

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: x
: Chapter 11
:
SEQUENTIAL BRANDS GROUP, INC., *et al.*,¹ : Case No. 21-11194 (JTD)
:
Debtors. : (Jointly Administered)
:
x Ref. Docket No. 11

CERTIFICATION OF COUNSEL REGARDING DEBTORS’ MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL; (III) GRANTING LIENS AND PROVIDING SUPER-PRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, (VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF

The undersigned hereby certifies that:

1. On August 31, 2021, the above-captioned debtors and debtors in possession (the “Debtors”) filed the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral; (III) Granting Liens and Providing Super-Priority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* [Docket No. 11] (the “DIP Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1518), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.



2. On September 1, 2021, the Bankruptcy Court held a hearing (“Hearing”) on the Motion.

3. Attached hereto as Exhibit A is a revised *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral; (III) Granting Liens and Providing Super-Priority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the “Revised Proposed Interim Order”) reflecting the Court’s rulings on the DIP Motion made at the Hearing and a minor change related to payment of fees to lender professionals upon the closing of the DIP financing. Attached hereto as Exhibit B is a blackline of changes comparing the Revised Proposed Interim Order with the form of order presented at the Hearing (only pages with proposed changes are attached as Exhibit B).

4. Accordingly, the Debtors respectfully request entry of the Revised Proposed Interim Order attached hereto as Exhibit A at the Court’s earliest convenience.

Dated: September 1, 2021

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Laura Davis Jones

Laura Davis Jones (Bar No. 2436)
Timothy P. Cairns (Bar No. 4228)
919 North Market Street, 17th Floor
P.O. Box 8705
Wilmington, Delaware 19899 (Courier 19801)
Tel: (302) 652-4100
Fax: (302) 652-4400
Email: ljones@pszjlaw.com
tcairns@pszjlaw.com

-and-

GIBSON, DUNN & CRUTCHER LLP

Scott J. Greenberg (*pro hac vice* pending)
Joshua K. Brody (*pro hac vice* pending)
Jason Zachary Goldstein (*pro hac vice* pending)
200 Park Avenue
New York, New York 10166
Tel: (212) 351-4000
Fax: (212) 351-4035
Email: sgreenberg@gibsondunn.com
jbrody@gibsondunn.com
jgoldstein@gibsondunn.com

Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
SEQUENTIAL BRANDS GROUP, INC., et	:	Case No. 21-11194 (JTD)
al.,	:	
	:	Jointly Administered
	:	
Debtors.¹	:	Re: Docket No. 11

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

This matter having come before the Court on the above-captioned debtors' (collectively, the "**Debtors**") motion (the "**Motion**")² seeking, pursuant to Sections 105, 361, 362, 363, 364, 506, 507 and 552 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court, District of Delaware (the "**Local Rules**") entry of interim and final orders (this "**Interim Order**") for approval of, among other things, the following:

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe's Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors' corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein have the meanings given to them in the Motion or the First Day Declaration, as applicable

(i) authorizing the Debtors to obtain senior secured postpetition financing in the form of a senior secured, super priority multiple draw term loan facility (the “**DIP Credit Facility**”; and the financial institutions party thereto from time to time as lenders, as provided in the DIP Credit Agreement (as defined below), the “**DIP Lenders**”) in an aggregate principal amount of up to \$150,000,000 million pursuant to the terms and conditions of that certain *Super-Priority Secured Debtor-in-Possession Credit Agreement* (as the same may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**DIP Credit Agreement**,” together with the schedules and exhibits attached thereto, and all agreements, documents, instruments and amendments executed and delivered in connection therewith, the “**DIP Loan Documents**”), by and among Sequential Brands Group, Inc., a Delaware corporation (the “**Borrower**”) and the other Credit Parties party thereto (the Borrower, and the other Credit Parties which are, in each case, Debtors in these chapter 11 cases (the “**Chapter 11 Cases**”), the DIP Agent (as defined below), and DIP Lenders, collectively, the “**DIP Parties**”), and Wilmington Trust, National Association, as administrative agent and collateral agent (in either such capacity and together with any successor thereto, the “**DIP Agent**”), for and on behalf of itself and the DIP Lenders, substantially in the form of **Exhibit B**, attached to the Motion;

(ii) approving the terms of, and authorizing the Debtors party thereto to execute and deliver, the DIP Loan Documents and authorizing the Debtors to perform their respective obligations thereunder and such other acts as may be necessary or desirable in connection with the DIP Loan Documents, including, without limitation, the payment of all principal, interest, fees, expenses and other amounts payable under the DIP Loan Documents (collectively, and including all “Obligations” as described in the DIP Credit Agreement, the “**DIP Obligations**”);

(iii) authorizing the Debtors to grant security interests, liens and super-priority claims (including a super-priority administrative claim pursuant to Section 364(c)(1) of the Bankruptcy Code, liens pursuant to Sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code and priming liens pursuant to Section 364(d) of the Bankruptcy Code) on all of the DIP Collateral (defined below) to the DIP Agent for the benefit of the DIP Lenders, including, without limitation, all property constituting “Cash Collateral” as defined in Section 363(a) of the Bankruptcy Code and as more specifically defined below, which liens shall be subject to the priorities set forth below;

(iv) authorizing and directing the Debtors to make non-refundable, irrevocable, and final payments on account of the principal, interest, fees, expenses and other amounts payable under the DIP Loan Documents as such become due, all to the extent provided in, and in accordance with, this Interim Order and the applicable DIP Loan Documents;

(v) authorizing the Debtors’ use, on the terms described below, of the Prepetition Collateral, including the Cash Collateral (each as defined below) of the Prepetition Secured Parties under the Prepetition Documents (each as defined below), and providing adequate protection to the Prepetition Secured Parties for any Diminution in Value (as defined below) of their interests in the Prepetition Collateral, including the Cash Collateral from and after the Petition Date;

(vi) approving the stipulations by the Debtors below with respect to the Prepetition Documents and the liens and security interests arising therefrom;

(vii) authorizing the Debtors to use the proceeds of the DIP Credit Facility and the Cash Collateral in accordance with both the Budget (as defined below) and the DIP Credit Agreement, including the payment of the Prepetition BAML Payoff Amount (as defined below) to the Prepetition BAML Agent (as defined below) upon entry of the Interim Order and the closing and interim funding of the DIP Credit Facility;

(viii) 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;

(ix) scheduling a final hearing on the Motion (the “**Final Hearing**”) to be held no later than twenty-four (24) calendar days after the Petition Date to consider entry of a final order that grants the relief requested in the Motion on a final basis, which final order shall be in form and substance (including with respect to any subsequent modifications to the form or substance made in response to objections of other creditors or this Court) acceptable to the DIP Agent (acting at the direction of the requisite consenting lenders), the Prepetition BAML Agent and the Prepetition Term B Agent (as defined below) (acting at the direction of Required Lenders (as defined below)) (the “**Final Order**”); and

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

The Court having considered the Motion, the exhibits attached thereto, the First Day Declaration, and the evidence submitted and arguments made at the interim hearing (the “**Interim Hearing**”); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, and otherwise is fair and reasonable and in the best interests of the Debtors, their estates and all parties-in-interest, and is essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ assets; and the Court having

determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the Debtors' entry into the DIP Credit Agreement is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

THE COURT HEREBY FINDS AND CONCLUDES AS FOLLOWS:³

A. **Commencement of the Chapter 11 Cases.** On August 31, 2021 (the "**Petition Date**"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the "**Court**"). The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases.

B. **Jurisdiction and Venue.** This Court has jurisdiction over the Chapter 11 Cases, the Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. The Court's consideration of the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). This Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief sought in the Motion and granted in this Interim Order are Sections 105, 361, 362, 363, 364, 506, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014 and the Local Rules.

C. **Notice.** Proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and

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

no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending a Final Hearing.

D. **Debtors' Stipulations.** After consultation with their attorneys and financial advisors, and subject to and without prejudice to the rights of parties in interest as set forth in Paragraph J.41 below, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge and agree as follows (Paragraphs D(i) through D(ix) below are referred to herein, collectively, as the "**Debtors' Stipulations**"):

(i) *Prepetition BAML Facility.* Pursuant to that certain Third Amended and Restated First Lien Credit Agreement, dated as of July 1, 2016 (as amended, restated, supplemented, or otherwise modified from time to time, the "**Prepetition BAML Credit Agreement**"; and collectively with the Loan Documents (as defined in the Prepetition BAML Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, waived or otherwise modified from time to time, the "**Prepetition BAML Loan Documents**") among (a) the Borrower (as defined in the Prepetition BAML Credit Agreement), (b) the other persons party thereto from time to time that are designated as "Loan Parties" (each, a "**Prepetition BAML Guarantor**"), (c) Bank of America, N.A., as administrative agent and collateral agent (in such capacities, the "**Prepetition BAML Agent**"), and (d) the lenders from time to time party thereto (the "**Prepetition BAML Lenders**," and collectively with the Prepetition BAML Agent, and the other Secured Parties (as defined in the Prepetition BAML Credit Agreement), the "**Prepetition BAML Parties**"), the Prepetition BAML Parties provided revolving and term loans to, issued letters of credit for the

account of, and provided other financial accommodations to the Borrowers pursuant to the Prepetition BAML Loan Documents (the “**Prepetition BAML Facility**”).

(ii) *Prepetition Term B Facility.* Pursuant to that certain Term B Credit Agreement, dated as of July 1, 2016 (as amended, restated, supplemented, waived or otherwise modified from time to time, the “**Prepetition Term B Credit Agreement**,” and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the “**Prepetition Term B Loan Documents**”; the Prepetition BAML Credit Agreement and the Prepetition Term B Credit Agreement shall collectively be referred to as the “**Prepetition Agreements**,” and the Prepetition Term B Loan Documents collectively with the Prepetition BAML Documents and the Intercreditor Agreement (as defined below), the “**Prepetition Documents**”) among (a) the Borrower (as defined in the Prepetition Term B Credit Agreement), (b) the other persons party thereto from time to time that are designated as “credit parties” (each a “**Prepetition Term B Guarantor**”), (c) Wilmington Trust, National Association, as administrative agent and collateral agent (in such capacities, the “**Prepetition Term B Agent**,” together with the Prepetition BAML Agent, the “**Prepetition Agents**”) and (d) the lenders from time to time party thereto (the “**Prepetition Term B Lenders**,” and together with the Prepetition Term B Agent, and the other Secured Parties (as defined in the Prepetition Term B Agreement), the “**Prepetition Term B Parties**,” and together with the Prepetition BAML Lenders, the “**Prepetition Lenders**”) (the Prepetition Term B Parties and Prepetition BAML Parties, collectively with the Prepetition Agents, the “**Prepetition Secured Parties**”), the Prepetition Term B Parties provided term loans, and other financial accommodations to, the Borrowers pursuant to the Prepetition Term B Loan Documents

(the “**Prepetition Term B Facility**,” and together with the Prepetition BAML Facility, the “**Prepetition Secured Facilities**”).

(iii) *Prepetition Secured Obligations.* Under the Prepetition BAML Facility, the Prepetition BAML Lenders provided to the Debtors party thereto commitments in respect of (a) revolving loans in the aggregate principal amount of up to \$80,000,000 and (b) term loans in the aggregate principal amount of up to \$150,631,330. Under the Prepetition Term B Facility, the Prepetition Term B Lenders provided to the Debtors party thereto commitments in respect of term loans in the aggregate principal amount of up to \$415,000,000. Immediately prior to the Petition Date, (1) the aggregate principal amount outstanding under the Prepetition BAML Facility on account of (a) revolving loans was not less than \$0.00 (the “**Prepetition BAML Revolving Loans**”) and (b) term loans was not less than \$127,913,705 (the “**Prepetition BAML Term Loans**,” and together with the Prepetition BAML Revolving Loans, the “**Prepetition BAML Loans**”) and (2) the aggregate principal amount outstanding under the Prepetition Term B Facility on account of term loans was not less than \$ 298,467,625 (the “**Prepetition Term B Term Loans**”) (such amounts on account of the Prepetition BAML Loans and the Prepetition Term B Term Loans, together with any accrued and unpaid interest, fees, expenses and disbursements (including, without limitation, any attorneys’ fees, accountants’ fees, appraisers’ fees and financial advisors’ fees, and related expenses and disbursements), indemnification obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors’ obligations under the Prepetition Secured Facilities, respectively, the “**Prepetition BAML Obligations**”⁴ and the “**Prepetition Term B Obligations**” and, together, the “**Prepetition Secured Obligations**”).

