applicable Pro Rata Share of Term Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (I) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (II) acquire (and fund as appropriate) its full Pro Rata Share of all Term Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs; and

(G) the assignee shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14, with respect to any assignment, than its assigning Lender was entitled to receive.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 2.12, Section 2.14 and Section 10.3); *provided* that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of each Borrower shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the New Money Term Loan Commitment of, and principal amounts (and stated interest) of the Term Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive (absent manifest error), and each Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Register is intended to establish that each New Money Term Loan Commitment, Term Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Section 1.163-5(b) of the United States Proposed Treasury Regulations (or any amended or successor version). Each Borrower agrees to indemnify the Administrative Agent from and against any and all losses, claims, damages and liabilities of whatsoever nature which may be imposed on, asserted against or incurred by the Administrative Agent in performing its duties under this Section 10.4(b)(iv), except to the extent that such losses, claims, damages or liabilities are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent. The Term Loans (including principal and interest) are registered obligations and the right, title, and interest of any Lender or its assigns in and to such Term Loans shall be transferable only upon notation of such transfer in the Register.

(v) Upon its (A) receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and any tax forms required by Section 2.14(e) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (c) of this Section and any written consent to such assignment required by paragraph (b) of this Section and (B) completion of all "know your customer" or similar processes required under applicable law and regulation, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; *provided* that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.4(b), Section 2.15(c) or Section 10.3(d), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may at any time, without the consent of, or notice to, each Borrower or the Administrative Agent, sell participations to one or more banks or other entities (but not to (i) each Borrower or an Affiliate of each Borrower, (ii) any Defaulting Lender or any Person, who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (ii), (iii) [reserved] or (iv) any natural Person) (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its New Money Term Loan Commitment and the Term Loans owing to it); *provided* that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) each Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 10.2(b) that adversely affects such Participant (except with respect to any matters that require only the affirmative vote of the Required Lenders). Subject to paragraph (c)(ii) of this Section, each Borrower agrees that each Participant shall be entitled to the benefits of Section 2.12 and Section 2.14 (subject to the requirements and limitations therein, including the requirements under Section 2.14(e); *provided* that the documentation required under Section 2.14(e) shall be delivered to the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant agrees to be subject to the provisions of Section 2.16 as if it were an assignee under paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.8 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.15(b) as though it were a Lender.

(d) A Participant shall not be entitled to receive any greater payment under Section 2.12 or Section 2.14, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

(e) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of each Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Term Loans or other obligations under the Loan Documents (the "Participant Register"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any New Money Term Loan Commitments, Term Loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such New Money Term Loan Commitment, Term Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Section 1.163-5(b) of the United States Proposed Treasury Regulations (or any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, the Bank of England or the European Central Bank, and this Section shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge

or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 10.5. Survival. All covenants, agreements, representations and warranties made by any Loan Party herein, in any other Loan Document or in any certificate or other instrument delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Term Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Term Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the New Money Term Loan Commitments have not expired or terminated. The provisions of Section 2.12, Section 2.14 and Section 10.3 and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Term Loans, the resignation of any Agent, the replacement of any Lender, or the termination of this Agreement or any provision hereof.

Section 10.6. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall be deemed an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Agents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 10.7. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 10.8. Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) or other amounts at any time held, and other obligations (in whatever currency) at any time owing, by such Lender or Affiliate to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations may be unmatured or are owed to a branch office or Affiliate of such Lender different from the branch office or Affiliate holding such deposit or obligated on such obligations; *provided* that, in the event that any Defaulting Lender shall exercise any such right of set-off, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions hereof and, pending such payment, shall be segregated by such Defaulting Lender from its

other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (b) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of set-off. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) which such Lender or its Affiliates may have. Each Lender agrees to notify each Borrower and the Administrative Agent promptly after any such set-off and application; *provided* that the failure to give such notice shall not affect the validity of such set-off and application.

Section 10.9. Governing Law; Jurisdiction; Consent to Service of Process.

(a) **THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, except to the extent the law of the State of New York is superseded by the Bankruptcy Code.**

(b) Each of the Lenders, the Administrative Agent and the Collateral Agent hereby irrevocably and unconditionally agrees that, notwithstanding the governing law provisions of any applicable Loan Document, any claims brought against the Administrative Agent or the Collateral Agent by any Secured Party relating to this Agreement, any other Loan Document, the Collateral or the consummation or administration of the transactions contemplated hereby or thereby shall be construed in accordance with and governed by the law of the State of New York.