⁴ As of the Petition Date, certain of the Prepetition BAML Parties and the Debtors were parties to certain interest rate swaps (the “**Swaps**”), and as a result of the filing, an Event of Default occurred and the Swaps will be

(iv) *Prepetition Liens and Prepetition Collateral.*

(a) *Prepetition BAML Liens.* Pursuant to (i) that certain Guaranty Agreement dated as of August 15, 2014, as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the Borrower (as defined in the Prepetition BAML Credit Agreement) and each Prepetition BAML Guarantor jointly and severally guaranteed all of the Prepetition BAML Obligations and (ii) that certain Amended and Restated Security Agreement, dated as of August 15, 2014, as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the Borrower (as defined in the Prepetition BAML Credit Agreement) and each Prepetition BAML Guarantor granted to the Prepetition BAML Agent, for the benefit of itself and the other Prepetition BAML Parties, a lien on, and security interest in, all of its right, title and interest in (the “**Prepetition BAML Liens**”) substantially all of their respective assets, including a first priority security interest in, and continuing lien on, the BofA Facility Priority Collateral (as defined in the Intercreditor Agreement and as used in this Interim Order, the “**Prepetition BAML Collateral**”); and

(b) *Prepetition Term B Liens.* Pursuant to (i) that certain Guaranty Agreement dated as of August 15, 2014, as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the Borrower (as defined in the Prepetition Term B Credit Agreement) and each Prepetition Term B Guarantor (collectively, the “**Prepetition Term B Credit**

terminated with an effective date of the first business day following the Petition Date or otherwise as provided in the termination notice provided by the Swap parties. The parties estimate that as of the termination, the Debtors owed the Prepetition BAML Parties approximately \$2,800,000 on account of the Swaps (the “**Swap Termination Liability**”). The figure provided is an indicative estimate based on the market to market value of the Swaps as of August 23, 2021 obtained for purposes of this Interim Order. The actual Swap Termination Liability cannot be determined prior to the Early Termination Date (as defined in the Swap documents) and may differ due to the application of the specific close-out mechanics set out in the swap documentation and any market movements before the Early Termination Date. The Swaps is secured by the same collateral that secures other Prepetition BAML Obligations. The Swap Termination Liability, which will accrue interest at the default rate in accordance with the applicable Swap documents, shall constitute a Prepetition BAML Obligation and will be paid in accordance with the Prepetition BAML Payoff Letter on the Prepetition BAML Payoff Date (each as defined below).

Parties”) jointly and severally guaranteed all of the Prepetition Term B Obligations and (ii) that certain Security Agreement, dated as August 15, 2014, as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the Borrower (as defined in the Prepetition Term B Credit Agreement) and each Prepetition Term B Guarantor granted to the Prepetition Term B Agent, for the benefit of itself and the other Prepetition Term B Parties, a lien on, and security interest in, all of its right, title and interest in (the “**Prepetition Term B Liens**,” and together with the Prepetition BAML Liens, the “**Prepetition Liens**”) substantially all of their respective assets, including a first priority security interest in, and continuing lien on, the KKR Priority Collateral (as defined in the Intercreditor Agreement and as used in this Interim Order, the “**Prepetition Term B Collateral**”; collectively, with the Prepetition BAML Collateral, the “**Prepetition Collateral**”).

(v) *Priority of Prepetition Liens; Intercreditor Agreement.* The Prepetition BAML Agent and the Prepetition Term B Agent entered into that certain Intercreditor Agreement, dated as of December 4, 2015 (as amended, restated, supplemented, or otherwise modified from time to time prior to the date hereof, the “**Intercreditor Agreement**”) to govern the respective rights, interests, obligations, priority and positions of the Prepetition Secured Obligations with respect to the Prepetition Collateral. Each of the Debtors under the Prepetition Documents acknowledged and agreed to the Intercreditor Agreement.

(vi) *Validity, Perfection and Priority of Prepetition Liens and Prepetition Secured Obligations.* As of the Petition Date (a) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to the relative priorities among the Prepetition Secured Parties set forth in the Prepetition Documents, certain liens otherwise permitted by the Prepetition Documents and any other lien arising as a matter of law (in each case,

to the extent that such existing liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date or were valid non-avoidable senior liens that are perfected subsequent to the Petition Date as permitted by Section 546(b) of the Bankruptcy Code, the “**Permitted Prior Liens**”⁵; (b) the Prepetition Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Secured Parties for fair consideration and reasonably equivalent value; (c) the Prepetition Secured Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Credit Parties enforceable in accordance with the terms of the respective Prepetition Secured Documents; (d) no offsets, recoupments, 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, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including, without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, consultants, directors, and employees arising out of, based upon or related to the Prepetition Secured Facilities; (f) the Debtors hereby waive, discharge and release any right

⁵ Nothing herein shall constitute a finding or ruling by this Court that any such Permitted Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the Prepetition Secured Parties, or a Creditors’ Committee, if appointed, to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Prior Lien and/or security interests. The right of a seller of goods to reclaim such goods under Section 546(c) of the Bankruptcy Code is not a Permitted Prior Lien and is expressly subject to the Prepetition Liens.

to challenge any of the Prepetition Secured Obligations, the priority of the Debtors' obligations thereunder, and the validity, extent and priority of the liens securing the Prepetition Secured Obligations (for the avoidance of doubt, subject and without prejudice to, the rights of parties-in-interest, including any official committee of unsecured creditors (the "**Creditors' Committee**") that may be appointed in the Chapter 11 Cases, as set forth in Paragraph J.41 below); and (g) the Prepetition Secured Obligations constitute allowed, secured claims within the meaning of Sections 502 and 506 of the Bankruptcy Code.

(vii) *No Control.* None of the DIP Agent, the DIP Lenders or the Prepetition Secured Parties controls the Debtors or their properties or operations, has authority to determine the manner in which any of the Debtors' operations are conducted or is a control person or insider of the Debtors or any of their affiliates by virtue of any of the actions taken with respect to, in connection with, related to, or arising from this Interim Order, the DIP Credit Facility, the DIP Loan Documents, the Prepetition Secured Facilities and/or the Prepetition Documents.

(viii) *Release.* Subject to Paragraph 41 below, upon entry of this Interim Order, the Debtors, each in their own right and on behalf of their bankruptcy estates, and on behalf of all their successors, assigns, subsidiaries and any affiliates and any person acting for and on behalf of, or claiming through them, hereby fully, finally and forever release and discharge the Prepetition Secured Parties and all of their respective officers, directors, servants, agents, advisors, attorneys, assigns, heirs, parents, subsidiaries, and each person acting for or on behalf of any of them of and from any and all actions, causes of action, demands, suits, claims, liabilities, liens, lawsuits, adverse consequences, amounts paid in settlement, costs, damages, debts, deficiencies, diminution in value, disbursements, expenses, losses and other obligations of any kind or nature whatsoever, in each case, existing at the time of entry of this Interim Order and, if applicable, the Final Order,

whether in law, equity or otherwise (including, without limitation, any so-called “lender liability” or equitable subordination or recharacterization claims or defenses, any and all claims and causes of action with respect to the validity, priority, perfection, or avoidability of the liens or claims of the Prepetition Agents and the Prepetition Secured Parties, those arising under Sections 541 through 550 of the Bankruptcy Code and interest or other carrying costs, penalties, legal, accounting and other professional costs, and incidental, consequential and punitive damages payable to third parties), directly or indirectly arising out of, connected with or relating to the DIP Loan Documents, the Prepetition Documents, the Prepetition Liens, this Interim Order, the Final Order, if applicable, and/or the transactions contemplated hereunder or thereunder, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing.

(ix) *Cash Collateral.* All of the Debtors’ cash and cash equivalents, including cash on deposit in any account or accounts as of the Petition Date, securities or other cash equivalents, wherever located, whether subject to control agreements or otherwise, whether as original collateral or proceeds of other Prepetition Collateral, constitutes “Cash Collateral” of the applicable Prepetition Secured Parties within the meaning of Section 363(a) of the Bankruptcy Code (the “**Cash Collateral**”) and are subject to valid, perfected, enforceable, first-priority liens under the Prepetition Documents and applicable law, for the benefit of the Prepetition Secured Parties.

E. Findings Regarding Postpetition Financing

(i) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have an immediate and critical need to obtain the financing contemplated under the DIP Credit Facility and to continue to use the Prepetition Collateral (including Cash Collateral) in order to,

among other things, (a) allow the Debtors to finance their collective business operations as a going concern, (b) refinance all the Prepetition BAML Obligations and terminate all commitments under the Prepetition BAML Facility upon entry of the Interim Order and the closing of the DIP Credit Facility, (c) pay the fees, costs and other expenses incurred in connection with the administration of the Chapter 11 Cases and (d) make adequate protection payments as set forth herein. The Debtors' ability to access sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, the incurrence of new indebtedness under the DIP Loan Documents and the other financial accommodations provided under the DIP Loan Documents is necessary and vital to the preservation and maintenance of the Debtors' value as a going concern. The Debtors and their estates will suffer immediate and irreparable harm if immediate financing is not obtained and permission to use Cash Collateral is not granted. The terms of the DIP Credit Facility are fair and reasonable, reflect each Loan Party's exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The adequate protection provided in this Interim Order and other benefits and privileges contained herein are consistent with, and authorized by, the Bankruptcy Code.

(ii) *No Credit Available on More Favorable Terms.* The DIP Credit Facility is the best source of debtor-in-possession financing available to the Debtors. Given their current financial condition, financing arrangements, capital structure, and the circumstances of these Chapter 11 Cases, the Debtors have been, and continue to be, unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the DIP Credit Facility. Further, the Prepetition Secured Parties would not consent to the Debtors incurring debtor-in-possession financing, the priming of their Prepetition Liens or the use of Cash Collateral without the DIP Lenders' willingness to provide the DIP Credit Facility on the terms contained therein. The

Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code Section 503(b)(1) as an administrative expense. The Debtors have also been unable to obtain (a) unsecured credit having priority over that of administrative expenses of the kind specified in Sections 503(b), 507(a) and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien. Financing on a postpetition basis is not otherwise available without (x) granting the DIP Agent, for the benefit of itself and the DIP Lenders (1) perfected security interests in, and liens on (each as provided below), all of the Debtors' existing and after-acquired assets with the priorities set forth below, (2) super-priority claims and liens and (3) the other protections set forth in this Interim Order and (y) refinancing all of the Prepetition BAML Obligations in accordance with this Interim Order and the Prepetition BAML Payoff Letter.

(iii) *Priming of the Prepetition Liens.* The priming of the Prepetition Liens on the Prepetition Collateral under Section 364(d) of the Bankruptcy Code (as required under the DIP Credit Facility) will enable the Debtors to continue operating their businesses on a postpetition basis and maintain the Debtors' going-concern value for the benefit of the Debtors' estates, creditors and other constituents. The Prepetition Term B Lenders have consented to the priming of the Prepetition Liens and the terms of this Interim Order, which consent would not have been provided absent the restructuring transactions contemplated in the Restructuring Support Agreement and the terms of this Interim Order and the DIP Loan Documents, including, without limitation, the Adequate Protection Payments, Adequate Protection Super-Priority Claims and Adequate Protection Liens set forth below. Subject to the occurrence of the Prepetition BAML Payoff Date (as defined below), the Prepetition BAML Parties have consented to the priming of

the Prepetition BAML Liens, which consent would not have been provided absent the terms of this Interim Order, including, without limitation, receipt of the Prepetition BAML Payoff Amount and the adequate protections set forth in this Interim Order.

(iv) *Use of Proceeds of the DIP Credit Facility and Cash Collateral.* As a condition to entry into the DIP Loan Documents, the extension of credit under the DIP Credit Facility and the authorization to use Cash Collateral, the DIP Agent, the DIP Lenders, and the Prepetition Secured Parties require, and the Debtors have agreed, that proceeds of the DIP Credit Facility shall be used, in each case in a manner consistent with the terms and conditions of this Interim Order, the DIP Loan Documents and in accordance with the Budget (as the same may be modified from time to time consistent with the terms of the DIP Loan Documents and with the consent of the DIP Lenders holding in excess of fifty percent (50%) of the outstanding loans under the DIP Credit Facility (the “**Required DIP Lenders**”) and the “Required Lenders” (as such term is defined in the Prepetition Term B Agreement, the “**Required Lenders**”), the “**Budget**”). The repayment of the Prepetition BAML Obligations in accordance with this Interim Order and the Prepetition BAML Payoff Letter (as defined below) is a necessary condition of the Prepetition BAML Parties consenting to the use of Prepetition Collateral and to the subordination of the Prepetition BAML Liens (to the extent not released upon entry of this Interim Order and subject in all respects to the occurrence of the Prepetition BAML Payoff Date) and the Prepetition BAML Adequate Protection Liens to the DIP Liens as provided in this Interim Order.

(v) *Application of Proceeds of Collateral.* As a condition to entry into the DIP Loan Documents, the extension of credit under the DIP Credit Facility and authorization to use Cash Collateral, the Debtors, the DIP Parties (as to DIP Agent, at the direction of the Applicable Lenders (as defined in the DIP Credit Agreement)), and the Prepetition Secured Parties (as to Term

B Prepetition Agent, at the direction of the Applicable Lenders (as defined in the Prepetition Term B Credit Agreement)) have agreed that, as of and commencing on the date of entry of this Interim Order, the Debtors shall apply the proceeds of DIP Collateral in accordance with this Interim Order and the DIP Loan Documents, including to repay in full in cash the Prepetition BAML Obligations in accordance with the Prepetition BAML Payoff Letter. The extension of the DIP Credit Facility and the repayment of the Prepetition BAML Obligations are part of an integrated transaction.