(c) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, solely to the extent that the Bankruptcy Court does not have (or abstains from exercising) jurisdiction, the United States District Court for the Southern District of New York sitting in the Borough of Manhattan (or if such court lacks subject matter jurisdiction, the Supreme Court of the State of New York sitting in the Borough of Manhattan), and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other applicable Loan Document or the transactions relating hereto or thereto, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may (and any such claims, cross-claims or third-party claims brought against the Administrative Agent or any of its Related Parties may only) be heard and determined in such Federal (to the extent permitted by law) or New York State court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that any Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against any Loan Party or its properties in the courts of any jurisdiction.

(d) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other applicable Loan Document in any court referred to in paragraph (c) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 10.1. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(f) Each Loan Party hereby appoints the Trustee as its authorized agent ("Authorized Agent") upon whom process may be served in any Proceeding arising out of or based upon this Agreement or the transactions contemplated herein which may be instituted in the Bankruptcy Court, and, solely to the extent that the Bankruptcy Court does not have (or abstains from exercising) jurisdiction, the United States District Court for the Southern District of New York sitting in the Borough of Manhattan, the Supreme Court of the State of New York sitting in the Borough of Manhattan or any appellate court from any thereof. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon each Loan Party.

Section 10.10. Waiver of Jury Trial. **TO THE EXTENT THAT BANKRUPTCY COURT DOES NOT HAVE EXCLUSIVE JURISDICTION, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

Section 10.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 10.12. Confidentiality.

(a) Each of the Agents and the Lenders agrees to:

(i) maintain the confidentiality of the Information;

(ii) not disclose, divulge, transfer, exchange, assign, license or grant access to any Information to any individual or organization, either internally or externally, without the prior written consent of each Borrower; and

(iii) not use the Information for any purpose except in connection with the Loan Documents, except that Information may be:

(A) disclosed, divulged or accessed to or by its and its Affiliates' directors, officers, employees, other providers of services and agents, including auditors, accountants, legal counsel and other advisors, or to any credit insurance provider relating to any Loan Party and its obligations (collectively, "Representatives"), in each case on a "need-to-know" basis in connection with this Agreement and the transactions contemplated hereby; *provided* that the applicable Agent or Lender disclosing to any such Person pursuant to this clause (A) shall ensure (excluding the need to take any legal action) that such Person is aware of and complies with the confidentiality and non-disclosure obligations contained in this Section 10.12 and such Agent or Lender, as applicable, shall be responsible to each Borrower for any breach of this Section 10.12 by such Person (except that the Collateral Agent shall only be responsible to each Borrower for any such breach by its or any of its Affiliates' directors, officers or employees), unless such Person has entered into one or

more confidentiality agreements with or for the benefit of each Borrower or any of its Affiliates on substantially similar terms as this Section 10.12;

(B) disclosed to the extent compelled by any Governmental Authority (including the Bankruptcy Court and including any self-regulatory authority, such as the National Association of Insurance Commissioners and including the Bankruptcy Court) or required by applicable laws or regulations or by any subpoena or similar legal process (in which case such Agent or such Lender, as applicable, agrees, except with respect to any audit or examination conducted by bank accountants or any self-regulatory authority or governmental or regulatory authority exercising examination or regulatory authority, to the extent reasonably practicable and permitted by applicable law (I) to provide each Borrower reasonable written notice thereof prior to the disclosure of the same to the extent reasonable and not prohibited by law or any applicable Governmental Authority, (II) to disclose only the Information which it is compelled to disclose and (III) to exercise its reasonable efforts to inform the relevant party so requesting or requiring disclosure that the Information is confidential and should be treated accordingly);

(C) disclosed to any other party to this Agreement;

(D) disclosed in connection with establishing a "due diligence" defense or the exercise of any remedies hereunder or under any Loan Document or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder or under any Loan Document;

(E) disclosed subject to an agreement containing provisions substantially the same as those of this Section 10.12 or such other terms as are reasonably acceptable to each Borrower and the Administrative Agent, including as agreed in marketing materials in accordance with customary market standards for dissemination of such type of information or pursuant to customary "click-through" procedures or other affirmative action reasonably acceptable to each Borrower to access the Information and acknowledge the confidentiality obligations in respect thereof, to or by (I) any permitted assignee of any of its rights or obligations under this Agreement or any permitted Participant, (II) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to each Borrower or each Borrower and their respective obligations, (III) any rating agency in connection with rating each Borrower or its Subsidiaries or the New Money Term Loan Facility or (IV) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of identification numbers with respect to the New Money Term Loan Facility;

(F) disclosed to the extent such Information (I) is expressly approved for release by written authorization of each Borrower prior to such disclosure, (II) is already in the public domain or becomes so through no fault of any of the Agents, the Lenders or any of their respective Related Parties or Representatives, (III) is received by any Agent, any Lender or any of their respective Related Parties or Representatives from a third party that such Agent, Lender, Related Party or Representative does not know to have violated, or to have obtained such Information in violation of, any confidentiality obligation to each Borrower with respect to such Information or (IV) is independently developed by any Agent, Lender or their respective Affiliates without reference to any Information and without breach of this Section 10.12;

(G) in respect to any order of any court or other Governmental Authority (including the Bankruptcy Court) or as may otherwise be required pursuant to any law or if requested or required to do so in connection with any litigation or similar proceeding; or

(H) in connection with the exercise of any remedy hereunder or under any other Loan Document.

Any Person required to maintain the confidentiality of Information as provided in this Section 10.12 shall be considered to have complied with its obligation to do so if such Person has used the same means such Person uses to protect similar types of confidential information which such Person receives in connection with the evaluation or consummation of transactions similar to the Transactions, but in any event not less than reasonable means (excluding the need to take any legal action) to prevent the disclosure of Information to third parties in breach of this Section 10.12. Nothing in this Agreement shall require any Agent, any Lender or any of their respective Representatives to take any action which could expose any such Person to any legal sanction or penalty, or to take or initiate any legal action or proceeding.

(b) [Reserved].

(c) [Reserved].

(d) Each Beneficiary shall notify each Borrower promptly upon discovery of any unauthorized use or disclosure of the Information in breach of this Section 10.12, or any other breach of this Section 10.12 by such Beneficiary and will use reasonable efforts (excluding the need to take any legal action) to cooperate with each Borrower to help each Borrower regain possession of the Information and prevent its further unauthorized use in breach of this Section 10.12.

(e) EACH LENDER ACKNOWLEDGES THAT INFORMATION (AS DEFINED IN THIS AGREEMENT) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING EACH BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL, STATE AND FOREIGN SECURITIES LAWS.

(f) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY OR ON BEHALF OF EACH BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT EACH BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO EACH BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 10.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Term Loan, together with all fees, charges and other amounts which are treated as interest on such Term Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Term Loan in accordance with applicable law, the rate of interest payable in respect of such Term Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Term Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Term

Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

Section 10.14. No Advisory or Fiduciary Responsibility.

(a) In connection with all aspects of each Transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its subsidiaries' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents and the Lenders are arm's length commercial transactions between such Loan Party and its Affiliates, on the one hand, and the Agents and the Lenders, on the other hand, (B) none of the Agents and the Lenders is advising any Loan Party as to any legal, tax, investment, accounting regulatory or any other matters, and such Loan Party has consulted its own advisors to the extent it has deemed appropriate, and (C) such Loan Party is responsible for and capable of independently evaluating, and understands and accepts, the terms, risks and conditions of the Transactions contemplated hereby and by the other Loan Documents, and none of the Agents and the Lenders shall have any responsibility or liability to any Loan Party with respect thereto; (ii) (A) each of the Agents and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Loan Party or any of its subsidiaries, or any other Person and (B) none of any Agent or any Lender has any obligation to any Loan Party or any of its Affiliates with respect to the Transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of such Loan Party and its Affiliates, and none of any Agent or any Lender has any obligation to disclose any of such interests to such Loan Party or its Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases, and agrees that it will not assert, any claims that it may have against any of the Agents and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

(b) Each Loan Party further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each of the Agents and the Lenders, together with their respective Affiliates, is or may be a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any of the Agents and the Lenders may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Loan Parties and other companies with which a Loan Party may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any of the Agents and the Lenders or any of its respective customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