F. **Adequate Protection**. Until the applicable Prepetition Secured Obligations are Paid in Full,⁶ the Prepetition Secured Parties are entitled to receive adequate protection as set forth in this Interim Order pursuant to Sections 361, 363, 364 and 507(b) of the Bankruptcy Code, for any diminution in the value (“**Diminution in Value**”) of their respective interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date. The Prepetition Secured Parties are each entitled to receive the adequate protection provided in this Interim Order as and to the extent set forth below pursuant to Sections 361, 363, 364 and 507(b) of the Bankruptcy Code.

G. **Sections 506(c) and 552(b)**. In light of (i) the DIP Agent’s and the DIP Lenders’ agreement that their liens and super-priority claims shall be subject to the Carve-Out; (ii) the Prepetition Term B Parties’ agreement that, with respect to the Prepetition Collateral, their liens

⁶ “**Paid in Full**” or “**Payment in Full**” means the indefeasible payment in full in cash of all obligations (including principal, interest, premium fees, expenses, indemnities) under the applicable credit facility, the cash collateralization of all treasury and cash management obligations, hedging obligations, and bank product obligations, and the cancelation, replacement, backing, or cash collateralization of letters of credit, in each case, in accordance with the applicable credit facility. No facility shall be deemed to have been Paid in Full until such time as, with respect to the applicable facility, (a) the commitments to lend thereunder have been terminated; (b) solely with respect to the Prepetition Secured Facilities (i) the Challenge Period (as defined below) shall have expired without the timely commencement of a Challenge (as defined below) or (ii) if a Challenge is timely asserted prior to the expiration of the Challenge Period, upon the final, non-appealable disposition of such Challenge; and (c) either the applicable Prepetition Agent or the DIP Agent has received (i) a countersigned payoff letter in form and substance satisfactory to such agent and (ii) releases from the Debtors (including any liquidator acting on behalf of any of the Debtors or their estates, if applicable) in form and substance satisfactory to such agent, as applicable, each in its sole discretion.

shall be subject to the Carve-Out and subordinate to the DIP Liens; and (iii) the Prepetition BAML Parties' agreement that, with respect to the Prepetition Collateral, their liens shall be (following the occurrence of the Prepetition BAML Payoff Date) subject to the Carve-Out and subordinate to the DIP Liens, (x) subject to entry of the Final Order, the Prepetition Term B Parties are each entitled to a waiver of any "equities of the case" exception under Section 552(b) of the Bankruptcy Code and the equitable doctrine of "marshaling" or any other similar doctrine; and (y) subject to entry of a Final Order, the DIP Parties and Prepetition Secured Parties are each entitled to a waiver of the provisions of Section 506(c) of the Bankruptcy Code.

H. **Good Faith of the DIP Agent and Lenders.**

(i) *Willingness to Provide Financing.* The DIP Lenders have committed to provide financing to the Debtors subject to, among other things, (a) entry of this Interim Order and the Final Order; (b) approval of the terms and conditions of the DIP Credit Facility and the DIP Loan Documents; (c) satisfaction of the closing conditions set forth in the DIP Loan Documents; and (d) findings by this Court that the DIP Credit Facility is essential to the Debtors' estates, that the DIP Lenders are extending credit to the Debtors pursuant to the DIP Loan Documents in good faith, and that the DIP Agent's and DIP Lenders' claims, super-priority 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.

(ii) *Business Judgment.* Based on the Motion, the declarations filed in support of the Motion, and the record presented to the Court at the Interim Hearing, (a) the terms of the financing embodied in the DIP Credit Facility, including the fees, expenses and other charges paid and to be paid thereunder or in connection therewith, (b) the adequate protection authorized by this Interim Order and (c) the terms on which the Debtors may continue to use the Prepetition

Collateral (including Cash Collateral), in each case pursuant to this Interim Order and the DIP Loan Documents, (1) are all fair and reasonable, (2) reflect the Debtors' exercise of prudent business judgment in a manner consistent with the Debtors' fiduciary duties, (3) constitute reasonably equivalent value and fair consideration and (4) represent the best financing (and terms) available under the circumstances.

(iii) *Good Faith Pursuant to Section 364(e)*. The terms and conditions of the DIP Credit Facility and the use of Cash Collateral were negotiated in good faith and at arms' length among the Debtors, the DIP Parties, and certain of the Prepetition Secured Parties, each with the assistance and counsel of their respective advisors. The Debtors' use of Cash Collateral and credit to be extended by the DIP Lenders and the Prepetition Secured Parties (as applicable) under the DIP Credit Facility shall be deemed to have been allowed, advanced, made or extended in good faith, and for valid business purposes and uses, within the meaning of Section 364(e) of the Bankruptcy Code.

I. **Notice of Interim Hearing**. The Debtors have provided notice of the Interim Hearing and the relief requested in the Motion, whether by facsimile, electronic mail, overnight courier or hand delivery, to certain parties-in-interest, including, among others: (i) the U.S. Trustee; (ii) the holders of the twenty (20) largest unsecured claims against the Debtors on a consolidated basis; (iii) James-Bates-Brannan-Groover LLP and Morris, Nichols, Arsht & Tunnell LLP, as counsel to the Prepetition Term B Agent, and King & Spalding LLP and Morris, Nichols, Arsht & Tunnell LLP, as counsel to the Required Lenders; (iv) Morgan, Lewis & Bockius LLP, as counsel to the agent under the Debtors' Prepetition BAML Facility; (v) all other holders of other debt instruments issued by the Debtors; (vi) all parties asserting liens against the Debtors' assets; (vii) the state attorneys general for all states in which the Debtors operate; (viii) the U.S. Attorney's

Office for the District of Delaware; (ix) the United States Securities and Exchange Commission; (x) the Internal Revenue Service; (xi) any party that requests service pursuant to Bankruptcy Rule 2002; and (xii) any such other party entitled to notice under the Bankruptcy Rules and Local Rules. The Debtors have made reasonable efforts to afford the best notice possible under the circumstances and such notice is good and sufficient to permit the interim relief set forth in this Interim Order, and no other or further notice is, or shall be, required.

J. **Immediate Entry.** Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and the applicable Local Rules.

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

IT IS HEREBY ORDERED THAT:

1. **Interim DIP Financing Approved.** The Motion is granted on an interim basis, entry into the DIP Credit Facility and other DIP Loan Documents is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case, subject to the terms and conditions set forth in this Interim Order and in the DIP Loan Documents. All objections to this Interim Order to the extent not withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby denied and overruled on the merits. This Interim Order shall become effective immediately upon its entry. Unless terminated earlier pursuant to the DIP Loan Documents and this Interim Order, the DIP Credit Facility will terminate on a date that is 24 days after entry of this Interim Order absent the Court's entry of a Final Order in a form and substance satisfactory to the DIP Agent, the Required DIP Lenders, the Prepetition BAML Agent, the Prepetition Term B Agent and the Required Lenders.

DIP Credit Facility Authorization

2. Authorization of the DIP Financing. The Debtors are expressly and immediately authorized and empowered to (a) execute and deliver the DIP Loan Documents, (b) incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Interim Order and the DIP Loan Documents, (c) execute, deliver and perform under all instruments, certificates, agreements, and documents that may be required or necessary for the Debtors' performance under the DIP Loan Documents and the creation and perfection of the DIP Liens (as defined below) described in, and provided for by, this Interim Order and the DIP Loan Documents and (d) repay the Prepetition BAML Obligations in accordance with the Prepetition BAML Payoff Letter upon entry of this Interim Order and the closing of the DIP Credit Facility. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, expenses and other amounts described in the DIP Loan Documents and all other documents comprising the DIP Credit Facility as such becomes due, including, without limitation, any fees due and payable thereunder, the DIP Agent's fees, and the reasonable and documented fees and disbursements of the DIP Parties' attorneys, advisors, accountants and other consultants, whether or not such fees arose before, on or after the Petition Date, whether or not the transactions contemplated hereby are consummated, and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Loan Documents; *provided, however*, that, other than in connection with fees and expenses incurred and payable at the closing of the DIP Credit Facility, the payment of the fees and expenses of the Lender Professionals (as defined below) shall be subject to the provisions of Paragraph 35. All collections, consideration and proceeds, whether from ordinary course collections, asset sales (including, without limitation, sales consummated pursuant to the Stalking Horse Agreements (as

defined in the Sale Motion (as defined below)), debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Interim Order and the DIP Loan Documents. Upon execution and delivery, the DIP Loan Documents shall represent legal, valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms. Each officer of a Debtor acting individually is hereby authorized to execute and deliver each of the DIP Loan Documents, such execution and delivery to be conclusive evidence of such officer's respective authority to act in the name of and on behalf of the Debtors. Upon the Debtors' payment in satisfaction of the Prepetition BAML Obligations in accordance with the Prepetition BAML Payoff Letter, the Prepetition BAML Agent shall be authorized to make distributions to the Prepetition BAML Parties in accordance with the Prepetition BAML Documents, and any and all of the Prepetition BAML Liens on the Prepetition Collateral (but not, for the avoidance of doubt, the Prepetition BAML Adequate Protection Liens until the Prepetition BAML Obligations are Paid in Full) shall be irrevocably terminated, released and discharged in full on such date, subject to Paragraph 41 below.

3. Authorization to Borrow. To prevent immediate and irreparable harm to the Debtors' estates, subject to the terms, conditions, limitations on availability and reserves set forth in the DIP Loan Documents and this Interim Order, the Debtors are hereby authorized to borrow money pursuant to the DIP Credit Agreement in an aggregate principal or face amount not to exceed \$141.5 million, together with applicable interest, expenses, fees and other charges payable in connection with the DIP Credit Facility, subject in each case to any limitations on borrowing under the DIP Loan Documents, which borrowings shall be used for all purposes permitted under, and in accordance with, the DIP Loan Documents, this Interim Order and the Budget, including, without limitation, (a) to pay the Prepetition BAML Payoff Amount, (b) to provide working capital

and for other general corporate purposes of the Debtors, (c) to fund the costs of the administration of the Chapter 11 Cases (including Professional Fees (as defined below)) and (d) fund interest, fees, and other payments contemplated in respect of the DIP Credit Facility.

4. DIP Obligations. The DIP Loan Documents and this Interim Order shall constitute and evidence the validity and binding effect of the Debtors' DIP Obligations, which DIP Obligations shall be enforceable against the Debtors, their estates and any successors thereto, including, without limitation, any trustee appointed in the Chapter 11 Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the "**Successor Cases**"). Upon entry of this Interim Order, the DIP Obligations will include all loans and any other indebtedness or obligations, contingent or absolute, which may now, or from time to time, be owing by any of the Debtors to the DIP Agent or any of the DIP Lenders, including, without limitation, all principal, accrued interest, costs, charges, fees, expenses, obligations in respect of indemnity claims (contingent or otherwise) and other amounts under the DIP Loan Documents. The Debtors shall be jointly and severally liable for the DIP Obligations. The DIP Obligations shall be due and payable, without notice or demand, and the use of Cash Collateral shall automatically cease on the Termination Date, except as provided in Paragraph 33 below. No obligation, payment, transfer, or grant of collateral security hereunder or under the DIP Loan Documents (including any DIP Obligation or DIP Liens), and subject to Paragraph 41, including in connection with any adequate protection provided to the Prepetition Secured Parties hereunder, shall be stayed, restrained, voidable, avoidable or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under Sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform

Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or be subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaim, cross-claim, defense, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

5. DIP Collateral. In order to secure the DIP Obligations, effective immediately upon entry of this Interim Order, pursuant to Sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the DIP Agent, for the benefit of itself and the DIP Lenders, is hereby granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition first priority security interests in, and liens on (collectively, the “**DIP Liens**”), any and all presently owned and hereafter acquired assets and real and personal property of the Debtors as set forth in the DIP Loan Documents (collectively, the “**DIP Collateral**”), including, without limitation, any and all tangible and intangible pre- and post-petition property of the Debtors, whether existing before, on or after the Petition Date, together with any proceeds thereof, including, without limitation, any and all cash, cash equivalents and any investment of such cash or cash equivalents, inventory, goods, accounts, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, payment intangibles, documents, instruments, securities, chattel paper, interests in leaseholds (*provided, however, that solely to the extent that any lease prohibits the granting of a lien thereon, or otherwise prohibits hypothecation of the leasehold interest, then in such event there shall only be a lien on the economic value of, proceeds of sale or other disposition of, and any other proceeds and products of such leasehold interests unless the applicable provision is rendered ineffective by*

applicable non-bankruptcy law or the Bankruptcy Code), real property, deposit accounts (except for any account created to hold an adequate assurance deposit for utility providers, pursuant to separate order of this Court), securities accounts, investment property, letters of credit, letter-of-credit rights, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, commercial tort claims, capital stock of subsidiaries, wherever located, and the proceeds, products, rents, accession and profits of the foregoing; *provided*, that upon entry of the Final Order (a) any proceeds or property recovered, unencumbered or otherwise from all of the Debtors' claims and causes of action under Sections 502(d), 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code and under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, and similar statutes or common law (collectively, "**Avoidance Actions**"), shall constitute DIP Collateral and (b) Avoidance Actions shall constitute DIP Collateral.