Section 10.15. Electronic Execution of Assignments and Certain Other Documents. Delivery of an executed counterpart of a signature page of (a) this Agreement, (b) any other Loan Document and/or (c) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 10.1), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each, an "Ancillary Document") that is an Electronic Signature transmitted by email, emailed pdf or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words "execution", "signed", "signature", "delivery", and

words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by email, emailed pdf or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; *provided* that nothing herein shall require any Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it (it being understood and agreed that each Agent accepts, consents and approves of transmission through electronic means of any Electronic Signature that is a reproduction of an image of an actual executed signature page); *provided, further*, without limiting the foregoing, (i) to the extent an Agent has agreed to accept any Electronic Signature, the Agents and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of any Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic signature and (ii) upon the request of any Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, each Loan Party hereby (A) agrees that, for all purposes, including in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Agents, the Lenders, and the Loan Parties, Electronic Signatures transmitted by email, emailed pdf or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) agrees that each of the Agents and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender-Related Person for any Liabilities arising solely from any Agent's and/or any Lender's reliance on or use of Electronic Signatures and/or transmissions by email, emailed pdf or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of any Loan Party to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature, except to the extent such Liabilities are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Lender-Related Person (it being understood and agreed that all Electronic Signatures and materials so transmitted shall continue to be subject to the terms of the confidentiality provisions set forth herein).

Section 10.16. USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the requirements of the USA Patriot Act and the Administrative Agent (for itself and not on behalf of any Lenders) hereby notifies each Loan Party that, pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA Patriot Act. Each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA Patriot Act and the Beneficial Ownership Regulation.

Section 10.17. Release of Liens and Guarantors.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) Upon termination of the aggregate New Money Term Loan Commitments and payment in full in cash (or in non-cash consideration in accordance with Section 2.8(a)) of all Obligations (other than Unasserted Contingent Obligations) (including the Repayment Premium) under any Loan Document, all obligations under the Loan Documents and all security interests created by the Collateral Documents shall be automatically released.

(f) In connection with any termination or release pursuant to this Section 10.17, the Administrative Agent or the Collateral Agent, as the case may be, shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release so long as each Borrower or the applicable Loan Party shall have provided the Administrative Agent or the Collateral Agent, as the case may be, such certifications or documents as the Administrative Agent or the Collateral Agent, as the case may be, shall reasonably request in order to demonstrate compliance with this Agreement.

(g) Each of the Lenders irrevocably consents, authorizes and directs the Administrative Agent or the Collateral Agent, as the case may be, to provide any release or evidence of release or termination contemplated by this Section 10.17.

(h) [Reserved].

Section 10.18. Acknowledgment and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any parties hereto, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 10.19. DIP Order. The Loan Parties, the Administrative Agent and the Lenders hereby expressly agree that in the event of any conflict between (a) this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall control, (b) this Agreement and the DIP Order, the DIP Order shall control and (c) the Intercreditor Agreement and the DIP Order, the DIP Order shall control.

[*Signature pages follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

Borrowers:

CHAPTER 11 TRUSTE CLAUDIA Z. SPRINGER, ON BEHALF OF EPIC! CREATIONS, INC., BORROWER AND BORROWER'S ESTATE

By: _____
Claudia Z. Springer, as Chapter 11 Trustee of Epic! Creations, Inc., on behalf of the Estate of Debtor Epic! Creations, Inc.

CHAPTER 11 TRUSTE CLAUDIA Z. SPRINGER, ON BEHALF OF, NEURON FUEL, INC. BORROWER AND BORROWER'S ESTATE

By: _____
Claudia Z. Springer, as Chapter 11 Trustee of Neuron Fuel, Inc., on behalf of the Estate of Debtor Neuron Fuel, Inc.