6. DIP Lien Priority.

(i) The DIP Liens securing the DIP Obligations are valid, automatically perfected, non-avoidable, senior in priority and, other than with respect to the Carve-Out and Permitted Prior Liens, superior to any security, mortgage, collateral interest, lien or claim to, or on any of the DIP Collateral (including, without limitation, the Prepetition Liens); *provided, however*, that the DIP Liens on the Prepetition BAML Collateral and the proceeds thereof (collectively, the "**BAML Priority Collateral**") shall be subject to and junior to the Prepetition BAML Liens until the Prepetition BAML Payoff Date. Other than as set forth below or in the DIP Loan Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in these Chapter 11 Cases or any Successor Cases, and shall be valid and

enforceable against any trustee appointed in the Chapter 11 Cases or any Successor Cases, upon the conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The DIP Liens shall not be subject to Sections 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to Section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens.

7. DIP Credit Facility Super-Priority Claims. Upon entry of this Interim Order, but subject in all respects to the Carve Out, the DIP Agent and the DIP Lenders are hereby granted, pursuant to Section 364(c)(1) of the Bankruptcy Code, allowed super-priority administrative expense claims in each of the Chapter 11 Cases and any Successor Cases (collectively, the “**DIP Credit Facility Super-Priority Claims**”) for all DIP Obligations with priority over any and all administrative expense claims, (including, without limitation, any administrative expense claims provided as adequate protection to the Prepetition Term B Parties or any other party), priority and other unsecured claims against the Debtors or their estates in any of the Chapter 11 Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code Sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under Section 364(c)(1) of the Bankruptcy Code.

8. No Obligation to Extend Credit. The DIP Agent and DIP Lenders shall have no obligation to make any loan or advance under the DIP Loan Documents unless all of the conditions precedent to the making of such extension of credit, amendment or renewal under the DIP Loan Documents and this Interim Order have been satisfied in full or waived by the DIP Agent

(acting at the direction of the Required DIP Lenders) in accordance with the terms of the DIP Credit Agreement.

9. Use of DIP Credit Facility Proceeds. From and after the Petition Date, the Debtors shall use advances of credit under the DIP Credit Facility only for the purposes specifically set forth in this Interim Order and the DIP Loan Documents, and in compliance with the Budget and the terms and conditions in this Interim Order and the DIP Loan Documents.

10. Repayment of Prepetition BAML Obligations. Upon entry of this Interim Order, without any further action by the Debtors or any other party, the repayment of the Prepetition BAML Obligations in accordance with the Prepetition BAML Payoff Letter is approved. The Debtors are authorized and directed to (a) execute and deliver the Prepetition BAML Payoff Letter (as defined below); (b) use the proceeds of the DIP Credit Facility to pay in full in cash all outstanding Prepetition BAML Obligations, including, without limitation, all principal, interest, fees and expenses due and chargeable under the Prepetition BAML Facility through the date of payment (including, without limitation, the payment in cash or provision for the cash collateralization of the Bank Products and the Swap Termination Liability in an amount and on terms acceptable to the Prepetition BAML Agent); (c) pay such other reasonable amounts in respect of or related to the Prepetition BAML Facility, as more fully set out in the Prepetition BAML Payoff Letter; and (d) fund for the benefit of the Prepetition BAML Agent and the other Prepetition BAML Parties the amount of \$250,000 (the “**Prepetition BAML Indemnity Reserve**”) into a non-interest bearing account maintained with and held by the Prepetition BAML Agent to secure contingent indemnification, reimbursement or similar continuing obligations arising under or related to the Prepetition BAML Documents. The amounts in clauses (a)–(d) of this Paragraph 10 shall be referred to in this Interim Order as, collectively, the “**Prepetition BAML**

Payoff Amount”, and the date of the satisfaction of the Prepetition BAML Payoff Amount, shall be referred to as the “**Prepetition BAML Payoff Date**”. At least one (1) Business Day prior to the anticipated Prepetition BAML Payoff Date, the Prepetition BAML Agent shall deliver to the Debtors a letter (including any documents related thereto, each of which shall be in form and substance acceptable to the Prepetition BAML Agent, the “**Prepetition BAML Payoff Letter**”) which shall set forth the calculation of the Prepetition BAML Payoff Amount. For the avoidance of doubt, nothing in this Interim Order shall otherwise impair or modify the provisions of the Prepetition Term B Credit Agreement relating to the Prepetition Term B Facility. The Prepetition BAML Indemnity Reserve shall not constitute DIP Collateral but shall secure all costs, expenses, and other amounts (including reasonable and documented attorneys’ fees) owed to or incurred by the Prepetition BAML Agent in connection with the Prepetition BAML Documents, this Interim Order and the Final Order. The Prepetition BAML Indemnity Reserve shall not be subject to the Carve-Out, DIP Liens, Term B Adequate Protection Liens or Prepetition Term B Liens; *provided, however*, that funds remaining in the Prepetition BAML Indemnity Reserve shall be released to the Debtors (and shall become DIP Collateral) upon Payment in Full of the Prepetition BAML Obligations.

11. No Monitoring Obligation. No DIP Lender or DIP Agent shall have any obligation or responsibility to monitor any DIP Party’s use of the DIP Credit Facility, and each DIP Lender and the DIP Agent may rely upon each DIP Party’s representation that the use of the DIP Credit Facility at any time is in accordance with the requirements of this Interim Order and the DIP Loan Documents.

Use of Cash Collateral

12. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Credit Facility and the other DIP Loan Documents and in accordance with the Budget, and subject to the occurrence of the Prepetition BAML Payoff Date, the Debtors are authorized to use Cash Collateral until the Termination Date. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors outside the ordinary course of business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except as permitted by this Interim Order, the DIP Credit Facility, the DIP Loan Documents, and in accordance with the Budget, as applicable. For the avoidance of doubt, any asset sale outside of the ordinary course authorized by the DIP Agent (with the consent of the Required DIP Lenders) and the Prepetition Term B Agent (with the consent of the Required Lenders) and approved by the Court shall be expressly permitted hereunder.

13. Budget Maintenance. The use of proceeds from the DIP Credit Facility and use of Cash Collateral under this Interim Order shall be in accordance with the Budget, subject to Permitted Variances (as defined below) and the terms and conditions set forth in the DIP Loan Documents and this Interim Order. The Budget shall consist of a 13-week operating budget setting forth all forecasted receipts and disbursements on a weekly basis for such 13-week period beginning as of the week of the Petition Date, broken down by week, including line item detail of the anticipated weekly uses of Cash Collateral for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and capital expenditures, fees and expenses related to the Chapter 11 Cases (including Professional Fees), and working capital and other general corporate needs. The Budget and any modification to, or amendment or update of, the Budget shall be subject to the approval of, and in form and

substance acceptable to, the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders).

14. Budget Compliance.

(i) By not later than 5:00 p.m. Eastern Time on the second Wednesday following the Petition Date and by not later than 5:00 p.m. Eastern Time on each Wednesday following the end of each Testing Period (as defined below), the Debtors shall deliver to the DIP Agent (along with its professionals), the Required DIP Lenders and the Prepetition Term B Parties, an updated Budget, in each case, in form satisfactory to the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders) and in substance satisfactory to the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders) for the subsequent 13-week period consistent with the form of the Budget, and such updated Budget shall become the “Budget” for the purposes of this Interim Order upon the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders) notifying the Debtors in writing that the proposed updated Budget is substantially in the form of the Budget and in substance satisfactory to the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders); *provided*, that, until a new Budget has been approved by the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders), the most recently approved Budget shall govern.

(ii) Beginning on the second Wednesday following the Petition Date (by not later than 5:00 p.m. Eastern Time), and on every Wednesday following the end of each Testing

Period (as defined below) (by not later than 5:00 p.m. Eastern Time), the Debtors shall deliver to the DIP Agent (along with its advisors and professionals), the Required DIP Lenders (along with their respective advisors), and the Prepetition Term B Parties (along with their respective advisors) an updated Budget, a variance report (the “**Variance Report**”) setting forth actual cash receipts and disbursements and cash flows of the Debtors for the prior Testing Period and setting forth all the variances, on a line-item and aggregate basis, from the amount set forth for such period as compared to the applicable Budget delivered by the Debtors, in each case, for the applicable Testing Period (and each such Variance Report shall include explanations for all material variances and shall be certified by the Chief Financial Officer of the Debtors).

(iii) For purposes hereof, the term “**Permitted Variances**” shall mean, for (x) the Petition Date through and including the two week period beginning on the second Wednesday following the Petition Date, (y) the three week period beginning on the third Wednesday following the Petition Date and (z) each rolling four-week period thereafter (each week commencing on the Wednesday of such week) (the applicable “**Testing Period**”) (a) all favorable variances, and (b) an unfavorable variance (other than disbursements for Professional Fees of the DIP Lender and DIP Agent and fees of the Office of the United States Trustee) of no more than (i) 15% for actual receipts and (ii) 15% for actual disbursements (on an aggregate basis) as compared to the budgeted receipts and disbursements, respectively, set forth in the Budget with respect to the applicable Testing Period; *provided*, that any disbursements in such Testing Period made from proceeds of favorable variances with respect to receipts in such Testing Period shall not be counted as disbursements for purposes of calculating unfavorable variances. The Permitted Variances with respect to each Testing Period shall be determined and reported to the DIP Agent (and its advisors), the Required DIP Lenders (and their advisors) and the Prepetition Term B Parties

(and their respective advisors), not later than 5:00 p.m. Eastern Time on each Wednesday immediately following the end of each such Testing Period. Additional variances, if any, from the Budget, and any proposed changes to the Budget, shall be subject to the approval of the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders).

(iv) The use of Cash Collateral under this Interim Order shall be in accordance with the Budget, the DIP Loan Documents and this Interim Order; *provided, however*, that, notwithstanding anything to the contrary herein, in the case of the fees, costs and expenses of the Lender Professionals, the Debtors shall pay such amounts in accordance with this Interim Order without regard to any limitations set forth in the Budget.

Prepetition Secured Parties' Adequate Protection

15. Prepetition Secured Parties' Adequate Protection Liens.

(i) *Prepetition BAML Parties' Adequate Protection Liens.* To the extent of any Diminution in Value of the Prepetition BAML Parties' interests in the Prepetition Collateral from and after the Petition Date, as adequate protection of such interests, the Debtors, subject to Paragraph 41, hereby grant to the Prepetition BAML Agent, for the benefit of itself and the Prepetition BAML Lenders, until such time as the Prepetition BAML Obligations are Paid in Full, continuing valid, binding, enforceable non-avoidable and automatically and properly perfected security interests in, and liens on, the DIP Collateral (the "**BAML Adequate Protection Liens**").

(ii) *Prepetition Term B Parties' Adequate Protection Liens.* To the extent of any Diminution in Value of the Prepetition Term B Parties' interests in the Prepetition Collateral from and after the Petition Date, as adequate protection of such interests, the Debtors, subject to Paragraph 41, hereby grant to the Prepetition Term B Agent, for the benefit of itself and

the Prepetition Term B Lenders, continuing valid, binding, enforceable, non-avoidable and automatically and properly perfected security interests in, and liens on, the DIP Collateral (the “**Term B Adequate Protection Liens**,” and together with the BAML Adequate Protection Liens, the “**Adequate Protection Liens**”).

16. Priority of Adequate Protection Liens

(i) *Priority of the BAML Adequate Protection Liens.* The BAML Adequate Protection Liens shall be junior only to: (A) the Permitted Prior Liens, (B) the Carve-Out, (C) the DIP Liens, and (D) solely with respect to the Prepetition Term B Collateral, the Prepetition Term B Liens and the Term B Adequate Protection Liens. Except as provided herein, the BAML Adequate Protection Liens shall not be made subject to, or *pari passu* with, any lien or security interest heretofore or hereinafter granted in the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Chapter 11 Cases or any Successor Cases, or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The BAML Adequate Protection Liens shall not be subject to Sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to Section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the BAML Adequate Protection Liens.

(ii) *Priority of Term Loan B Adequate Protection Liens.* The Term B Adequate Protection Liens shall be junior only to (A) the Permitted Prior Liens, (2) the Carve-Out, (C) the DIP Liens, and (D) solely with respect to the BAML Priority Collateral, the Prepetition BAML Liens and the BAML Adequate Protection Liens. Except as provided herein, the Term B Adequate Protection Liens shall not be made subject to, or *pari passu* with, any lien or security interest heretofore or hereinafter granted in the Chapter 11 Cases or any Successor Cases, and shall

be valid and enforceable against any trustee appointed in any of the Chapter 11 Cases or any Successor Cases, or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The Term B Adequate Protection Liens shall not be subject to Sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to Section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the Term B Adequate Protection Liens.

17. Adequate Protection Super-Priority Claims.

(i) *BAML Adequate Protection Super-Priority Claims.* As further adequate protection of the interests of the Prepetition BAML Agent and the Prepetition BAML Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral from and after the Petition Date, the Prepetition BAML Agent, for the benefit of itself and the Prepetition BAML Parties, is hereby granted as, and to the extent provided by Section 507(b) of the Bankruptcy Code, an allowed super-priority administrative expense claim in each of the Chapter 11 Cases and any Successor Cases (the “**BAML Adequate Protection Super-Priority Claims**”).

(ii) *Term B Adequate Protection Super-Priority Claims.* As further adequate protection of the interests of the Prepetition Term B Agent and the Prepetition Term B Lenders in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral from and after the Petition Date, the Prepetition Term B Agent, for the benefit of itself and the Prepetition Term B Lenders, is hereby granted as, and to the extent provided by Section 507(b) of the Bankruptcy Code, an allowed super-priority administrative expense claim in each of the Chapter 11 Cases and any Successor Cases (the “**Term B Adequate Protection**”).

Super-Priority Claims,” and together with the BAML Adequate Protection Super-Priority Claims, the “**Adequate Protection Super-Priority Claims**”).

18. Priority of the Adequate Protection Super-Priority Claims. The Adequate Protection Super-Priority Claims shall have priority over all other administrative expense claims and unsecured claims (other than the DIP Credit Facility Super-Priority Claims) against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in, or ordered pursuant to, Sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (subject to entry of the Final Order granting such relief), 507(a), 507(b), 546(c), 546(d), 726 (to the extent permitted by law), 1113 and 1114 of the Bankruptcy Code. The Adequate Protection Super-Priority Claims shall be payable from, and have recourse to, all pre- and post-petition property of the Debtors and all proceeds thereof, subject only to the Payment in Full of the DIP Credit Facility Super-Priority Claims, the DIP Obligations, the Carve-Out and other amounts secured by Permitted Prior Liens.

19. Adequate Protection Payments and Protections for Prepetition Secured Parties. As further adequate protection (the “**Adequate Protection Payments**”), the Debtors are authorized to pay in cash, (a) until the Prepetition BAML Payoff Date, current payment of interest (at the non-default rate) due under the Prepetition BAML Documents, and (b) in accordance with Paragraph 35, but without the need for the filing of formal fee applications, any unpaid fees, costs and expenses accrued on, prior to or after the Petition Date of (i) advisors to the Prepetition BAML Agent (the “**Prepetition BAML Advisors**”), Morgan, Lewis & Bockius LLP, as counsel, and Robinson & Cole LLP, as local counsel; (ii) advisors to Prepetition Term B Agent, James-Bates-Brannan-Groover-LLP and Morris, Nichols, Arsht & Tunnell LLP as counsel to the Prepetition Term B Agent; and (iii) advisors to the Required Lenders, King & Spalding LLP, as counsel,

Morris, Nichols, Arsht & Tunnell LLP, as local counsel, and Province, Inc., as financial advisor (the foregoing (ii) and (iii), collectively, the “**Prepetition Term B Advisors**”).

20. Adequate Protection Reservation. Nothing herein shall impair or modify the application of Section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Chapter 11 Cases or any Successor Cases. The receipt by the Prepetition Secured Parties of the adequate protection provided herein shall not be deemed an admission that the interests of the Prepetition Secured Parties are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection in a manner consistent with the Prepetition Documents.

Provisions Common to DIP Financing and Use of Cash Collateral

21. Amendment of the DIP Loan Documents. The Debtors are authorized and empowered, without further notice and hearing or approval of this Court, to amend, modify, supplement, or waive any provision of the DIP Loan Documents in accordance with the provisions thereof, in each case unless such amendment, modification, supplement, or waiver (i) increases the interest rate or other fees payable under the DIP Loan Documents (other than as a result of the imposition of the default rate), (ii) increases the aggregate lending commitments of all of the DIP Lenders in respect of the DIP Credit Facility, (iii) shortens the Maturity Date, (iv) adds or amends any Event of Default, prepayment provision, termination provision, case milestone or provision relating to asset sales that, in each case, is in a manner unfavorable to the Debtors, or (v) increases existing fees or adds new fees, *provided, however*, that notice of any proposed modification or

amendment to the DIP Loan Documents pursuant to provisions (i) through (v) above shall be provided to counsel for the Creditors' Committee, if any, and the U.S. Trustee, each of whom shall have three (3) days from the date of such notice within which to object, in writing, to such modification or amendment. If the Creditors' Committee, if any, or the U.S. Trustee timely objects to any modification or amendment to the DIP Loan Documents, such modification or amendment shall only be permitted pursuant to an order of the Court. No waiver, modification or amendment of any of the provisions of the DIP Loan Documents shall be effective unless set forth in writing, signed by or on behalf of all the Debtors and the DIP Agent (after having obtained the approval of the Required DIP Lenders under the DIP Credit Agreement) and, to the extent required herein, approved by this Court.

22. Modification of Automatic Stay. The automatic stay imposed under Section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate the terms and provisions of this Interim Order, including, without limitation, to (a) permit the Debtors to grant the DIP Liens, the Adequate Protection Liens, the DIP Credit Facility Super-Priority Claims and the Adequate Protection Super-Priority Claims; (b) permit the Debtors to perform such acts as the DIP Agent, the Prepetition BAML Agent and the Prepetition Term B Agent may request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP Parties and the Prepetition Secured Parties under the DIP Loan Documents, the DIP Credit Facility and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Parties and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order, the DIP Loan Documents and the Budget.

23. Perfection of DIP Liens and Adequate Protection Liens. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all

liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, deed of trust, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens and the Adequate Protection Liens or to entitle the DIP Agent, the DIP Lenders and the Prepetition Secured Parties to the priorities granted herein. Notwithstanding the foregoing, the DIP Agent, the Prepetition BAML Agent and the Prepetition Term B Agent are authorized (but shall have no obligation to) to file, as each deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, respectively, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided, however*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The Debtors are authorized and directed to execute and deliver promptly upon demand to the DIP Agent, the Prepetition BAML Agent and the Prepetition Term B Agent all such financing statements, mortgages, notices and other documents as the DIP Agent, the Prepetition BAML Agent and the Prepetition Term B Agent may request. The DIP Agent, the Prepetition BAML Agent and the Prepetition Term B Agent, each in its discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office in addition to or in lieu of such financing statements, notices of lien or similar instruments. To the extent that either of the Prepetition Agents are the secured party under any security

agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements or any other Prepetition Documents or are listed as loss payee, lenders' loss payee or additional insured under any of the Debtors' insurance policies, the DIP Agent shall also be, and be deemed to be, the secured party or mortgagee, as applicable, under such documents or to be the loss payee or additional insured, as applicable. The automatic stay of Section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the DIP Agent, the Prepetition BAML Agent and/or the Prepetition Term B Agent to take all actions, as applicable, referenced in this Paragraph 23.

24. Application of Proceeds of Collateral. As a condition to the entry of the DIP Loan Documents, the extension of credit under the DIP Credit Facility and the authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the date of entry of the Interim Order, the Debtors shall apply all proceeds of dispositions of DIP Collateral in accordance with the terms of the DIP Credit Agreement and this Interim Order; until the DIP Obligations are Paid in Full, and then apply all such proceeds to the Prepetition Term B Obligations until such obligations are Paid in Full.

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

(i) Unless (a) the DIP Agent (acting at the direction of the Required DIP Lenders), (b) the Prepetition BAML Agent and (c) the Prepetition Term B Agent (acting at the direction of the Required Lenders) shall have provided their prior written consent or all DIP Obligations and all Prepetition Secured Obligations have been Paid in Full, and all commitments thereunder are terminated, in any of these Chapter 11 Cases or any Successor Cases, the Debtors

shall neither seek entry of, nor support any motion or application seeking entry of, and otherwise shall object to any motion or application seeking entry of, any order (including, without limitation, an order confirming any plan of reorganization or liquidation) that authorizes any of the following: (1) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage or collateral interest or other Lien on all or any portion of the DIP Collateral or Prepetition Collateral that, in each case, is entitled to priority status superior to, or *pari passu* with, the DIP Liens (unless expressly permitted under the DIP Loan Documents or the Interim Order), the Adequate Protection Liens or the Prepetition Liens; (2) the obtaining of credit or the incurring of indebtedness with priority over the DIP Credit Facility Super-Priority Claims (unless expressly permitted under the DIP Loan Documents or this Interim Order) or the Adequate Protection Super-Priority Claims; (3) the use of Cash Collateral for any purpose other than as permitted in the DIP Loan Documents, this Interim Order and the Budget; or (4) any modification of any of the DIP Parties', or the Prepetition Secured Parties' rights under this Interim Order, the DIP Loan Documents or the Prepetition Documents with respect to any DIP Obligations or Prepetition Secured Obligations. It shall be an Event of Default under this Interim Order if, in any of these Chapter 11 Cases or any Successor Cases, any order is entered granting any of the relief enumerated in provisions (1) through (4) of the previous sentence.

(ii) The Debtors will (a) maintain books, records and accounts to the extent, and as required by, the DIP Loan Documents, (b) cooperate with, consult with, and provide to the DIP Agent, the Required DIP Lenders, the Prepetition Term B Agent and the Required Lenders, all such information and documents that any or all of the Debtors are obligated to provide under the DIP Loan Documents or the provisions of this Interim Order or as otherwise requested by the DIP Agent (acting at the direction of the Required DIP Lenders) or the Prepetition Term B

Agent (acting at the direction of the Required Lenders), (c) permit consultants, advisors and other representatives (including third party representatives) of the DIP Agent, the Required DIP Lenders, the Prepetition Term B Agent or the Required Lenders (as applicable), to visit and inspect any of the Debtors' respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations and accounts with their respective officers, employees, independent public accountants and other professional advisors as, and to the extent required by, the DIP Loan Documents or the Prepetition Documents, (d) permit the DIP Agent, Required DIP Lenders, the Prepetition Term B Agent, the Required Lenders and their respective consultants, advisors and other representatives, to consult with the Debtors' management and advisors on matters concerning the Debtors' businesses, financial condition, operations and assets, and (e) permit the DIP Agent or the Prepetition Term B Agent to conduct, at their reasonable direction and at the Debtors' cost and expense, field audits, collateral examinations, liquidation valuations and inventory appraisals in respect of any or all of the DIP Collateral and the Prepetition Collateral, in each case, in accordance with the DIP Loan Documents and the applicable Prepetition Documents.

(iii) No Debtor shall object to the DIP Agent (acting at the direction of the Required DIP Lenders), the Prepetition BAML Agent or the Prepetition Term B Agent's (acting at the direction of the Required Lenders) (or any of the DIP Agent's, Prepetition BAML Agent's or Prepetition Term B Agent's respective designees, affiliates or assignees) submission of a credit bid up to the full amount of the applicable outstanding DIP Obligations or Prepetition Obligations, in each case, including, without limitation, any accrued interest and expenses, in a sale of any DIP Collateral or Prepetition Collateral, as applicable, and 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, subject, in each case, to the provision of consideration sufficient to pay in full in cash any Permitted Prior Liens on any collateral that is subject to the credit bid.

26. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code Sections 364(b), 364(c) or 364(d) or in violation of the DIP Loan Documents at any time prior to the Payment in Full of all DIP Obligations and the termination of the DIP Agent's and DIP Lenders' obligation to extend credit under the DIP Credit Facility, including subsequent to the confirmation of any plan with respect to any or all of the Debtors and the Debtors' estates, and such facilities are secured by any DIP Collateral, then all cash proceeds derived from such credit or debt shall immediately be turned over to the DIP Agent to be applied in accordance with this Interim Order and the DIP Loan Documents.

27. Cash Collection. From and after the date of the entry of this Interim Order and the closing of the DIP Credit Facility, the Debtors shall maintain cash management in accordance with the DIP Loan Documents and the Cash Management Order (as defined below). Unless authorized by the Interim Order or otherwise agreed to in writing by the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders), the Debtors shall maintain no accounts except those identified in any interim and/or final order granting the *Motion of Debtors for Interim and Final Orders (A) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks and Business Forms; (B) Authorizing Continuation of Existing Deposit Practices; (C) Waiving Certain U.S. Trustee Guidelines; (D) Authorizing Continuation of*

Intercompany Transactions; (E) Granting Priority Status to Postpetition Intercompany Claims; (F) Authorizing the debtors to Open and Close Bank Accounts and (G) Granting Related Relief [D.I. [•]] (the “**Cash Management Order**”). Subject to this Interim Order, the Debtors and the financial institutions where the Debtors’ maintain deposit accounts (as identified in the Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such deposit accounts upon receipt of any direction to that effect from the DIP Agent (acting at the direction of the Required DIP Lenders) in accordance with the DIP Loan Documents.