CHAPTER 11 TRUSTE CLAUDIA Z. SPRINGER, ON BEHALF OF TANGIBLE PLAY, INC., BORROWER AND BORROWER'S ESTATE

By: _____
Claudia Z. Springer, as Chapter 11 Trustee of Tangible Play, Inc., on behalf of the Estate of Debtor Tangible Play

[●], as Lender

By: _____
Name:
Title:

GLAS TRUST COMPANY LLC, as
Administrative Agent

By: _____
Name:
Title:

GLAS TRUST COMPANY LLC, as Collateral Agent

By: _____
Name:
Title:

Exhibit 2

Required Milestones

The DIP Facility is subject to the following Milestones, which may be extended or waived as approved in writing by the DIP Agent at the direction of the Required Lenders (email from counsel to the Administrative Agent being sufficient):

a) On or before November 1, 2024, the Interim DIP Order shall have been entered by the Bankruptcy Court.

b) On or before November 7, 2024, the Trustee shall have engaged a business broker or investment banker that is satisfactory to the Administrative Agent (at the direction of the Required Lenders) in its sole discretion to administer the marketing and sale process for some, all, or substantially all of the Epic Assets, the Neuron Fuel Assets, and the Tangible Play Assets through one or more transactions (the "Sale Process").

c) On or before November 15, 2024, the Trustee shall have decided whether to shutdown business operations, and all operations related thereto, of Tangible Play, Inc., and, if so, established a workplan in connection therewith, which such determination and workplan shall be reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

d) On or before November 15, 2024, the Trustee shall have filed a motion in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders), seeking entry of an order approving the bidding procedures for the Sale Process (the "Bidding Procedures Motion").

e) On or before November 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity Interests of Epic (the "Epic Assets").

f) On or before November 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Epic Assets.

g) On or before December 2, 2024, the Final DIP Order shall have been entered by the Bankruptcy Court.

h) On or before December 6, 2024, the order approving the Bidding Procedures Motion (the "Bidding Procedures Order"), in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) shall have been entered by the Bankruptcy Court.

i) On or before December 15, 2024, the Trustee shall have delivered to the Lenders a virtual data room, confidential information memorandum and all other marketing materials reasonably requested by the Administrative Agent (at the direction of the Required Lenders) with respect to all or substantially all of the assets or Equity

Interests of Neuron Fuel (the "Neuron Fuel Assets") and all or substantially all of the assets or Equity Interests of Tangible Play (the "Tangible Play Assets").

j) On or before December 16, 2024, the deadline for potential bidders to submit binding bids in connection with the sale of the Epic Assets shall have occurred.

k) On or before December 16, 2024, the Trustee shall have delivered evidence reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders) of the start of the Sale Process with respect to the Neuron Fuel Assets and the Tangible Play Assets.

l) On or before December 18, 2024, the Trustee shall have conducted an auction for the sale of all or substantially all of the Epic Assets (if necessary) and shall have selected one or more successful bidder(s).

m) On or before December 23, 2024, the Bankruptcy Court shall have entered one or more order(s) approving the sale(s) (each, a "Sale Order") provided for in the purchase agreement(s) between the Trustee (on behalf of Epic! Creations, Inc.) and the winning bidder(s) with respect to the applicable Epic Assets in form and substance reasonably satisfactory to the Administrative Agent (at the direction of the Required Lenders).

n) On or before December 30, 2024, the Trustee shall have consummated the transaction(s) approved by the Sale Order with respect to the Epic Assets.

o) On or before January 16, 2025, the deadline for potential bidders to submit binding bids in connection with the sale of the Neuron Fuel Assets and the Tangible Play Assets shall have occurred.

p) On or before January 20, 2025, the Trustee shall have conducted an auction for the sale of all or substantially all of the Neuron Fuel Assets and the Tangible Play assets (if necessary) and shall have selected one or more respective successful bidder(s).

q) On or before January 24, 2025, the Bankruptcy Court shall have entered one or more Sale Order(s) approving the sale(s) provided for in the purchase agreement(s) between the Trustee (on behalf of Neuron Fuel and Tangible Play, as applicable) and the winning bidder(s) with respect to the applicable Neuron Fuel Assets and the applicable Tangible Play Assets in form and substance satisfactory to the Administrative Agent (at the direction of the Required Lenders).

r) On or before January 31, 2025, the Trustee shall have consummated the transaction(s) approved by the Sale Order(s) with respect to the Neuron Fuel Assets and the Tangible Play Assets.

s) On or before March 31, 2025, the effective date of an Acceptable Plan shall have occurred.