28. Maintenance of DIP Collateral. Until all DIP Obligations and all Prepetition Secured Obligations are Paid in Full, and the termination of the DIP Lenders’ obligations to extend credit under the DIP Credit Facility, the Debtors shall (a) insure the DIP Collateral as required under the DIP Loan Documents or the Prepetition Documents, as applicable; and (b) maintain the cash management system consistent with the terms and conditions of the Cash Management Order, or as otherwise required by the DIP Loan Documents.

29. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral or Prepetition Collateral other than in the ordinary course of business without the prior written consent of the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders), it being understood that no such consent shall be implied, from any other action, inaction or acquiescence by any DIP Party or any Prepetition Secured Party), except as otherwise provided for in the DIP Loan Documents.

30. Termination Date. On the applicable Termination Date (defined below) and except as otherwise provided in accordance with this Interim Order, (a) all applicable DIP Obligations shall be immediately due and payable, all commitments to extend credit under the

applicable DIP Credit Facility will terminate, and (b) all authority to use Cash Collateral shall cease.

31. Milestones. As a condition to the use of the DIP Credit Facility and Cash Collateral, and as further adequate protection to the DIP Parties and the Prepetition Secured Parties, the Debtor shall comply with the following milestones (the “**Case Milestones**”):

(a) No later than three (3) Business Days following the Petition Date, the Debtors shall file a motion (the “**Sale Motion**”), in form and substance acceptable to the Required DIP Lenders and the Required Lenders, requesting (i) an order from the Court (the “**Bid Procedures Order**”) (x) approving the proposed bidding procedures attached to the Sale Motion related to the sale of all, or substantially all, the Debtors’ assets, including the Stalking Horse Assets (as defined in the Sale Motion) (the “**Bidding Procedures**”), and (y) authorizing the Debtors to provide the Stalking Horse Bidder(s) (as defined in the Sale Motion) with the bidding protections set forth in the Stalking Horse Agreement(s), and (ii) an order(s) from the Court (the “**Sale Order**”), in form and substance acceptable to the Required DIP Lenders and the Required Lenders, approving the sale(s) of the Stalking Horse Assets to the Stalking Horse Bidder(s) or such other higher or better bidder determined in accordance with the Bid Procedures Order.

(b) No later than twenty-four (24) calendar days following the Petition Date, the Court shall have entered the Final Order, in form and substance satisfactory to the Required DIP Lenders, the Prepetition BAML Agent, the DIP Agent, the Prepetition Term B Agent, and the Required Lenders.

(c) The Debtors shall establish a date that is no later than fifty-five (55) calendar days after the Petition Date as the deadline for the submission of binding bids with respect to the sale(s) under the Sale Motion.

(d) No later than sixty (60) calendar days after the Petition Date, the Debtors shall complete an auction for substantially all of their assets, including the Stalking Horse Assets, in accordance with the Bid Procedures Order; *provided*, that if there is no higher or better offer submitted in comparison to the Stalking Horse Bid(s) (as defined in the Sale Motion), no auction shall be held. The Debtors shall declare a “winning bidder” and a “back-up bidder” for its assets in consultation with the Required DIP Lenders and the Required Lenders (*provided*, that, so long as the Required DIP Lenders and Required Lenders, as applicable, are partners in, or a financing party to any bids, such consultation right shall not be in effect). The terms of each “winning bid” and “back-up” bid shall be acceptable to the Required DIP Lenders and the Required Lenders and shall, among other things, provide for proceeds from the sale(s) in a minimum amount and in forms of consideration satisfactory to the Required DIP Lenders and the Required Lenders.

(e) No later than sixty-five (65) calendar days after the Petition Date, the Court shall have entered the Sale Order(s) approving the winning bid(s) resulting from the auction.

(f) No later than seventy-five (75) calendar days after the Petition Date, the Debtors shall have consummated the sale(s) of their assets to the winning bidder(s) at the auction.

32. Events of Default. Until the DIP Obligations and all the Prepetition Secured Obligations are Paid in Full, the occurrence of any of the following events, unless waived by the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Term B Agent (acting at the direction of the Required Lenders) or, solely with respect to provisions related to the Prepetition BAML Obligations, the Prepetition BAML Agent, in writing, shall constitute an event of default (collectively, the “**Events of Default**”), in all circumstances upon written notice to the Debtors: (a) the failure of the Debtors to perform any of the terms, provisions, conditions, covenants or obligations under this Interim Order, including, without limitation, failure to make

any payment under this Interim Order when due; or (b) the occurrence and continuation of an “Event of Default” under, and as defined in, the DIP Credit Agreement. For the avoidance of doubt, the failure to comply with the Case Milestones set forth in Paragraph 31 shall constitute an Event of Default under this Interim Order.

33. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default, notwithstanding the provisions of Section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order (a) the DIP Agent and/or the Prepetition Term B Agent may (or shall at the request of the Required DIP Lenders or the Required Lenders, as applicable) declare (any such declaration shall be referred to herein as a “**Termination Notice**”) (1) all DIP Obligations owing under the DIP Loan Documents to be immediately due and payable, (2) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP Credit Facility, (3) the termination of the DIP Credit Facility and the DIP Loan Documents as to any future liability or obligation of the DIP Agent and DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, (4) that the application of the Carve-Out has occurred following delivery of the Carve-Out Trigger Notice to the Borrower and (5) the termination of the Debtors’ ability to use Cash Collateral (subject to the procedures set forth below); and (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Loan Documents (the date which is the earliest to occur of any date a Termination Notice is delivered by the DIP Agent and/or the Prepetition Term B Agent shall be referred to herein as the “**Termination Date**”). The Termination Notice shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the Creditors’ Committee, if appointed, and the U.S. Trustee. The automatic

stay in the Chapter 11 Cases otherwise applicable to the DIP Parties and the Prepetition Term B Parties is hereby modified so that, absent the cure or waiver of an Event of Default or the Debtors' obtaining a judicial determination that an asserted Event of Default has not occurred, in each case, on or before three (3) Business Days after the DIP Agent's and/or the Prepetition Term B Agent's delivery of a Termination Notice (such three (3) Business Day period, the "**Remedies Notice Period**"), the DIP Agent (acting at the direction of the Required DIP Lenders) and/or the Prepetition Term B agent (acting at the direction of the Required Lenders) may (i) terminate the use of Cash Collateral; and (ii) exercise any available remedies (including, without limitation, the repossession or foreclosure of any DIP Collateral and/or Prepetition Collateral) without obtaining an order from this Court authorizing such activity. Prior to the expiration of the Remedies Notice Period, (a) the Debtors shall be entitled to continue to use Cash Collateral in accordance with the Budget; and (b) the Debtors or the Creditors' Committee, if any, may request an expedited hearing before the Court to contest whether an Event of Default has occurred.

34. Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Interim Order. The DIP Parties and the Prepetition Secured Parties have acted at arms' length in good faith in connection with this Interim Order and are entitled to rely upon the protections granted herein and by Section 364(e) of the Bankruptcy Code, and accordingly, any such modification, amendment or vacatur of this Interim Order shall not affect the validity and enforceability of any advances previously made or made hereunder, or lien, claim or priority authorized or created hereby.

35. Fees and Expenses. The Debtors are authorized and directed to pay all reasonable and documented fees and expenses of (x) the DIP Agent and the DIP Lenders in connection with the DIP Credit Facility, as provided in the DIP Loan Documents and this Interim

Order, whether or not the transactions contemplated hereby are consummated, and (y) the Prepetition Agents and the Required Lenders as provided in this Interim Order. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to (x) the DIP Agent or the DIP Lenders in connection with, or with respect to, the DIP Credit Facility, or (y) the Prepetition Secured Parties in connection with, or with respect to, the Prepetition Secured Facilities, are, in each case, hereby approved in full and any amounts held by such parties may be applied to payment of fees and expenses in accordance with this Paragraph 35. Professionals for the DIP Agent, the Prepetition Term B Agent, the DIP Lenders and the Prepetition BAML Advisors and the Prepetition Term B Advisors (collectively, the “**Lender Professionals**”) shall not be required to comply with the United States Trustee fee guidelines or submit invoices to this Court, the U.S. Trustee, Creditors’ Committee or any other party in interest. The Lender Professionals shall forward copies of summary invoices submitted to the Debtors to the U.S. Trustee, counsel for the Creditors’ Committee, if any, and such other parties as this Court may direct. The summary invoices shall be sufficiently detailed to enable a determination as to the reasonableness of such fees and expenses; *provided, however*, that such summary invoices may but shall not be required to contain time entries and may be redacted to the extent necessary to protect any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such summary invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine or other applicable privilege. If the Debtors, U.S. Trustee or the Creditors’ Committee, if any, object to the reasonableness of the fees and expenses of any of the Lender Professionals and cannot resolve such objection within ten (10) Business Days of receipt of such invoices (the “**Review Period**”), then the Debtors, United States Trustee, or the Creditors’

Committee, as the case may be, shall file with this Court and serve on such Lender Professional an objection (the “**Fee Objection**”), and any failure by any such party to file a Fee Objection within the Review Period shall constitute a waiver of any right of such party to object to the applicable invoice. Notwithstanding any provision herein to the contrary, any objection to, and any hearing on an objection to, payment of any fees, costs, and expenses set forth in a professional fee invoice in respect of Lender Professionals shall be limited to the reasonableness of the particular items or categories of the fees, costs, and expenses that are the subject of such objection. If no written objection is received by 12 p.m., prevailing Eastern Time, on the end date of the Review Period, the Debtors shall pay such invoices promptly. If an objection to a Lender Professional’s invoice is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice and the Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually.

36. Budget. The Budget is approved on an interim basis and the proceeds of the DIP Credit Facility and Cash Collateral under this Interim Order shall be used by the Debtors in accordance with the Budget, the Prepetition BAML Payoff Letter, this Interim Order and the DIP Loan Documents. None of the DIP Lenders’, DIP Agent’s, the Prepetition Term B Agent’s or the Prepetition Term B Lenders’ consent, if any, to, or acknowledgement of, the Budget shall be construed as consent to use the proceeds of the DIP Credit Facility or Cash Collateral beyond the Termination Date, regardless of whether the aggregate funds shown on the Budget have been expended.

37. Indemnification. The Debtors shall indemnify and hold harmless the DIP Parties and the Prepetition Secured Parties in accordance with the terms and conditions of the DIP Loan Documents and the Prepetition Documents, as applicable.

38. Proofs of Claim. Notwithstanding any order entered by this Court in relation to the establishment of a bar date in any of the Chapter 11 Cases or any Successor Cases to the contrary, the DIP Agent, the DIP Lenders and the Prepetition Secured Parties will not be required to file proofs of claim in any of the Chapter 11 Cases or Successor Cases for any claims arising under, or in connection with, the DIP Loan Documents, the Prepetition Documents or this Interim Order. The Debtors' stipulations, admissions, and acknowledgments and the provisions of this Interim Order shall be deemed to constitute a timely filed proof of claim for the DIP Parties and the Prepetition Secured Parties with regard to all claims arising under the DIP Loan Documents or the Prepetition Documents.

39. Carve-Out. Each of the DIP Liens, the DIP Credit Facility Super-Priority Claims, the Prepetition Liens, the Adequate Protection Liens and the Adequate Protection Super-Priority Claims shall be subject and subordinate to payment of the Carve-Out.

(i) Carve-Out. "**Carve-Out**" means the (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); plus the sum of all (ii) 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 or final compensation order, all unpaid fees and expenses in an amount not to exceed, in each case, the fees and expenses set forth in the Budget (or otherwise pursuant to the Permitted Variances) for each of the Professional Persons (as defined below), incurred by persons or firms retained by the Debtors pursuant to Sections 327, 328 or 363 of the Bankruptcy Code (collectively, the "**Debtor Professionals**") and the Creditors' Committee, if any (the "**Committee Professionals**" and, together with the Debtor Professionals,

the “**Professional Persons**”), appointed in the Chapter 11 Cases pursuant to Section 1103 of the Bankruptcy Code (all such unpaid fees and expenses of the Professional Persons, the “**Professional Fees**”) at any time before or on the first Business Day after 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) Professional Fees 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 in an aggregate amount not to exceed \$1,000,000 with respect to Professional Persons (the amount 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 (acting at the direction of the Required DIP Lenders) or the Prepetition Term B Agent (acting at the direction of the Required Lenders), as applicable, to the Debtors, their lead restructuring counsel, the U.S. Trustee and lead counsel to Creditors’ Committee, if any, which notice may be delivered following the Termination Date and expiration of the Remedies Notice Period, stating that the Post-Carve-Out Trigger Notice Cap has been invoked and that the Debtors’ ability to pay Professional Fees is subject to and limited by the Carve-Out. Proceeds from the DIP Credit Facility and/or Cash Collateral not to exceed \$50,000 in the aggregate (the “**Investigation Budget Cap**”) may be used on account of Professional Fees incurred by Committee Professionals, if any, in connection with the investigation of Avoidance Actions or any other claims or causes of action (but not the prosecution of such actions) on account of the Prepetition Secured Facilities (but not the DIP Credit Facility), which obligations will benefit from the Carve-Out in an amount not to exceed the Investigation Budget Cap to the extent unpaid as of delivery of a Carve-Out Trigger Notice. Subject to entry of the Final Order, notwithstanding anything to the contrary

herein, any fees, expenses or costs incurred by the Committee Professionals, if any, in excess of the Investigation Budget Cap or in excess of the amount budgeted for the Professional Persons set forth in the Budget shall not constitute an allowed administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

(ii) No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees. The DIP Parties and the Prepetition Secured Parties shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any of the Professional Persons incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate any DIP Party or Prepetition Secured Party in any way to pay compensation to, or to reimburse expenses of, any of the Professional Persons, or to guarantee that the Debtors or their estates have sufficient funds to pay such compensation or reimbursement. Notwithstanding any provision in this Paragraph 39 to the contrary, no portion of the Carve-Out, any Cash Collateral, any DIP Collateral or any proceeds of the DIP Credit Facility (including any disbursements set forth in the Budget or obligations benefitting from the Carve-Out) shall be utilized for the payment of professional fees and disbursements to the extent restricted under Paragraph 40 hereof. Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of any of the Debtors, the Creditors' Committee, any other official or unofficial committee in these Chapter 11 Cases or any Successor Cases, or of any other person or entity, or shall affect the right of any DIP Party or any Prepetition Secured Party to object to the allowance and payment of any such fees and expenses.

40. Limitations on Use of DIP Proceeds, Cash Collateral and Carve-Out. Except as otherwise permitted in this Interim Order or the DIP Loan Documents, no DIP Collateral,

proceeds of the DIP Credit Facility, Prepetition Collateral, Cash Collateral or any portion of the Carve-Out may be used directly or indirectly by any of the Debtors, the Creditors' Committee, if any, or any trustee or other estate representative appointed in the Chapter 11 Cases (or any Successor Cases) or any other person or entity (or to pay any professional fees, disbursements, costs or expenses incurred in connection therewith) (a) to seek authorization to obtain liens or security interests that are senior to or *pari passu* with the DIP Liens or the Prepetition Liens or (b) to investigate (including by way of examinations or discovery proceedings), prepare, assert, join, commence, support or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of, in any capacity, any of the DIP Agent, the DIP Lenders or the Prepetition Secured Parties, and each of their respective officers, directors, controlling persons, employees, agents, attorneys, affiliates, assigns, or successors of each of the foregoing (all in their capacities as such), with respect to any transaction, occurrence, omission, action or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, (i) any claims or causes of action arising under Chapter 5 of the Bankruptcy Code, (ii) any so-called "lender liability" claims and causes of action, (iii) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the DIP Obligations, the DIP Credit Facility Super-Priority Claims, the DIP Liens, the DIP Loan Documents, the Adequate Protection Liens, the Adequate Protection Super-Priority Claims, the Prepetition Liens, the Prepetition Documents or the Prepetition Secured Obligations, (iv) any action seeking to invalidate, modify, set aside, avoid or subordinate, in whole or in part, the DIP Obligations or the Prepetition Secured Obligations, (v) any action seeking to modify any of the rights, remedies, priorities, privileges, protections and benefits granted to either

(A) the DIP Agent, the DIP Lenders or the Prepetition Secured Parties under any of the DIP Loan Documents or this Interim Order, or (B) the Prepetition Agents or any other Prepetition Secured Party under any of the Prepetition Documents or this Interim Order (in each case, including, without limitation, claims, proceedings or actions that might prevent, hinder or delay any of the DIP Agent's, the DIP Lenders' or the Prepetition Secured Parties' assertions, enforcements, realizations or remedies on or against the DIP Collateral or the Prepetition Collateral, as applicable, in accordance with the DIP Loan Documents or the Prepetition Documents, as applicable, and this Interim Order), or (vi) objecting to, contesting, or interfering with, in any way, the DIP Agent's, the DIP Lenders' or the Prepetition Secured Parties' enforcement or realization upon any of the DIP Collateral or the Prepetition Collateral, as applicable, once an Event of Default has occurred; *provided*, that the foregoing restrictions shall not apply to challenging the validity of a Termination Notice and/or seeking a determination that an Event of Default has not occurred or is not continuing.

41. Effect of Stipulations on Third Parties. The Debtors' Stipulations shall be binding upon the Debtors in all circumstances upon entry of this Interim Order. The Debtors' Stipulations shall be binding upon the Debtors' estates, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including, without limitation, the Creditors' Committee, if any, except to the extent and only to the extent such Creditors' Committee or any other party in interest with standing (including any chapter 11 trustee) other than the Debtors (or if the Chapter 11 Cases are converted to cases under chapter 7 prior to the expiration of the Challenge Period (as defined below), the chapter 7 trustee in such Successor Case), first, commences, by the earliest of (a)(i) with respect to the Creditors' Committee, sixty (60) calendar

days after the formation of the Creditors' Committee or (ii) with respect to other parties-in-interest with requisite standing other than the Debtors or the Creditors' Committee, seventy-five (75) calendar days following the date of entry of the Interim Order or (b) two (2) Business Days prior to the sale hearing approving the sale of all, or substantially all, of the Debtors' assets (such time period established by the earliest of clauses (a) or (b), as the same may be extended in accordance with this Paragraph 41, shall be referred to as the "**Challenge Period**," and the date that is the next calendar day after the termination of the Challenge Period in the event that either (i) no Challenge is properly raised during the Challenge Period or (ii) with respect only to those parties who properly file a Challenge, such Challenge is fully and finally adjudicated, shall be referred to as the "**Challenge Period Termination Date**"), a contested matter, adversary proceeding, or other matter challenging or otherwise objecting to the admissions, stipulations, findings, or releases included in the Debtors' Stipulations (each, a "**Challenge**"), and second, obtains a final, non-appealable order in favor of such party-in-interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding, or other action (any such Challenge timely brought for which such a final and non-appealable order is so obtained, a "**Successful Challenge**"); provided, that the timely filing of a motion seeking standing to file a Challenge before the expiration of the Challenge Period, which attaches a draft complaint setting forth the legal and factual bases of the proposed Challenge, shall toll the Challenge Period only as to the party that timely filed such standing motion until such motion is resolved or adjudicated by the Court. If a chapter 7 trustee or a chapter 11 trustee is appointed or elected during the Challenge Period, then the Challenge Period Termination Date with respect to such trustee only, shall be the later of (i) the last day of the Challenge Period and (ii) the date that is twenty (20) calendar days after the date on which such trustee is appointed or elected. Except as otherwise expressly provided herein, from

and after the Challenge Period Termination Date and for all purposes in these Chapter 11 Cases and any Successor Cases (and after the dismissal of these Chapter 11 Cases or any Successor Cases), (i) any and all payments made to or for the benefit of the Prepetition Secured Parties or otherwise authorized by this Interim Order (whether made prior to, on, or after the Petition Date) shall be indefeasible and not be subject to counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance, (ii) any and all such Challenges by any party-in-interest shall be deemed to be forever released, waived, and barred, (iii) all of the Prepetition Secured Obligations shall be deemed to be fully allowed claims within the meaning of section 506 of the Bankruptcy Code, and (iv) the Debtors' Stipulations shall be binding on all parties in interest in these Chapter 11 Cases or any Successor Cases, including any Committee or chapter 11 or chapter 7 trustee. Notwithstanding the foregoing, to the extent any Challenge is timely asserted, the Debtors' Stipulations and the other provisions in clauses (i) through (iv) in the immediately preceding sentence shall nonetheless remain binding and preclusive on any Creditors' Committee and on any other party-in-interest from and after the Challenge Period Termination Date, except to the extent that such Debtors' Stipulations or the other provisions in clauses (i) through (iv) of the immediately preceding sentence were expressly challenged in such Challenge and such Challenge becomes a Successful Challenge. The Challenge Period may be extended only (i) with respect to the Prepetition Term B Facility, with the consent of the Prepetition Term B Agent (acting at the direction of the Required Lenders), (ii) with respect to the Prepetition BAML Facility, with the consent of the Prepetition BAML Agent or (iii) by order of the Court for good cause shown. Notwithstanding any provision to the contrary herein, nothing in this Interim Order shall be construed to grant standing on any party in interest, including the Creditors' Committee, to bring any Challenge on behalf of the Debtors' estates. The failure of any party in interest, including the

Creditors' Committee, to obtain an order of this Court prior to the Challenge Period Termination Date granting standing to bring any Challenge on behalf of the Debtors' estates shall not be a defense to failing to commence a Challenge prior to the Challenge Period Termination Date as required under this Paragraph 41 or to require or permit an extension of the Challenge Period Termination Date.

42. No Third-Party Rights. Except as explicitly provided for herein or in any of the DIP Loan Documents, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or direct, indirect, or incidental beneficiary. In determining to make any loan (whether under the DIP Credit Agreement or otherwise) or to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Documents, the DIP Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any similar federal, state or local statute or regulation) or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates.

43. Section 506(c) Claims. Subject to entry of a Final Order and as a further condition of the DIP Credit Facility and any obligation of the DIP Parties to make credit extensions pursuant to the DIP Loan Documents (and the consent of the DIP Parties to the payment of the Carve-Out to the extent provided herein and the consent of the Prepetition Secured Parties of the priming of the Prepetition Liens by the DIP Credit Facility and the use of Cash Collateral) (a) no costs or expenses of administration of the Chapter 11 Cases or any Successor Cases shall be

charged against or recovered from or against any or all of the DIP Parties or the Prepetition Secured Parties with respect to the DIP Collateral or the Prepetition Collateral, in each case pursuant to Section 105 or Section 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the DIP Parties or the Prepetition Secured Parties, as applicable and (b) no such consent shall be implied from any other action, inaction, or acquiescence of any or all of the DIP Parties or the Prepetition Secured Parties.

44. No Marshaling. Subject to entry of a Final Order, the DIP Parties, and Prepetition 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 or the Prepetition Collateral, as applicable.

45. Section 552(b). Subject to entry of a Final Order, the Prepetition Secured Parties shall each be entitled to all of 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 the Prepetition Secured Parties with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.

46. Access to DIP Collateral. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the DIP Agent, exercisable on behalf of the DIP Lenders, subject to the terms of the DIP Loan Documents, upon written notice to the landlord of any leased premises that a Termination Date has occurred and is continuing, the DIP Agent may (or shall at the direction of the Required DIP Lenders), subject to the applicable notice provisions in this Interim Order and any separate applicable agreement by and between such landlord and the DIP Agent, enter upon any leased premises of the Debtors or any other party for the purpose of exercising any remedy with respect to DIP Collateral located thereon and shall be

entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlord thereunder, *provided*, that the DIP Agent shall be obligated only to pay rent of the Debtors that first accrues after the written notice referenced above is delivered and that is payable during the period of such occupancy by the DIP Agent, calculated on a daily per diem basis. Upon the Payment in Full of the DIP Obligations, the Prepetition Term B Agent shall inure to all rights provided under this Paragraph 46. Nothing contained herein shall require the DIP Agent or any other DIP Party to assume any lease as a condition to the rights afforded in this paragraph.

47. Exculpation. Nothing in this Interim Order or the DIP Loan Documents shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Party or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors, including with respect to the operation of their businesses, in connection with their restructuring efforts or administration of these Chapter 11 Cases. In addition, (a) the DIP Parties shall not in any way or manner be liable or responsible for (i) the safe-keeping of the DIP Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any Diminution in Value thereof, or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person, and (b) all risk of loss, damage, or destruction of the DIP Collateral shall be borne by the Debtors.

48. Insurance Proceeds and Policies. Upon entry of this Interim Order and to the fullest extent provided by applicable law, the DIP Agent, for the benefit of itself and the DIP Lenders, and the Prepetition Agents, for the benefit of themselves and the applicable Prepetition Secured Parties, shall be, and shall be deemed to be, without any further action or notice, named

as additional insured and loss payee on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral and/or the Prepetition Collateral.

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

50. Rights Preserved. The entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) the right of any party (including, but not limited to, the DIP Parties and the Prepetition Secured Parties) to object to the allowance of any professional fees or expenses of any Professional Person, which rights are expressly preserved, (b) the DIP Parties' and Prepetition Secured Parties' right to seek any other or supplemental relief in respect of the Debtors; (c) any of the rights of any of the DIP Parties and the Prepetition Secured Parties under the Bankruptcy Code or under applicable non-bankruptcy law, including, without limitation, the right to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Chapter 11 Cases or Successor Cases, conversion of any of the Chapter 11 Cases to cases under Chapter 7, or appointment of a Chapter 11 trustee or examiner with expanded powers or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a Chapter 11 plan or plans; or (d) any other rights, claims or privileges (whether legal, equitable or otherwise) of any of the DIP Parties or Prepetition Secured Parties. The entry of this Interim Order is without prejudice to, and does not constitute an express or implicit waiver of, the Debtors', the Creditors' Committee's, if appointed, or any party-in-interest's right to oppose any of the relief requested in accordance with the immediately preceding sentence except as expressly prohibited in this Interim Order.