Exhibit 3

Initial Approved DIP Budget

Epic! Creations et al.
Interim DIP Budget

Week	1	2	3	4	5	8 Week
Week Ending	**11/1/2024**	**11/8/2024**	**11/15/2024**	**11/22/2024**	**11/29/2024**	**Total**
CASH FLOW						
Receipts						
Epic! Creations	$ 250,000	$ 250,000	$ 250,000	$ 250,000	$ 250,000	**$ 1,250,000**
Neuron Fuel	81,300	104,500	104,500	104,500	104,500	**499,300**
Tangible Play	-	-	-	-	-	**-**
Total Receipts	**$ 331,300**	**$ 354,500**	**$ 354,500**	**$ 354,500**	**$ 354,500**	**$ 1,749,300**
Disbursements						
Payroll & Benefits						
Epic! Creations	$ 104,300	$ -	$ 122,300	$ -	$ 104,300	**$ 330,900**
Neuron Fuel	214,000	-	155,400	-	146,400	**515,800**
Tangible Play	51,700	-	60,100	-	51,700	**163,500**
Payroll & Benefits	$ 370,000	$ -	$ 337,800	$ -	$ 302,400	**$ 1,010,200**
Operating Expenses						
Epic! Creations	$ 442,000	$ 442,000	$ 442,000	$ 442,000	$ 442,000	**$ 2,210,000**
Neuron Fuel	144,400	144,400	144,400	144,400	144,400	**722,000**
Tangible Play	80,000	80,000	80,000	80,000	80,000	**400,000**
Operating Expenses	$ 666,400	$ 666,400	$ 666,400	$ 666,400	$ 666,400	**$ 3,332,000**
Professional Fees						
Legal - Lead Counsel	$ 550,000	$ 137,500	$ 137,500	$ 137,500	$ 137,500	**$ 1,100,000**
Financial Advisor	500,000	125,000	125,000	125,000	125,000	**1,000,000**
Legal Fees - Litigation Counsel	187,500	62,500	62,500	62,500	62,500	**437,500**
Legal Fees - Local Counsel	250,000	62,500	62,500	62,500	62,500	**500,000**
Claims Agent	250,000	62,500	62,500	62,500	62,500	**500,000**
Chapter 11 Trustee Fees	200,000	50,000	50,000	50,000	50,000	**400,000**
Forensic Advisor	75,000	37,500	37,500	37,500	37,500	**225,000**
Legal Fees - India Counsel	62,500	31,250	31,250	31,250	31,250	**187,500**
US Trustee Fees	-	-	-	-	69,725	**69,725**
Professional Fees	$ 2,075,000	$ 568,750	$ 568,750	$ 568,750	$ 638,475	**$ 4,419,725**
Financing Costs						
Cash Interest	-	-	-	-	23,390	**23,390**
Financing Costs	$ -	$ -	$ -	$ -	$ 23,390	**$ 23,390**
Total Disbursements	**$ 3,111,400**	**$ 1,235,150**	**$ 1,572,950**	**$ 1,235,150**	**$ 1,630,665**	**$ 8,785,315**
Net Cash Flow	**$ (2,780,100)**	**$ (880,650)**	**$ (1,218,450)**	**$ (880,650)**	**$ (1,276,165)**	**$ (7,036,015)**
Cumulative Net Cash Flow	**$ (2,780,100)**	**$ (3,660,750)**	**$ (4,879,200)**	**$ (5,759,850)**	**$ (7,036,015)**	
ROLL FORWARDS						
Cash						
Beginning Balance (Bank)	$ 2,285,022	$ 4,504,922	$ 3,624,272	$ 2,405,822	$ 1,525,172	**$ 2,285,022**
Net Cash Flow	(2,780,100)	(880,650)	(1,218,450)	(880,650)	(1,276,165)	**(7,036,015)**
DIP Funding	5,000,000	-	-	-	-	**5,000,000**
Ending Ledger Balance, Bank	$ 4,504,922	$ 3,624,272	$ 2,405,822	$ 1,525,172	$ 249,007	**$ 249,007**
DIP Financing						
Beginning Balance	$ -	$ 5,580,720	$ 5,591,440	$ 5,602,160	$ 5,612,880	**$ -**
Funding	5,000,000	-	-	-	-	**5,000,000**
Backstop Fee	570,000	-	-	-	-	**570,000**
Interest PIK	10,720	10,720	10,720	10,720	10,720	**53,600**
Ending Balance	$ 5,580,720	$ 5,591,440	$ 5,602,160	$ 5,612,880	$ 5,623,600	**$ 5,623,600**