51. No Waiver by Failure to Seek Relief. The failure of the DIP Parties or Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Loan Documents, the Prepetition Documents or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise.

52. Binding Effect of Interim Order. Immediately upon entry of this Interim Order by this Court, the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, the DIP Parties, the Prepetition Secured Parties, all other creditors of any of the Debtors, the Creditors' Committee, if any, and all other parties-in-interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Chapter 11 Cases, any Successor Cases, or upon dismissal of any Chapter 11 Case or Successor Case; *provided*, that neither the DIP Parties nor the Prepetition Secured Parties shall have an obligation to permit the use of DIP Collateral or Prepetition Collateral (including Cash Collateral) or to extend any financing to any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the Debtors' estates.

53. No Modification of Interim Order. Until and unless the DIP Obligations and the Prepetition Secured Obligations have been Paid in Full, and all commitments to extend credit under the DIP Credit Facility have been terminated, the Debtors shall not seek or consent to, directly or indirectly, without the prior written consent of the (A) the DIP Agent (acting at the direction of the Required DIP Lenders), (B) with respect to any provisions that impact the legal or economic rights of the Prepetition BAML Parties, the Prepetition BAML Agent and (C) with respect to any provisions that impact the legal or economic rights of the Prepetition Term B Parties, the Prepetition Term B Agent (acting at the direction of the Required Lenders), any material modification, stay, vacatur or amendment to this Interim Order.

54. Continuing Effect of Intercreditor Agreement. The Intercreditor Agreement (i) shall remain in full force and effect, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition Secured Parties the relative priorities, rights and remedies of such parties with respect to the replacement liens and administrative expense claims and super-priority administrative expense claims granted, or amounts payable, by the Debtors under this Interim Order or otherwise), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Interim Order unless expressly set forth herein. The Prepetition Secured Parties have each agreed that they shall be bound by, and in all respects the Prepetition Collateral shall be governed by, and be subject to, all the terms, provisions and restrictions of the Intercreditor Agreement, except as may be expressly modified by this Interim Order.

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

56. Discharge. The DIP Obligations and the obligations of the Debtors with respect to the adequate protection provided herein shall not be discharged by the entry of an order confirming any plan of reorganization in any of the Chapter 11 Cases, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been Paid in Full, on or before the effective date of such confirmed plan of reorganization, or each of the DIP Agent, DIP Lenders and each of the Prepetition Agents, as applicable, has otherwise agreed in writing.

57. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Chapter 11 Cases; (b) converting any of the Chapter 11 Cases to a case

under Chapter 7 of the Bankruptcy Code; (c) dismissing any of the Chapter 11 Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Chapter 11 Cases or Successor Cases. The terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to the DIP Parties and the Prepetition Secured Parties pursuant to this Interim Order and the DIP Loan Documents, shall continue in the Chapter 11 Cases, in any Successor Cases, or following dismissal of the Chapter 11 Cases or any Successor Cases, and shall maintain their priority as provided by this Interim Order until: (i) in respect of the DIP Credit Facility, all the DIP Obligations, pursuant to the DIP Loan Documents and this Interim Order, have been Paid in Full (such payment being without prejudice to any terms or provisions contained in the DIP Credit Facility which survive such discharge by their terms), and all commitments to extend credit under the DIP Credit Facility are terminated; and (ii) in respect of the Prepetition Secured Facilities, all of the Prepetition Secured Obligations pursuant to the Prepetition Documents and this Interim Order, have been Paid in Full. If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacation or stay shall not affect: (i) the validity, priority or enforceability of any Adequate Protection Payments incurred prior to the effective date of such reversal, modification, vacation or stay; or (ii) the validity, priority or enforceability of the DIP Credit Facility, the DIP Liens, the DIP Super-Priority Claims, the Adequate Protection Liens and the Adequate Protection Super-Priority Claims. Notwithstanding any such reversal, modification, vacation or stay of any use of Cash Collateral, any Adequate Protection Payments made by the Debtors prior to the effective date of such reversal, modification, vacation or stay shall be governed in all respects by the original provisions of this Interim Order, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted herein.

58. Payments Free and Clear. Any and all payments or proceeds remitted to the Prepetition BAML Agent, the Prepetition Term B Agent or any of the other Prepetition Secured Parties pursuant to the provisions of this Interim Order shall be irrevocable, received free and clear of any claim, charge, assessment or other liability, including, subject to entry of the Final Order, any such claim or charge arising out of or based on, directly or indirectly, Sections 506(c) and 552(b) of the Bankruptcy Code (whether asserted or asserted by, through or on behalf of the Debtors).

59. Final Hearing. The Final Hearing to consider entry of the Final Order and approval of the DIP Credit Facility and continued use of Cash Collateral is scheduled for **September 24, 2021, at 10:00 a.m. (prevailing Eastern Time)** before the Honorable United States Bankruptcy Judge John T. Dorsey, at the United States Bankruptcy Court for the District of Delaware. On or before September 3, 2021, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the “**Final Hearing Notice**”), together with copies of this Interim Order and the Motion, on: (a) the parties that were provided notice of the Interim Hearing; (b) any party that has filed prior to such date a request for notices with this Court; and (c) counsel for a Creditors’ Committee, if appointed. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than **September 17, 2021, at 4:00 p.m. (prevailing Eastern Time)**, which objections shall be served so as to be received on or before such date by: (i) counsel to the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193 USA, Attn: Scott J. Greenberg and Joshua K. Brody, and (b) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street #1700, Wilmington, DE 19801, Attn: Laura Davis Jones and Timothy P. Cairns; (ii) counsel to the Prepetition Term B Agent, (a) James-

Bates-Brannan-Groover-LLP, 3399 Peachtree Road NE, Suite 1700, Atlanta, Georgia 30326, Attn: Sara Kate Rumsey and Doroteya Wozniak, and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, Attn: Derek Abbott and Curtis Miller; (iii) counsel to the Required Lenders, (a) King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, Attn: Roger Schwartz and Peter Montoni and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, Attn: Robert J. Dehney; (iv) counsel to the Prepetition BAML Parties, (a) Morgan, Lewis & Bockius LLP, One Federal Street, Boston, Massachusetts 02110, Attn: Julia Frost-Davies, Marjorie S. Crider and Christopher L. Carter and (b) Robinson & Cole LLP, 1201 N. Market Street, Suite 1406, Wilmington, DE 19801, Attn: Rachel J. Mauceri; and (v) the Office of the U.S. Trustee for region 3, 844 King Street, Suite 3307, Wilmington, DE 19801, Attn: Richard Schepacarter (Richard.Schepacarter @usdoj.gov).

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

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

62. Nunc Pro Tunc Effect of this Interim Order; Enforceability. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon entry thereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules, any applicable Local Rules, or Rule 62(a) of the Federal Rules of Civil

Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

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

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
SEQUENTIAL BRANDS GROUP, INC., et	:	Case No. 21-11194 (JTD)
al.,	:	
	:	Jointly Administered
Debtors.¹	:	
	:	Re: Docket No. <u>11</u>

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

This matter having come before the Court on the above-captioned debtors’ (collectively, the “**Debtors**”) motion (the “**Motion**”)² seeking, pursuant to Sections 105, 361, 362, 363, 364, 506, 507 and 552 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court, District of Delaware (the “**Local Rules**”) entry of interim and final orders (this “**Interim Order**”) for approval of, among other things, the following:

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein have the meanings given to them in the Motion or the First Day Declaration, as applicable

to the Prepetition BAML Agent (as defined below) upon entry of the Interim Order and the closing and interim funding of the DIP Credit Facility;

(viii) 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;

(ix) scheduling a final hearing on the Motion (the “**Final Hearing**”) to be held no later than twenty-~~three~~four (~~23~~24) calendar days after the Petition Date to consider entry of a final order that grants the relief requested in the Motion on a final basis, which final order shall be in form and substance (including with respect to any subsequent modifications to the form or substance made in response to objections of other creditors or this Court) acceptable to the DIP Agent (acting at the direction of the requisite consenting lenders), the Prepetition BAML Agent and the Prepetition Term B Agent (as defined below) (acting at the direction of Required Lenders (as defined below)) (the “**Final Order**”); and

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

The Court having considered the Motion, the exhibits attached thereto, the First Day Declaration, and the evidence submitted and arguments made at the interim hearing (the “**Interim Hearing**”); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, and otherwise is fair and

Debtors' performance under the DIP Loan Documents and the creation and perfection of the DIP Liens (as defined below) described in, and provided for by, this Interim Order and the DIP Loan Documents and (d) repay the Prepetition BAML Obligations in accordance with the Prepetition BAML Payoff Letter upon entry of this Interim Order and the closing of the DIP Credit Facility. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, expenses and other amounts described in the DIP Loan Documents and all other documents comprising the DIP Credit Facility as such becomes due, including, without limitation, any fees due and payable thereunder, the DIP Agent's fees, and the reasonable and documented fees and disbursements of the DIP Parties' attorneys, advisors, accountants and other consultants, whether or not such fees arose before, on or after the Petition Date, whether or not the transactions contemplated hereby are consummated, and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Loan Documents; *provided, however*, that, other than in connection with fees and expenses incurred and payable at the closing of the DIP Credit Facility, the payment of the fees and expenses of the Lender Professionals (as defined below) shall be subject to the provisions of Paragraph 35. All collections, consideration and proceeds, whether from ordinary course collections, asset sales (including, without limitation, sales consummated pursuant to the Stalking Horse Agreements (as defined in the Sale Motion (as defined below)), debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Interim Order and the DIP Loan Documents. Upon execution and delivery, the DIP Loan Documents shall represent legal, valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms. Each officer of a Debtor acting individually is hereby authorized to execute and deliver each of the DIP Loan Documents, such

(b) No later than twenty-~~three~~four (~~23~~24) calendar days following the Petition Date, the Court shall have entered the Final Order, in form and substance satisfactory to the Required DIP Lenders, the Prepetition BAML Agent, the DIP Agent, the Prepetition Term B Agent, and the Required Lenders.

(c) The Debtors shall establish a date that is no later than fifty-five (55) calendar days after the Petition Date as the deadline for the submission of binding bids with respect to the sale(s) under the Sale Motion.

(d) No later than sixty (60) calendar days after the Petition Date, the Debtors shall complete an auction for substantially all of their assets, including the Stalking Horse Assets, in accordance with the Bid Procedures Order; *provided*, that if there is no higher or better offer submitted in comparison to the Stalking Horse Bid(s) (as defined in the Sale Motion), no auction shall be held. The Debtors shall declare a “winning bidder” and a “back-up bidder” for its assets in consultation with the Required DIP Lenders and the Required Lenders (*provided*, that, so long as the Required DIP Lenders and Required Lenders, as applicable, are partners in, or a financing party to any bids, such consultation right shall not be in effect). The terms of each “winning bid” and “back-up” bid shall be acceptable to the Required DIP Lenders and the Required Lenders and shall, among other things, provide for proceeds from the sale(s) in a minimum amount and in forms of consideration satisfactory to the Required DIP Lenders and the Required Lenders.

(e) No later than sixty-five (65) calendar days after the Petition Date, the Court shall have entered the Sale Order(s) approving the winning bid(s) resulting from the auction.

Period,” and the date that is the next calendar day after the termination of the Challenge Period in the event that either (i) no Challenge is properly raised during the Challenge Period or (ii) with respect only to those parties who properly file a Challenge, such Challenge is fully and finally adjudicated, shall be referred to as the “**Challenge Period Termination Date**”), a contested matter, adversary proceeding, or other matter challenging or otherwise objecting to the admissions, stipulations, findings, or releases included in the Debtors’ Stipulations (each, a “**Challenge**”), and second, obtains a final, non-appealable order in favor of such party-in-interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding, or other action (any such Challenge timely brought for which such a final and non-appealable order is so obtained, a “**Successful Challenge**”); provided, that the timely filing of a motion seeking standing to file a Challenge before the expiration of the Challenge Period, which attaches a draft complaint setting forth the legal and factual bases of the proposed Challenge, shall toll the Challenge Period only as to the party that timely filed such standing motion until such motion is resolved or adjudicated by the Court. If a chapter 7 trustee or a chapter 11 trustee is appointed or elected during the Challenge Period, then the Challenge Period Termination Date with respect to such trustee only, shall be the later of (i) the last day of the Challenge Period and (ii) the date that is twenty (20) calendar days after the date on which such trustee is appointed or elected. Except as otherwise expressly provided herein, from and after the Challenge Period Termination Date and for all purposes in these Chapter 11 Cases and any Successor Cases (and after the dismissal of these Chapter 11 Cases or any Successor Cases), (i) any and all payments made to or for the benefit of the Prepetition Secured Parties or otherwise authorized by this Interim Order (whether made prior to, on, or after the Petition Date) shall be infeasible and not be subject to counterclaim, set-off, subordination, recharacterization, defense, disallowance,